

## PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, May 13, 2019

A Regular Session of the Piedmont Planning Commission was held May 13, 2019, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a), the agenda and a revised agenda for this meeting was posted for public inspection on April 29, 2019, and May 1, 2019, respectively.

### CALL TO ORDER

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

### ROLL CALL

Present: Commissioners Allison Alessio, Rani Batra, Yildiz Duransoy, Jonathan Levine, Tom Ramsey, Alternate Commissioner Doug Strout

Absent: None

Staff: Planning Director Kevin Jackson, Associate Planner Chris Yeager, Assistant Planner Mira Hahn, Planning Technician Steven Lizzarago, and Part-time Planner Kathleen Livermore

### 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 10-PL-19**

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the April 8, 2019, regular hearing of the Planning Commission.

Moved by Ramsey, Seconded by Duransoy

Ayes: Alessio, Duransoy, Levine, Ramsey, Strout

Noes: None

Abstaining: Batra

Absent: None

### CONSENT CALENDAR

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

- 43 Estrella Avenue (Variance & Design Review Permit)
- 10 Crest Road (Design Review Permit)
- 17 Sierra Avenue (Design Review Permit)
- 21 Sierra Avenue (Design Review Permit).

#### **Resolution 11-PL-19**

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

Moved by Alessio, Seconded by Batra

Ayes: Alessio, Batra, Duransoy, Levine, Ramsey

Noes: None

Recused: None

Absent: None

#### **Resolution 12-PL-19**

RESOLVED, that the Planning Commission removes the following applications from the Consent Calendar as requested by the applicants:

- 17 Sierra Avenue (Design Review Permit)
- 21 Sierra Avenue (Design Review Permit).

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

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

**Variance and Design  
Review Permit  
43 Estrella Avenue**

**Resolution 93-V/DR-19**

WHEREAS, the Property Owner is requesting permission to construct a 75-square-foot addition to the west of the existing accessory structure at the rear of the property; to install new windows, doors, exterior lights, and stairs at the accessory structure and the rear of the main residence; to install a new air conditioning unit to the rear of the accessory structure; and to make other exterior and interior changes at 43 Estrella Avenue, which construction requires a design review permit; and

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

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

1. The property and existing improvements present unusual physical circumstances of the property, including the lot is unusually small and narrow, is a through lot with two streets on either side, and is unusually shaped, so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare because most homes in the neighborhood are similar in size to what is being proposed.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because constructing an accessory structure of similar size to the proposed structure outside the 20-foot rear street setback would require creating a larger, separate structure to what exists today, which would reduce the landscape coverage on the lot and potentially create an impact on neighbors' privacy.

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the wall material, the roof form, the roof material, the window and door material and fenestration pattern, the eave overhang dimension, and the stair material.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate and the view is not a significant view.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no effect on pedestrian and vehicular safety.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: II-1, II-2, II-3, II-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 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for the construction at 43 Estrella Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be wood.
2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Window Recess.** All new windows shall be recessed 1 and ½ inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details such as recess and sash dimensions shall be submitted for review and approval at the time of building permit application.
4. **Pre-construction Inspection.** Prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department to review the approved installation criteria, such as the window recess, window trim if any, and window sill projection if any.

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

6. **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. **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).

9. **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.

Moved by Alessio, Seconded by Duransoy

Ayes: Alessio, Batra, Duransoy, Levine, Ramsey

Noes: None

Recused: None

Absent: None

**Design Review Permit  
10 Crest Road**

**Resolution 96-DR-19**

WHEREAS, the Property Owner is requesting permission to construct two separate single-story additions totaling 640 square feet of living space; create a garbage enclosure; remove and install new windows, doors, and skylights; construct new patios and hardscaping; make exterior modifications such as new roofing and repairs to existing siding; construct a fence within the street yard setback; and make various interior modifications, located at 10 Crest 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, 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 siding; the window and door materials, locations, and dimensions; the eave overhang dimension; and the overall massing and placement of the expanded structure.
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.
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-4, II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a) (*remodels*), V-1, V-2, V-3, V-4, V-5, V-5(a), V-5(b), V-5(c), V-7, V-8, V-9, V-10, V-11 (*fences*).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.6 (Retaining Walls), Design and Preservation Element Policy 29.8 (Exterior Lighting), Design and Preservation Element Policy 31.3 (Context-Sensitive Design), Design and Preservation Element Policy 31.9 (Recent Past).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 10 Crest 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, except that doors 2, 4, 6, and 12 shall be wood.
2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Window Recess.** As specified in the plans, Windows A-B, E-T, and Y shall be recessed 2 inches from the exterior wall to the face of window sash; and Windows C-D and U-X shall protrude 6 inches from the exterior wall 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. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
6. **Garage Door.** To facilitate vehicular access, garage door shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.
7. **C&D Compliance.** Compliance with Section 9.04 of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
8. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
9. **Arborist's Report and Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures to preserve the existing Tipuana tree on the southwestern side of the house and the trees in the east side yard. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.
10. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per

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

**11. 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).

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

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

**13. 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 December 1, 2015, by submitting the following required information to the Building Department:

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

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

**REGULAR CALENDAR**

**Adoption of Draft  
Updated Design  
Guidelines**

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

Planning Director Jackson thanked the consultants, Commissioner Ramsey, and former Commissioner Behrens for their work in drafting the proposed Guidelines.

Barry Miller, consultant, reported the Planning Commission opened the public hearing on April 8, 2019, received public comment, discussed the proposed Guidelines, and continued the hearing to the current meeting. The City's General Plan calls for an update of the Design Guidelines. The existing Guidelines have been amended many times in the 31 years since their adoption, have an outdated appearance, and address single-family residences only. The proposed Guidelines have a contemporary appearance and address modern construction trends and all construction types in Piedmont. The intent of updating the Guidelines is to modernize them, incorporate additional land uses, and organize the content into a cohesive and easy-to-use document. During the update process, the consultants, staff, and committee members met with architects and the Piedmont Historical Society and received input through an online survey. In response to comments from Commissioners on April 8, staff has corrected typographical errors, updated the acknowledgements page, clarified a diagram in Chapter 2, and incorporated some fence and retaining wall diagrams from the existing Guidelines after updating the diagrams with color. The proposed Design Guidelines are intended to be amended and supplemented regularly. The proposed Guidelines have been available for public review and comment since early March 2019. If the Planning Commission recommends approval of the proposed Guidelines, the City Council is tentatively scheduled to review them on June 3, 2019.

Chair Levine opened and closed the public hearing with no comment from the public.

When asked, Planning Director Jackson advised that the legend for the diagrams in Chapter 2 of the proposed Guidelines can be found on page 2-3. Commissioner Batra suggested staff clarify the legend as a definition of terms.

Chair Levine, on behalf of the Planning Commission, thanked Commissioner Ramsey and former Commissioner Behrens, staff, and the consultants for preparing the proposed Design Guidelines.

Planning Director Jackson explained that should the Planning Commission recommend approval and the City Council approve the proposed Guidelines on June 3, the updated Design Guidelines will be in effect for projects considered during the June 10 Planning Commission meeting. The updated Design Guidelines should not affect pending applications as the proposed Guidelines are essentially the same as the existing Guidelines. Materials and the staff reports submitted with pending applications will be revised to correspond to the proposed Guidelines. The existing Guidelines will remain available for reference. Future revisions to the Design Guidelines will be reviewed by the Planning Commission, who will make a recommendation to the City Council. Staff anticipates annual or biennial updates to the Design Guidelines.

Mr. Miller added that the consultants prepared a detailed and two-way correspondence table for the existing and proposed Guidelines.

**Resolution 13-PL-19**

RESOLVED, that the Piedmont Planning Commission recommends approval to the City Council of Resolution No. \_\_\_\_\_, adopting Design Guidelines, as amended by any clarifications and corrections for typographical errors found prior to the City Council review, and repealing Interim Design Guidelines, finding that:

1. The proposed Guidelines are consistent with and will advance the policies and actions of the Piedmont General Plan;
2. The proposed Guidelines are consistent with Chapter 17 of the Piedmont Municipal Code; and,
3. The proposed Guidelines will support and improve the City's ability to promote orderly, attractive, safe, and harmonious development that upholds the aesthetic values of the community and ensures excellence of architectural design.

