

## PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, August 12, 2019

A Regular Session of the Piedmont Planning Commission was held August 12, 2019, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a), the agenda for this meeting was posted for public inspection on July 29, 2019.

- CALL TO ORDER** Chairman Levine called the meeting to order at 5:00 p.m.
- ROLL CALL** Present: Commissioners Allison Alessio, Yildiz Duransoy, Jonathan Levine, Tom Ramsey, Alternate Commissioner Doug Strout
- Absent: Commissioner Rani Batra
- Staff: Planning & Building Director Kevin Jackson, Senior Planner Pierce Macdonald-Powell, Assistant Planner Mira Hahn
- ANNOUNCEMENTS** Director Jackson reported Associate Planner Christopher Yeager has resigned his position with the City. Dana Peak will fill the vacant position beginning August 26.
- 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 18-PL-19**  
RESOLVED, that the Planning Commission approves as presented its meeting minutes of the June 10, 2019, regular hearing of the Planning Commission.  
Moved by Alessio, Seconded by Strout  
Ayes: Alessio, Duransoy, Levine, Ramsey, Strout  
Noes: None  
Abstaining: None  
Absent: Batra
- CONSENT CALENDAR** By procedural motion, the Commission placed the following application on the Consent Calendar:
- 5201 Park Boulevard (Sign Review Permit).
- Resolution 19-PL-19**  
RESOLVED, that the Planning Commission approves the Consent Calendar as noted.  
Moved by Ramsey, Seconded by Alessio  
Ayes: Alessio, Duransoy, Levine, Ramsey, Strout  
Noes: None  
Recused: None  
Absent: Batra
- At the end of the meeting, the following Resolutions were approved adopting the Consent Calendar:
- Sign Review Permit  
5201 Park Boulevard** **Resolution 194-SIGN-19**  
WHEREAS, the Renaissance International School is requesting retroactive permission to install signage and lighting on the rear corner of the structure,

adjacent to the interior parking lot located at 5201 Park Boulevard, which installation 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 the project is consistent with General Plan policies and programs, and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.36.040.C.2.b of the Piedmont City Code:

1. Approval of a sign design review permit will not result in more than one sign per applicant for each building facade.
2. Each sign shall be simple in design. Graphic depictions related to the non-residential use are appropriate.
3. Each sign shall be compatible in design, color, and scale to the front of the building, adjoining structures, and general surroundings.
4. The sign shall be oriented toward pedestrian and vehicular traffic.
5. The sign shall be constructed of sturdy materials.
6. The design of the sign is consistent with the City's General Plan and Piedmont Design Guidelines including 7.06.01.1, 7.06.01.2, 7.06.01.3, 7.06.01.4 (Building Design: Commercial and Mixed-Use Residential).
7. As