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

**New House Variance  
and Design Review  
Permit  
30 Blair Place**

The Property Owner is requesting permission to demolish an existing 2,454-square-foot residence and construct a new two-story, 2,948-square-foot residence above a 1,797-square-foot, partially subterranean basement level; construct new terraces, steps, exterior lighting, landscaping, and related site changes; and to construct a fence and gate within the street yard setback. A variance is required to construct the new attached garage within the street yard setback.

Written notice was provided to neighbors. **No affirmative response forms and four negative response forms** were received. Correspondence was received from **Tom Lee**.

**Public testimony** was received from:

Stanley Wong, Property Owner, reported he and his wife originally intended to renovate the property but decided to rebuild the property because the foundation needs stabilizing and to respond to neighbors' concerns. Rebuilding the house will be more beneficial for the neighborhood. He provided models of the existing house and the proposed house. Soil removed for the expansion of the house will be used in a rammed earth wall. The wall will look like a layered sandstone wall and will be between 1 foot and 2 feet wide at the bottom of the house. Digging during construction may impact the roots of a juniper tree in the west side yard and affect the tree's health. He will attempt to preserve the juniper tree. If necessary, he will replace the tree with another mature tree. A neighbor has expressed privacy concerns if the tree is removed, but the proposed wall will be as tall as the juniper tree. If the neighbor prefers, he can plant a hanging vine or a green wall to cover the rammed earth wall. The ceiling height of the stair tower is approximately 9 feet. The stair tower provides access to the roof garden and creates a chimney effect for ventilation through the skylight. He may use one of the penthouses as a home office, and not visually connecting the two penthouses will allow him to psychologically separate his office from his home.

The two penthouses will not be visible to a pedestrian on the street. The design of the roof garden and penthouse is deliberate. The rooftop fire pit and seating area are a gathering area. The main focus of the rooftop will be an herb garden. The rooftop and backyard open spaces cannot be screened from neighbors because all the neighbors look down on the property. He attempted to push the height of the structure behind three existing trees. The height of the structure also brings the hillside down more gently. The earthen wall can be moved about a foot to provide space for screening, but the wall aligns with the new garage, which is in the location of the existing garage. He intends to keep the existing retaining walls and align new structures with the existing foundation.

Aaron Parr, project landscape architect, advised that he will protect as much of the juniper tree's roots as possible. The existing retaining walls have impacted the tree's spread and root structure. Any construction could affect the tree's health.

Michelle Cho, neighbor at 6170 Harbord Drive, expressed concerns that the proposed house will negatively impact the resale value of her home and her family's privacy inside their home. Stairs lead from the cul-de-sac to the deck at her house. The view from her home is obstructed by the proposed penthouse structures.

Gene Radzik, neighbor at 20 Blair Place, believed the proposed house will affect his quality of life and privacy. The proposed house increases the height, mass, and volume of the existing home and is not harmonious or in proportion with other homes in the neighborhood. The project proposes moving the western wall and balcony 14 feet closer to his property. A person on the roof deck could look into his interior and exterior living spaces. The balcony also poses a noise concern. The potential for the rammed earth wall to fall on his home or slide down the hill is another concern. The possibility of a mature replacement tree shielding his home from neighboring homes is unlikely for several years into the future. He suggested Mr. Wong consider creating living space by excavating the hillside.

Irem Radzik, neighbor at 20 Blair Place, noted Mr. Wong had indicated he would explore a different angle for the earthen wall in order to protect the juniper tree, but that seems to have been removed from consideration. She was pleased that Mr. Wong has proposed replacing the juniper tree with another mature juniper tree. She wanted the applicant to provide a dust and contaminants mitigation plan, a lead-based paint abatement plan, and a construction plan with site hours and a cleaning plan. The proposed height is a concern because windows will face her living room and kitchen.

Chris Call, neighbor at 816 Blair Avenue, concurred with Ms. Cho's concerns. The modern style of the proposed home is not compatible with the neighborhood. People, structures, and amenities on the proposed rooftop deck will negatively impact his views and privacy.

Chris Clark, neighbor at 10 Calvert Court, expressed concerns about privacy and construction dust as his child suffers from asthma. He had received one email from Mr. Wong approximately a year ago inviting him to look around the property.

Tommy Vong, neighbor at 6150 Harbord Drive, supported the project if it complies with all requirements and standards. The height of the proposed flat

roof will be the same as the height at the peak of the existing roof. Mr. Vong indicated he had spoken with Mr. Wong, who responded positively to his suggestions for landscape changes.

Generally, Commissioners did not support some of the proposed design elements, stating the pavilion and stairwell create a pop-up effect atop the horizontal roofline and is therefore inconsistent with rooflines in the neighborhood; the two penthouses appear disconnected and should be reduced quite a bit or eliminated; the pavilion structure and penthouses will affect the views, light, and privacy of neighbors; the rooftop deck with firepit and built-in seating is inconsistent with the Design Guidelines for outdoor spaces and will violate neighbors' privacy; the penthouses are not consistent with the overall flow of the house; the house is too close to the neighbor's house to the west; the west side of the house behind the garage could be pulled back at the rear to save the juniper tree; perhaps a simpler exterior staircase can provide access to a green roof; and the rooftop recreation area is unnecessary because the house has a large deck and a large backyard patio. Commissioner Ramsey remarked that the project is sophisticated and beautiful. Commissioner Alessio suggested the applicant work with the neighbors regarding the roof deck and juniper tree.

**Resolution 130-V/DR-NH-187**

WHEREAS, the Property Owner is requesting permission to demolish an existing 2,454-square-foot residence and construct a new two-story, 2,948-square-foot residence above a 1,797-square-foot, partially subterranean basement level; construct new terraces, steps, exterior lighting, landscaping, and related site changes; and to construct a fence and gate within the street yard setback, located at 30 Blair Place, which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the 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, including the relationship of the proposed residence to the site, existing topography, and neighboring residences; the roof form; the building articulation; and the pop-up design of the penthouses.
2. The design has an adverse effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the view is significant; the topographical differences are not appropriate to preserve privacy, views, and light; the height of the project can be lower considering the two pop-up features; and the seating area and the firepit on the roof deck and the two pop-ups affect neighbors' privacy, light and views.

3. The proposed design does not adversely affect pedestrian or vehicular safety.
4. The application does not comply with the following Design Review Guidelines and General Plan policies and programs: I-2, I-5, I-5(a), I-5(b), I-7, I-10 (*new construction*).
5. The project is not consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Natural Resources and Sustainability Element Policy 14.4 (Retention of Healthy Native Trees), Design and Preservation Element Policy 27.3 (View Preservation), Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility).

WHEREAS, regarding a variance from street yard setback requirements, the Planning Commission in denying without prejudice the design review permit for construction at 30 Blair Place 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 construction at 30 Blair Place, Piedmont, California, and continues the consideration of the request for a variance 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 Duransoy  
Ayes: Alessio, Batra, Duransoy, Levine, Ramsey  
Noes: None  
Recused: None  
Absent: None

**New House Variance  
and Design Review  
Permit  
1635 Grand Avenue**

The Property Owner is requesting permission to construct a new, approximately 3,372-square-foot single-family residence of three levels with three bedrooms, two bathrooms, one half-bathroom, a laundry room, and a great room consisting of a living room, dining room, and kitchen; a patio and two decks at the front (east) of the residence; another patio in the rear (west) yard; and additional features including a trash enclosure in the front yard, entry stairs, a new curb cut, retaining walls throughout, exterior lighting, and landscaping throughout. The residence is proposed to step up the hill above a conforming two-car garage. A variance is required to construct the garage in the front street yard setback.

Written notice was provided to neighbors. **Eleven affirmative response forms, no negative response forms, and two response forms indicating no opinion** were received. Correspondence was received from **Jon and Christina Schroeder**.

**Public testimony** was received from:

Hilary Ferris White, Property Owner, hoped the Planning Commission will grant the application because she and her family love the neighborhood.

Avi Forman, Property Owner, reported homes along upper Grand Avenue are a mix of modern and classic styles and vary in massing, topography, and materials. Many neighborhood lots have garages or carports constructed within

the front yard setback. He requested a variance as constructing a garage outside the setback will require extensive excavation. A proposed garage within the street yard setback will be consistent with the neighborhood context. He had installed three sets of story poles and revised the design many times in response to neighbors' comments. The design mediates between the two dramatically different homes at 1631 and 1637 Grand Avenue. The height of the structure aligns with the home at 1631 Grand Avenue and is 3 feet below the eaves of the home at 1637 Grand Avenue. The home does not affect the light and view for the homeowner's study at 1637 Grand Avenue. The massing of the house cascades down the hill in a series of two-story volumes. The second-story volume is the smallest volume and located toward the rear of the home to reduce the massing at the street. He stepped the lower level back to keep the view from 1637 Grand Avenue open. Mr. Lazar, owner of 1637 Grand Avenue, wants the house to align with or behind his home, prefers more windows in the wall facing his property, and prefers the home have one story over a basement. The main volumes of the two homes align. He has added a couple of windows that face Mr. Lazar's property. Mr. Forman provided the Planning Commission with elevations depicting additional windows on the wall facing 1637 Grand Avenue and photos of the views from 1637 Grand Avenue. Mr. Forman defined the main house as the main level and the master bedroom pop-up. The main house will be a light-gray smooth-finish stucco except at certain accent locations. The concrete retaining wall at the base of the house will be unpainted board-formed concrete. If the Planning Commission wishes, he is open to applying color to the concrete. The retaining wall will be approximately 12-14 feet tall at the low portion of the stair, causing the main entry to the house to seem like a tunnel. He could add a step to the wall. The planters are intended to create a green mass covering the walls in the front yard. There will be a planter at the top balcony. Outside every living space are planters and seating. Under the current proposal, every piece of wood will be oak and stained a dark color. He tried to reduce the visual bulk of the house when viewed from the street by keeping the highest volume as far back on the site as possible. The eaves on the garage and eaves of the living space over the street-facing deck are not 3 feet deep because they add to the floor area. Stormwater runoff from the roof will be collected at the ground level by placing crushed stone and a French drain at the dripline. The patios will have a separate drainage system.

George Lazar, neighbor at 1637 Grand Avenue, remarked that a 30-foot section of the windowless wall measures about 20 feet tall. At his request, Mr. Forman added windows to the wall. Perhaps Mr. Forman would move the master bedroom to the middle of the house.

The Planning Commission generally liked the proposed design, appreciated the applicant stepping the home up the hillside, and could approve the variance. However, Commissioners suggested revisions to step the bulk on the south side back with the hill, add more vegetation or use a different material to cover the concrete mass on the street side, move the windowless wall over to mitigate the impact to Mr. Lazar's view, and move the top floor in order to reduce the appearance of a tunnel at the entry. Commissioners proposed additional conditions of approval regarding stepping the concrete wall and painting it, a revised final landscape and irrigation plan, a planter for each balcony, all wood on the exterior of the home matching in type and color of wood, conceptual elevations showing expansion and control joints, and the wall facing 1637 Grand Avenue.

**Resolution 58-V/DR-NH-19**

WHEREAS, the Property Owner is requesting permission to construct a new, approximately 3,372-square-foot single-family residence of three levels with three bedrooms, two bathrooms, one half-bathroom, a laundry room, and a great room consisting of a living room, dining room, and kitchen; a patio and two decks at the front (east) of the residence; another patio in the rear (west) yard; and additional features including a trash enclosure in the front yard, entry stairs, a new curb cut, retaining walls throughout, exterior lighting, and landscaping throughout; and the residence is proposed to step up the hill above a conforming two-car garage, at 1635 Grand Avenue, which construction requires a design review permit; and,

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

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15303, Class 3(a), New Construction or Conversion of Small Structures, because it is a new single-family residence in a residential zone, 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 has unusually steep topography so that constructing a driveway or garage outside the setback would require extensive excavation, oversized retaining walls or switchbacks and such a driveway would be out of character with the neighborhood, 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 surrounding properties have garages located within the street yard setback and the topography of the surrounding properties are equally steep.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because locating the garage outside the setback would require extensive excavation, towering retaining walls; and construction of this type of garage in this location on the lot is consistent with the neighborhood pattern and is an improvement to other similar garages because the size of the parking stalls conforms to the current Code requirements.

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 structure is partially buried in the hillside and steps up with the topography; the placement of the



house on the lot is consistent with the neighborhood development pattern; and the window placement and upper-story setbacks have been located as conditioned to minimize impact on the adjacent properties.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because as conditioned the distance between the project and neighboring homes is appropriate; the windows have been placed in order to reduce impacts on the adjacent properties; the topographical differences are appropriate to preserve privacy, views, and light; the height of the project has been kept as low as possible; and the view is not a significant view.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project provides onsite Code-conforming parking and the Code-conforming exterior stairwell provides pedestrian access to the hillside home.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: I-1, I-1(a), I-1(c), I-1(d), I-2, I-2(a), I-2(b), I-2(c), I-2(d), I-3, I-4, I-5, I-5(a), I-5(b), I-6, I-7, I-7(a), I-8, I-9, I-9(a), I-10, I-11, I-12 (*new construction*), III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a) (*garages*), IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), 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*).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Natural Resources and Sustainability Element Policy 16.4 (Permeable Pavement), Natural Resources and Sustainability Element Policy 16.5 (Hardscape Surface Standards), 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 28.7 (Hillside Home Design), Design and Preservation Element Policy 28.12 (Creativity and Innovation), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.6 (Retaining Walls), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Land Use Element Policy 1.3 (Harmonious Development), Housing Element Policy 6.2 (Energy-Efficient Materials), Housing Element Policy 6.7 (water Conservation).

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 1635 Grand Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be aluminum clad wood or 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 2 inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details 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 and Patio Color.** The proposed flat roof and patios shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties.

6. **Front Yard Planters.** The planters approved are reflective of the floor plans shown on sheet A201 and the elevations shown on sheet A601.

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

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

9. **Front Door and Garage Door Design.** Manufacture specification sheets or other detailed drawings for the front door and garage door shall be provided and approved by staff prior to issuance of a building permit.

10. **Licensed Design Professional Required.** In conformance with the Architects Practice Act, Business and Professions Code section 5500 et seq., all plans, specifications, and other instruments of service submitted for review and approval of a building permit for the proposed construction project, must be prepared by or under the responsible control of, and stamped and signed by, a properly licensed design professional.

11. **Patio Material.** As specified in the plans, the building materials for the new patios shall be a paver. A sample photograph of the paver shall be provided by the applicant prior to the issuance of a building permit. All other pavement materials shall be subject to staff review and approval.

12. **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.

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

14. **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.

15. **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.

16. **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.

17. **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.

18. **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, east, 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.

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

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](http://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, irrigation, appropriate hillside plantings, and screening along the north property line. In addition, the plan shall provide irrigation, drainage, and appropriate plantings for the planter boxes facing Grand Avenue. 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

**22. 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.

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

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 submittal.

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

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

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

**26. City Facilities Security.** The Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("City Facilities Security") in the amount of \$100,000 as established by the Director of Public Works. This financial vehicle serves as an initial sum to cover the cost of any potential damage to City property or facilities in any way caused by Property Owner, Property Owner's contractors or subcontractors, or any of their agents, employees or assigns, and related in any way to the Project. The Property Owner is responsible for the full cost of repair as determined by the City Engineer prior to final inspections. The form and terms of such City Facilities Security shall be determined by the Director of Public Works after consultation with the Property Owner. The Director may take into account any of the following factors: the cost of construction; past experience and costs; the amount of excavation; the number of truck trips; the physical size of the proposed project; the logistics of construction; the geotechnical circumstances at the site; and City right-of-way and repaving costs.

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

- b. When the City Facilities Security is in a form other than cash deposit with the City, the proceeds from the City Facilities Security shall be made payable to the City upon demand, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of the proceeds are due to the City.

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

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

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

- a. The Site Safety Security shall be in an amount to include three components:
  - i. safety, which means the cost to make the site and structure safe if construction should cease mid-way through the Project;
  - ii. aesthetics, which means an amount to install and maintain landscaping all around the Project to protect the immediate local views from neighbors and public property; and
  - iii. staff and consultant time to evaluate and implement this condition.

If, as the Project proceeds, the expected cost of these components increases beyond the original estimate in the opinion of the Director of Public Works, the City may require the Property Owner to increase the amount of the Site Safety Security by the additional amount. The Property Owner shall provide City with written evidence of compliance within 15 working days after receiving written notice of the additional required amount. The City shall retain, at the Property Owner's expense, an independent estimator to verify

the total expected costs to complete the Project and any subsequent revisions.

- b. The form and amount of the Site Safety Security is subject to the approval of the Director of Public Works. Payment to City under the Site Safety Security shall be made payable upon demand by the City and prior to the issuance of the Building Permit, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of such Performance Security is due to the City.
- c. The Site Safety Security shall not be released until the Project has an approved Final Inspection by the Chief Building Official. However, if sufficient work has been completed according to the benchmarks and construction values as established under the Construction Completion Schedule, the Site Safety Security may be reduced to the extent the Director of Public Works in his sole discretion determines is appropriate.

30. **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.

31. **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](http://www.ci.piedmont.ca.us)).

32. **Neighboring Property Inspection.** Should the neighboring property owner provide consent, a licensed civil or structural engineer (chosen by the City, and paid for by the Property Owner) shall inspect neighboring homes at 1631 Grand Avenue and 1637 Grand Avenue and retaining walls with the intent of establishing base-line information to later be used in determining whether damage was caused by any activities on Property Owner's property (including damage caused by vibrations or other factors due to excavation, construction or related activities). The inspection shall include both foundations and non-foundation related details (walls, windows, general overall condition, etc.) at a level of inspection City Staff deems appropriate. The inspection shall only

include readily visible and accessible areas of the neighboring homes. The licensed civil or structural engineer shall provide a full report to the City of his or her conclusions, and the report may be considered in developing the Construction Management Plan. If other independent consultants or specialists are required by the City to review plans and monitor construction activity, they shall be retained at the Property Owner's cost. Before a neighbor agrees to an inspection, City will advise neighbors that the property inspection is necessarily a public record under the California Public Records Act.

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

**33. 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).
- 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.

**34. 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.

35. **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.

36. **Solar Ready.** The roof of the structure shall be solar ready in compliance with Action 3.2B in Piedmont's Climate Action Plan 2.0.

37. **Building Permit.** Prior to issuance of a building permit, the applicant shall make any revisions to the plans as required by the Building Official to meet Building Code and Fire Code requirements in effect at the time of permit

issuance. Construction may only occur on Monday through Saturday, from 8:00 am to 6:00 pm, and on Sunday, from 9:00 am to 5:00 pm.

38. **Planters.** Prior to issuance of a building permit, planters shall be added to all balconies including those on Level 2 facing Grand Avenue as shown in the rendering. The minimum depth shall be as required for plants to be planted and to grow in an appropriate manner. The design of the planters and the plant types are subject to staff review and approval.

39. **Finishes.** Prior to issuance of a building permit, the final stucco texture, stucco joint pattern, and concrete pattern will be reviewed and approved by staff. The concrete shall have an integral color that is subject to staff review and approval.

40. **North Elevation.** Prior to the issuance of a building permit, windows shall be added to the north elevation as presented on revised sheet A601 submitted on May 13, 2019.

41. **Entry Walls.** Prior to issuance of a building permit, the walls adjacent to the front entry steps leading from the sidewalk to Level 2 shall be broken up in a way to reduce their monolithic nature, including but not limited to stepping the wall. The final design is subject staff review and approval.

42. **Floor Level 4.** Prior to issuance of a building permit, the Level 4 bedroom will be relocated to be further away from the north property line, subject to staff review and approval.

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

The Commission recessed for dinner at 6:50 p.m. and reconvened at 7:20 p.m.

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

The Property Owner is requesting permission to expand and remodel the house by constructing an approximately 870-square-foot second-story addition and upper-level balconies 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 two bedrooms and the excavation of the basement level including expanding the garage to two conforming parking spaces, and making various other modifications throughout including modifications to windows, doors, skylights, exterior lighting and hardscape including an expanded driveway and new patios and walkways. Two variances are required to construct within the front street yard setback along Lake Avenue and within the left street yard setback along Greenbank Avenue.

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

**Public testimony** was received from:

Chris Gilman, project architect, reported the project has been revised to eliminate one bedroom and the deck over the garage. The nonconforming wall

on the west side has been moved to conform to the required setback. The two decks located within the front setback align better with the dormers and have been reduced in size. The decks are more decorative than useful and are intended to break up the mass of the roofline when viewed from the street. The house conforms to the east setback, but the deck and trellis encroach into the setback. The siding-stucco relationship is more consistent, and the window recess is now 2 inches. The corner windows in the kitchen have been removed. The lower floor at the rear is recessed. The stucco color is a darker gray than the siding. The arch supporting the cantilever over the first floor mimics the arch shape at the front door. The ceiling height in bedroom 2 is 5 1/2 feet because of the shape of the roof.

The Commission generally supported the project as proposed and expressed appreciation for the applicant revising the design in response to the Commission's earlier comments. Commissioner Ramsey proposed an additional condition of approval regarding better integration of the arch. Commissioner Batra suggested the applicant ensure the driveway is safe for vehicles entering and existing the property.

**Resolution 91-V/DR-19**

WHEREAS, the Property Owner is requesting permission to expand and remodel the house by constructing an approximately 870-square-foot second-story addition and upper-level balconies 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 two bedrooms and the excavation of the basement level including expanding the garage to two conforming parking spaces. and making various other modifications throughout including modifications to 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 and within the left street yard setback along Greenbank Avenue; and,

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

WHEREAS, the variances from the front and left-side street yard setback requirements are approved because they comply with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the lot is a corner lot, the existing house is located in the front setback, and the house is situated in a way that limits

private outdoor space in the rear or right side yard, so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone.

2. The project is compatible with the immediately surrounding neighborhood and the public welfare because the majority of neighboring houses are located in the street setbacks along Lake Avenue and Greenbank Avenue.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the house would need to be demolished in order to be constructed outside 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 wall material, the roof form and material, the window and door material and fenestration pattern, the guardrail material, and the trellis material and 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, the view is not a significant view, and the architect and property owner have mitigated any impact on the neighbor to the rear.

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

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-4, II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a) (*remodels*); III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a) (*garages*); IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), IV-5, IV-5(a), IV-6 (*retaining walls*).

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for the construction at 170 Lake Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be wood or 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 a minimum of 1.5 inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.
4. **Pre-Construction Inspection.** Prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department to review the approved installation criteria, such as the window recess, window trim if any, and window sill projection if any.
5. **Roof Color.** The proposed flat roof shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties.
6. **Deck and Balcony Material.** The proposed deck and balcony flooring material shall be non-reflective to minimize visual impacts on upslope properties and shall be subject to staff review and approval.
7. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
8. **Garage Door.** The garage door shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.
9. **C&D Compliance.** Compliance with Section 9.04 of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
10. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
11. **Notice of Restricted Use.** The crawlspace in the basement level does not meet habitation or safety requirements of the Piedmont Municipal Code. A notice of restricted use shall be recorded with the Alameda County Recorder's office advising current and future owners that the space does not meet the safety codes for habitation purposes.
12. **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, east, west and south property lines as shown on the

approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property lines.

13. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows trees proposed for retention as well as in-lieu trees required by a Certified Tree Preservation Plan. The final plan shall comply with City Code Division 17.34 and Section 17.33.30, 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.

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

15. **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).

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

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

17. **Rear Arch.** Prior to issuance of a building permit the rear archway shall be modified to integrate into the design of the home and shall be structurally sound as required by the Building Code subject to staff review and approval.

Moved by Batra, Seconded by Alessio

Ayes: Alessio, Batra, Duransoy, Levine, Ramsey

Noes: None

Recused: None

Absent: None

**Design Review Permit  
67 Glen Alpine Road**

The Property Owner is requesting permission to demolish the existing home and construct a new approximately 6,895-square-foot single-family residence with three levels above a garage, eight bedrooms, eight bathrooms, two half-bathrooms, living room, dining room, kitchen, family room, study, laundry room, elevator, conforming four-car garage, roof terraces off two upper levels at the west side and front (south), a pool deck with spa and outdoor shower to the rear (north) of the property, retaining walls and fencing throughout, on-grade stairs, an expanded curb cut, a new driveway, and exterior lighting and landscaping throughout.

Written notice was provided to neighbors. **One affirmative response form and three negative response forms** were received. Correspondence was received from **John and Gail Uilkema, Mrs. John Healy, and Karen and Dean Barbieri.**

**Public testimony** was received from:

Arleta Chang, project architect, reported she has completely redesigned the project. In her presentation and in response to questions from Commissioners, she stated the home will be built on the lowest portion of the buildable area with the front oriented to the shared driveway and Glen Alpine Road and the shorter side oriented toward 71 Glen Alpine Road. Compared to the previous proposal, the roof has been lowered 6 feet in elevation because the building is at a lower topography. Also, the length of the east wall has been reduced 43 feet. The average building height measured from high and low grade is 5 inches lower than the height in the previous submission. The highest point of the house for the current proposal is 6 inches above the ridge of the existing house. The heights shown on the drawings are correct. The height of the house is 1-1/2 feet below the maximum allowable building height. The trees located on the common lot line with 71 Glen Alpine Road are significantly taller than the proposed house. The project includes a pedestrian path from Glen Alpine Road to the front door. The massing has been reduced by building the two lower floors partially below grade into the hill. The right side of the house is completely below grade. The main and upper floors step up the hill to follow the terrain and have bay windows to break up the exterior. Compared to the previous proposal, the square footage of the house has been reduced by 331



square feet. Ms. Chang stated that she has met and spoken with neighbors multiple times since mid-April. Fifty feet separate the side-yard window at 55 Glen Alpine from the front porch of the accessory dwelling unit (ADU). Ms. Chang explained the process used to take the comparison photographs shown on sheet 19.1 and confirmed that the graphic portrayal of the trees in the plan set is accurate. The roof monitor above the family room will supplement the ambient lighting in the kitchen and family room and provide architectural interest for the ceiling. The house has been moved farther from the shared access road and closer to the trees. Compared to the prior submittal, the entrance to the home is more than 20 feet further away from the shared access road. The eastern edge of the home's south facade is more than 56 feet from the shared access road. The shared access road will be wider on the downhill side, one tree will be removed, and the curb cut will be wider at the Fire Department's request. The widening of the asphalt significantly improves access via the shared access road. The stone pavers will be similar to a flagstone in gray and tan colors. The solar water heating blanket is made of tubing, is approximately 3/8-inch thick, is to be installed directly flat on the roof, and should be virtually invisible. Ms. Chang explained that the designation of solar ready for the roof means the electric meter will be appropriate for solar power, the utility room has space for inverters, and the conduit to the roof is in place. Solar ready does not require the installation of photo voltaic panels, and the plans do not depict any solar panels because the applicant has no intention of installing solar panels on the roof. Ms. Chang indicated she first learned of the neighbors' concerns about future solar panels when reviewing comments on Thursday prior to the hearing. She indicated that other locations on the lot might be better suited for solar panels, including the ground at the north end of the lot, and elaborated on the limitations and constraints of rooftop installations of solar panels. In her opinion, solar panels could extend up to 5 feet above the roof before impacting the view from 71 Glen Alpine Road. The siting of the proposed home is influenced by the Fire Code's requirement that the house be setback no more than 150 feet measured from the curb of Glen Alpine Road as shown on sheet 3.1 for the purpose of providing emergency service access. Current development precedes this Fire Code requirement. The shared access road is a private easement on the side yard of the property. The front lot line and street frontage of the property is Glen Alpine Road. The project is sited to provide distance between homes and to minimize the visual impact between houses. The perspective on the cover of the submission was taken from the sidewalk on the opposite side of Glen Alpine Road. Some of the redwood trees have been removed from the perspective so that the home can be seen in the drawing. In reality, the right half of the house is almost entirely obscured by the trees that will remain on the property. The main house will have eight bedrooms, but one of the rooms that meet the definition of a bedroom will be used as an exercise room.

Cindy Chan, project architect, advised that the new landscape areas are located mostly around the perimeter of the home. Plants will be native to California, drought tolerant, and compatible with oak trees. Potato vines will be planted along all perimeter metal fencing. The western red bud trees planted along the pool patio should reach a maximum height of 15 feet at maturity and will not obstruct any view from the house at 71 Glen Alpine Road. A generous terrace on the downhill edge of the pool will be planted with evergreen shrubs and groundcover. The applicant has agreed to replace the proposed Toyon tree located at the intersection of the shared access road and the driveway to the new garage with a vine at the stair wall so as to not impede driver sightlines, which is a concern of Ms. Cahill, 61 Glen Alpine Road. The site plan will be updated to reflect the vine proposed to be planted on the perimeter fencing for the

backyard. Twenty-four trees will be replaced with 30 trees. Three trees located within the footprint of the house will be removed.

Dean Barbieri, neighbor at 605 Blair Avenue and trustee of the property at 71 Glen Alpine Road, stated that he appreciated the architect's plan revisions that have resulted in the lowering of the height of the structure so that it no longer presents a significant impact on the views enjoyed from 71 Glen Alpine Road. However, he expressed concern about the possibility of future solar panels blocking the views from 71 Glen Alpine Road. He requested the Planning Commission consider the high probability and likelihood that the current homeowner or a future homeowner will install solar panels atop the flat roof of the proposed structure, which he felt would block the views from 71 Glen Alpine Road. He reminded the Planning Commission that the view preservation policies and goals of the City of Piedmont include to recognize and protect significant views in the City, particularly the views of San Francisco and Oakland skylines, Lake Merritt, and San Francisco Bay, the Bay and Golden Gate Bridges, surrounding hills, canyons, and geological features, and to discourage the obstruction of such views by upper level additions, tall structures and devices such as communication towers. Mr. Barbieri submitted to the Commission that the potential pitched solar panels are just the types of structures that would interfere significantly with the existing view. His understanding is that solar panel design and permitting are exempt from design review and that solar panels are within the authority of the State of California which may or may not take into consideration Piedmont's view ordinance. Mr. Barbieri concluded that this does not preclude the City and the Planning Commission from anticipating such structures when approving the building upon which those panels will be placed. He requested that the Commission consider the numerous impacts that solar panels might have on the view from 71 Glen Alpine Road. The 3/8-inch rooftop solar hot water system Ms. Chang proposes is not objectionable, but any reflection from the device or other solar panels that might interfere with the use and enjoyment of the property at 71 Glen Alpine Road would be objectionable.

Ann Healy, neighbor at 71 Glen Alpine Road, reported she and the prior owners of 67 Glen Alpine Road have trimmed the trees and shrubs to maintain the views from 71 Glen Alpine Road. The proposed oak trees grow tall and may obstruct the views from 71 Glen Alpine Road in the future. Ms. Healy expressed concern about traffic, noise, removal of the 50-foot redwood tree, and the size of the proposed house. The proposed house will be closer to her property than the existing house.

Karen Barbieri, neighbor at 605 Blair Avenue, supported the written comments of John and Gail Uilkema, and hoped that the Commission has reviewed the information provided in the letter. She appreciated the applicant reducing the height of the house so that it does not significantly impair the views. She expressed her concerns about the installation of solar panels that project measurably above the roof surface and that there is nothing that she or the Planning Commission can do about preventing this. Any structure placed on the roof in the future will obliterate the view from 71 Glen Alpine Road. She is less concerned about the installation of a solar blanket. A flat tar-and-gravel roof will not be an attractive view from 71 Glen Alpine Road. If the applicant reduced the building height further, the house could have a traditional roof that is consistent with the neighborhood. Parking is a concern, especially with the proposed home having ten bedrooms. She objected to the size and bulk of the structure. Although she acknowledges that there are other large homes on Glen Alpine

Road and Sotelo Avenue, they are more appropriate to their sites. She urged the Planning Commission to deny the application.

Bob Fisher, neighbor at 55 Glen Alpine Road, did not look forward to such a large structure being located near his bedroom window. He expressed concern about construction noise.

Alastair MacTaggart, neighbor at 70 Sotelo Avenue, remarked that the proposed home will obstruct the view of the valley and vegetation from 71 Glen Alpine Road. The project is too large for the very steep lot and is not consistent with the character of the neighborhood. Solar panels placed on the roof in the future will destroy the view from 71 Glen Alpine Road.

Annie Wong, neighbor at 14 Glen Alpine Road, remarked that large construction vehicles will not be able to travel Glen Alpine Road if vehicles are parked along it. In the past, construction vehicles traveled on and damaged the sidewalk.

Kevin Wang, Property Owner, understood the neighbors' concerns about construction noise, and he will follow the required construction management plan.

Planning Director Jackson clarified that the Planning Commission is obligated to review and act on the proposed project as it has been presented. The Planning Commission cannot act on possible future construction that is not proposed in the current application. Under the Solar Rights Act, the State of California prohibits cities from conducting discretionary reviews of residential rooftop solar energy systems. The City of Piedmont's Climate Action Plan calls for the construction of new buildings to include solar-ready roofs. The applicant proposed a solar-ready project in compliance with the Climate Action Plan. The current or a future owner of 67 Glen Alpine Road has the right to propose a rooftop solar energy system in the future, and the proposed project would be subject to regulations in effect at the time the proposal is submitted for review. However, the tall redwoods directly south of the house will likely block direct light to the roof during peak daylight hours. This situation would greatly curtail the effectiveness of a rooftop solar energy system. For this particular site and proposal, requiring the roof to be solar ready could be seen as an undue burden and the Planning Commission may want to consider changing the conditions of approval so that the roof is not required to be solar ready.

Generally, the Commission, with the exception of Commissioner Duransoy, supported approval of the project, referring to the likelihood that any new construction on the site will be visible from a neighboring property, the rotation and stepping down of the house, the siting of the house at the bottom of the hillside, the placement of the lower floors partially below grade, revisions made to the project in response to the Commission's earlier comments, the project providing Code-compliant parking, the project's floor area ratio being well below the maximum allowable floor area and within the average range of floor area for neighborhood homes, the beautiful design, and the project's compliance with criteria and requirements.

Commissioner Duransoy advised that the roof monitor feels like a pop-up and does not match the rest of the roof. The mass of the structure is too close to the edge of the property. Chair Levine agreed that the roof monitor adds bulk to the roof, but it does not affect the view or overall height of the structure.

Commissioner Ramsey proposed additional conditions of approval regarding construction on weekends, the design of the rooftop monitor, inspection and repair of the roadway if necessary, the solar-ready rooftop, and an update of the landscape plan.

**Resolution 97-DR-19**

WHEREAS, the Property Owner is requesting permission to demolish the existing home and construct a new approximately 6,895-square-foot single-family residence with three levels above a garage, eight bedrooms, eight bathrooms, two half-bathrooms, living room, dining room, kitchen, family room, study, laundry room, elevator, conforming four-car garage, roof terraces off two upper levels at the west side and front (south), a pool deck with spa and outdoor shower to the rear (north) of the property, retaining walls and fencing throughout, on-grade stairs, an expanded curb cut, a new driveway, and exterior lighting and landscaping throughout, located at 67 Glen Alpine Road, which construction requires a design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15303(a) because the project consists of one single-family residence to be constructed within a single-family zoning district, because there are no unusual circumstances associated with the property or the project, because existing General Plan policies and programs are sufficient to address the proposed grading, excavation, and construction, and because there is no substantial evidence that any exception to the Class 3 Categorical Exemption applies to this project, specifically including the unusual circumstances exception, and the project is consistent with General Plan policies and 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 a portion of the residence will be constructed below grade and integrated into the hillside; the residence will step up the hillside; the composition of stone veneer, wood siding, wood soffits, painted stucco, and low-profile flat roofs are aesthetically pleasing and balanced proportionately; the neighborhood has a variety of housing styles including modern home styles; the residence is sited on the lower portion of the lot and oriented to minimize exposure to the uphill neighbor while setting the top of the roof below the floor height of the uphill residence; and the house is attractive in design, form, and use of 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; the height of the project has been kept low with flat roofs and below the floor elevation of the adjacent uphill home; there is sufficient existing and proposed vegetative screening; landscaping has been selected that will limit growth along the uphill property side; and the residence is sited on the lower portion of the site to avoid impacting significant views from neighboring properties.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project maintains adequate visibility for vehicles entering and exiting the driveway; the project improves onsite parking conditions by providing Code-conforming parking, allowing vehicles to turn around within the garage and avoid backing into the easement access road; the new handrails and on-grade steps improve pedestrian access and safety from the street; and the project will improve Fire Department access to the easement road.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: I-1, I-1(a), I-1(b), I-1(c), I-1(d), I-2, I-2(a), I-2(b), I-2(c), I-2(d), I-3, I-4, I-5, I-5(a), I-5(b), I-6, I-7, I-7(a), I-8, I-9, I-9(a), I-10, I-11, I-12 (*new construction*), III-1, III-1(a), III-2, III-2(a), III-3, III-4, III-5, III-5(a), III-6, III-6(a), III-7, III-7(a) (*garages*), IV-1, IV-1(a), IV-1(b), IV-2, IV-2(a), IV-3, IV-3(a), IV-4, IV-4(a), 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*).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Natural Resources and Sustainability Element Policy 13.4 (Conserving Native Vegetation), Natural Resources and Sustainability Element Policy 14.4 (Retention of Healthy Native Trees), Natural Resources and Sustainability Element Policy 16.5 (Hardscape Surface Standards), Design and Preservation Element Policy 27.3 (View Preservation), Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.7 (Hillside Home Design), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.6 (Retaining Walls), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Land Use Element Policy 1.3 (Harmonious Development), Housing Element Policy 6.2 (Energy-Efficient Materials), Housing Element Policy 6.7 (Water Conservation).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 67 Glen Alpine 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.

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

3. **Window Recess.** All new windows shall be recessed a minimum of 2 inches from the exterior wall to the face of window sash in order to maintain consistency, 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. **Licensed Design Professional Required.** In conformance with the Architects Practice Act, Business and Professions Code section 5500 et seq., all plans, specifications, and other instruments of service submitted for review and approval of a building permit for the proposed construction project, must be prepared by or under the responsible control of, and stamped and signed by, a properly licensed design professional.

6. **Pavement Material.** As specified in the plans, the building materials for the new driveway and patio material shall be either concrete or stone pavers. All other pavement materials shall be subject to staff review and approval.

7. **Roof Color.** The proposed flat 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 an opaque or translucent shade that completely covers the light bulb.

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

10. **Solar Ready.** The roof of the structure shall not be designed to be solar ready other than for the water heating blanket.

11. **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.

12. **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.

13. **BAAQMD Compliance.** The applicant shall comply with the Bay Area Air Quality Management District regulations related to any building demolition. The Demolition Notification form is available on their website at [www.BAAQMD.gov/forms](http://www.BAAQMD.gov/forms).

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

15. **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.

16. **Fire Safety.** Prior to issuance of a building permit, the applicant shall obtain final approval from the Piedmont Fire Department in regards to the accessibility to the property. If design changes are required, the changes will be subject to staff review and approval.

17. **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.

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

19. **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 east and west 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.

20. **Storm and Sewer Main Condition and Repair.** City records indicate that City storm and sewer mains and associated easement(s) are located downhill from the proposed improvements. Prior to the issuance of a building permit, the Property Owner shall submit a revised copy of the survey prepared by Moran Engineering to show sewer manhole covers and any easements. Said easements and manhole covers shall also be shown on the building permit drawings. The applicant shall also work with City staff to verify the location and depth of the storm and sanitary sewer mains. In addition, the City shall videotape the existing sanitary and storm sewer mains to assess their pre-construction condition in order to make a determination as to whether any repairs to or replacement of the sewer main is required prior to the commencement of excavation and/or construction. (The City is responsible for the cost of the main line, and the property owner for costs of the lateral.) As part of the final inspection the same sanitary and storm sewer lines shall be inspected as required by the Director of

Public Works, who shall also determine if the sewer lines were damaged as a result of the construction and therefore must be repaired at the applicant's expense. The applicant is responsible to locate their private sewer lateral and note such location on the building permit drawings.

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

22. **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 and plantings to enhance fencing. 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.

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

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

26. **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.

27. **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](http://www.ci.piedmont.ca.us)).

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

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 submittal.

29. **Sound and Vibration Mitigation Plan and Review.** As required by the Director of Public Works, the Property Owner shall submit a plan prepared by a

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

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

**30. City Facilities Security.** The Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("City Facilities Security") in the amount of \$100,000 as established by the Director of Public Works. This financial vehicle serves as an initial sum to cover the cost of any potential damage to City property or facilities in any way caused by Property Owner, Property Owner's contractors or subcontractors, or any of their agents, employees or assigns, and related in any way to the Project. The Property Owner is responsible for the full cost of repair as determined by the City Engineer prior to final inspections. The form and terms of such City Facilities Security shall be determined by the Director of Public Works after consultation with the Property Owner. The Director may take into account any of the following factors: the cost of construction; past experience and costs; the amount of excavation; the number of truck trips; the physical size of the proposed project; the logistics of construction; the geotechnical circumstances at the site; and City right-of-way and repaving costs.

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

payable to the City upon demand, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of the proceeds are due to the City.

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

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

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

- a. The Site Safety Security shall be in an amount to include three components:
  - i. safety, which means the cost to make the site and structure safe if construction should cease mid-way through the Project;
  - ii. aesthetics, which means an amount to install and maintain landscaping all around the Project to protect the immediate local views from neighbors and public property; and
  - iii. staff and consultant time to evaluate and implement this condition.

If, as the Project proceeds, the expected cost of these components increases beyond the original estimate in the opinion of the Director of Public Works, the City may require the Property Owner to increase the amount of the Site Safety Security by the additional amount. The Property Owner shall provide City with written evidence of compliance within 15 working days after receiving written notice of the additional required amount. The City shall retain, at the Property Owner's expense, an independent estimator to verify the total expected costs to complete the Project and any subsequent revisions.

- b. The form and amount of the Site Safety Security is subject to the approval of the Director of Public Works. Payment to City under the Site Safety Security shall be made payable upon demand by the City and prior to the issuance of the Building Permit, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of such Performance Security is due to the City.
- c. The Site Safety Security shall not be released until the Project has an approved Final Inspection by the Chief Building Official. However, if sufficient work has been completed according to the benchmarks and construction values as established under the Construction Completion Schedule, the Site Safety Security may be reduced to the extent the Director of Public Works in his sole discretion determines is appropriate.

34. **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.

35. **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.

36. **Neighboring Property Inspection.** Should the neighboring property owner provide consent, a licensed civil or structural engineer (chosen by the City, and paid for by the Property Owner) shall inspect neighboring homes at 55 Glen Alpine Road and 71 Glen Alpine Road and retaining walls with the intent of establishing base-line information to later be used in determining whether damage was caused by any activities on Property Owner's property (including damage caused by vibrations or other factors due to excavation, construction or related activities). The inspection shall include both foundations and non-foundation related details (walls, windows, general overall condition, etc.) at a level of inspection City Staff deems appropriate. The inspection shall only include readily visible and accessible areas of the neighboring homes. The licensed civil or structural engineer shall provide a full report to the City of his or her conclusions, and the report may be considered in developing the Construction Management Plan. If other independent consultants or specialists are required by the City to review plans and monitor construction activity, they shall be retained at the Property Owner's cost. Before a neighbor agrees to an inspection, City will advise neighbors that the property inspection is necessarily a public record under the California Public Records Act.

Within 45 days after the Certificate of Occupancy is issued on Property Owner's property, the same licensed civil or structural engineer chosen by the City (or a substitute licensed civil or structural engineer chosen by the City) shall inspect the same area in each neighboring home and property initially inspected, and shall present to the City a Report detailing any evidence of apparent damage that has been or reasonably might have been caused by activities on the Property

Owner's property. The Report may include text, photographs, diagrams, or other evidence that would document the apparent damage. The Report will become a public record and may be used in connection with private causes of action.

37. **Construction Traffic.** A maximum of three construction vehicles may be parked off the construction site at a time on Glen Alpine Road. At no time may passenger or construction vehicles be parked in any area within the Glen Alpine driveway and easement or Sotelo Road during construction, and a note to that effect shall be listed on the building permit plans. The phone number of the project manager shall be provided to all neighbors located on the Glen Alpine driveway and easement and every effort shall be made to ensure access ingress and egress along the Glen Alpine driveway.

38. **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).
- b. Construction Traffic. The applicant shall provide a construction traffic management plan including limiting the amount of construction related vehicles parked on the street to no more than three, shuttling, and traffic management. At no time may passenger or construction vehicles be parked in any area within the Glen Alpine private driveway and easement or Sotelo Road during construction. The phone number of the project manager shall be provided to all neighbors located on the Glen Alpine private driveway and easement and every effort shall be made to ensure access ingress and egress along the Glen Alpine driveway
- c. Weekend Work. Construction shall only occur Monday through Friday.
- d. Glen Alpine Private Access Road. The private access road along the west property line shall be inspected prior to the issuance of a building permit and any damages as a result of construction related activities will be required to be repaired and/or repaved prior to the scheduling of final inspection.

39. **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.

40. **Light Monitor.** The light monitor above the kitchen shall be modified so that its roof design is consistent with roofs on the rest of the residence, subject to staff review and approval.

Moved by Ramsey, Seconded by Alessio  
Ayes: Alessio, Levine, Ramsey, Strout  
Noes: Duransoy

Recused: Batra  
Absent: None

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

The Property Owner is requesting permission to construct an additional 222 square feet of habitable space in the upper level and basement of the house with proposed construction consisting of two dormers with windows on the north and south slopes of the roof at the rear of the house for an attic expansion, partially excavating the basement to create habitable space, and various other interior modifications. A variance is required to exceed the floor area ratio limit.

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

**Public testimony** was received from:

Ben Worthen, Property Owner, reported the goal of the project is to make the house more livable for his family.

William Holland, project architect, advised that the applicant requests a variance to exceed the maximum allowable floor area ratio. The narrow through lot extends from Manor Drive to York Drive. The existing unfinished basement space and the unfinished attic space over the family room count toward the floor area ratio because of the recent change in the definition of habitable space. Therefore, the existing house exceeds the maximum allowable floor area ratio. The project proposes to improve the unfinished basement and attic spaces to create living space without creating any bedrooms. In the vicinity of the project, homes commonly do not conform with the maximum allowable floor area. Without the two proposed dormers, access to the attic space is through one of the bedrooms. The project proposes construction of more concrete walls than is necessary in an effort to prevent future conversion of the basement space to bedrooms. He indicated he obtained data from Redfin to prepare the table of floor area ratios for nearby homes. The floor area ratios would likely increase if once could physically view the homes.

Commissioners with the exception of Chair Levine generally favored granting the requested variance, stating the project is modest, complies with the spirit of the floor area ratio limit, does not increase the number of bedrooms, does not expand the building envelope with the exception of the dormers, and neighbors have not submitted any complaints or opposition to the project.

Chair Levine could not find a basis for granting the variance request as the applicant can accomplish the goal of the project without a variance.

Commissioner Batra remarked that other homes in the neighborhood exceed the allowable floor area; therefore, the project is consistent with neighborhood development. Commissioner Alessio suggested the applicant cannot make the house more livable or spacious without a variance.

Planning Director Jackson explained that a portion of the existing unfinished attic space counts toward existing floor area ratio because the center of the space has adequate ceiling height for habitability, a minimum of 70 square feet of contiguous floor area, and adequate wall area to accommodate egress windows. The laundry area in the existing basement meets the same criteria and counts toward floor area ratio. The applicant can propose a project to improve the existing basement without requesting a variance to exceed the maximum

allowable floor area if the project does not expand the existing envelope of the house, *i.e.*, the proposed dormer windows cannot be a part of the project.

**Resolution 98-V/DR-19**

WHEREAS, the Property Owner is requesting permission to construct an additional 222 square feet of habitable space in the upper level and basement of the house with proposed construction consisting of two dormers with windows on the north and south slopes of the roof at the rear of the house for an attic expansion, partially excavating the basement to create habitable space, and various other interior modifications, at 8 Manor Drive, 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 exceed the allowable floor area ratio; and,

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

WHEREAS, the variance from the floor area regulations is approved because it complies with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the lot is unusually small, a through lot, and unusually shaped so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare because most homes in the neighborhood are similar in size or larger than what is being proposed.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because specifically in planning and design the overall floor plan is improved and could not be accomplished without a 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 wall material, the roof form, the roof material, the window and door 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 height of the project



has been kept low and the development is within the existing building footprint with the exception of the dormers.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project does not affect pedestrian or 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-6, II-7, II-7(a) (*remodels*).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy).

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 construction at 8 Manor Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window Material.** As specified in the plans, the building material for the new windows 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 ¼ 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. **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. **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.

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

8. **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).

9. **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.

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

**Design Review Permit  
17 Sierra Avenue**

The Property Owner is requesting permission to construct a 7-foot high fence along the north property line fronting Mountain Avenue and a 6-foot high fence along the east property line separating 17 Sierra Avenue from 21 Sierra Avenue, a new handrail at the front entry path and stairs, and other landscape and hardscape modifications throughout the property.

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

**Public testimony** was received from:

Tom Sullivan, Property Owner, reported the height of the fencing is a material consideration for him and his wife as they would like privacy in their outdoor space. The backyard fronts Mountain Avenue, which is heavily traveled by both vehicles and pedestrians. Many people are sufficiently tall to look over a 6-foot fence. He requested a fence height of 7 feet to provide privacy. A 7-foot tall fence will not screen the houses across the street because the houses are much higher than a 7-foot tall fence. In some places, the existing fencing is less than 6 feet tall.

Jeff George, project landscape architect, advised that the three-panel fencing breaks up the overall mass, the overlapping vertical boards create shadow lines that also help break up the mass. The posts are visible to break up the mass.

There will be a gap between the fence and the sidewalk where vegetative screening can be planted. Vegetative screening of the fencing has been discussed but is not shown on the plans. The entry into the yard is a step down, which also breaks up the mass. The existing chain-link fencing on 21 Sierra Avenue will remain until the owner develops a project for the lot. The wooden fencing along the walkway and behind 21 Sierra Avenue is existing. The fencing along the property line between 17 and 21 Sierra Avenue is proposed at a height of 6 feet. The applicant will consider a fence height of 6 feet 6 inches.

Planning Director Jackson clarified that fencing with a height of 6 feet or less and located outside the required 20-foot street yard setback is not subject to design review.

Generally, Commissioners appreciated the design of the fencing. However, in their discussion of the proposed height of the fence the Commissioners considered the proposed landscaping for the backyard, the topography of the backyard, the proposed 6-foot fencing between the two lots, whether or not a 7-foot tall fence was necessary to provide privacy, the prevalence of unfenced properties fronting Mountain Avenue, and the height of fencing along Mountain Avenue near the subject property being in the range of 6 feet or less.

**Resolution 99-DR-19**

WHEREAS, the Property Owner is requesting permission to construct a 7-foot-high fence along the north property line fronting Mountain Avenue and a 6-foot high fence along the east property line separating 17 Sierra Avenue and 21 Sierra Avenue; construct a new handrail at the front entry path and stairs; and make other landscape and hardscape modifications throughout the property, located at 17 Sierra 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 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, including the fence material, the handrail material, and the planter material.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because there is no significant view; there is sufficient vegetative screening; the topographical differences are appropriate to preserve privacy, views, and light; and the height of the fence as conditioned has been kept at 6 feet.
3. The proposed design does not adversely affect pedestrian or vehicular safety because there is no impact.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: II-6, II-6(a), II-6(b), II-6(c), II-7, II-7(a) (*remodels*), V-1, V-2, V-3, V-5, V-5(a), V-5(b), V-5(c), V-11 (*fences*).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.4 (Setback Consistency), 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 29.5 (Fence and Wall Design), 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 17 Sierra Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **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.

2. **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.

3. **Verification of Location of Proposed Features.** Prior to foundation inspection, the Applicants shall submit to the Building Official written verification by a licensed land surveyor stating that the proposed features are constructed on the property at 17 Sierra Avenue, as shown on the approved plans. If the proposed entry path improvements are within the public right-of-way on Sierra Avenue, and before the issuance of a building permit, the Property Owner shall comply with the following condition:

a. **Encroachment Permit.** Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction within the public right-of-way or public easement.

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. Conditions of Approval for Lot Line Adjustment Application.** Prior to scheduling a final inspection, the grant deed resulting from the lot line adjustment application #18-0061 shall have been recorded with the County.

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

**8. 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 December 1, 2015, by submitting the following required information to the Building Department:

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

**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, 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 Applicants 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).

**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 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 Applicants' sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
- c. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Applicants fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Applicants shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Public Works. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.
- d. The failure of the Applicants to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code ("City Code"). The failure of the Applicants to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Applicants fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may make a claim against the Property Owner's Site

Security, if one is required, in order to complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

11. **Fence Height.** With the exception of the fence posts, the maximum height of the fence along Mountain Avenue shall be six feet measured from sidewalk grade. The final design shall be subject to staff review and approval.

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

**Design Review Permit  
21 Sierra Avenue**

The Property Owner is requesting permission to remove all existing structures, hardscape, and utilities and to make other landscape changes.

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

No **public testimony** was received.

The Planning Commission proceeded to action on the project without discussion.

**Resolution 99-DR-116**

WHEREAS, the Property Owner is requesting permission to remove all existing structures, hardscape, and utilities and to make other landscape changes; 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, 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 will be removed: all structures, hardscape, and utilities except for the existing fencing.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because all structures and hardscape will be removed.
3. The proposed design does not adversely affect pedestrian or vehicular safety because it has no effect on pedestrian or vehicular safety.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: II-6, II-6(a), II-6(b), II-6(c) (*remodels*).



5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.11 (Design Review), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.2 (Landscape 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 21 Sierra Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **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.

2. **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.

3. **Conditions of Approval for Lot Line Adjustment Application.** Prior to scheduling a final inspection, the grant deed resulting from the lot line adjustment application #18-0061 shall have been recorded with the County.

4. **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 Applicants 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).

5. **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) Start of Work; ii) Completion of Demolition; iii) Completion of Grading 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 Applicants' sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
- c. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Applicants fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Applicants shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Public Works. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.
- d. The failure of the Applicants to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code ("City Code"). The failure of the Applicants to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Applicants fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

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

**ADJOURNMENT**

There being no further business, Chairman Levine adjourned the meeting at 9:49 p.m.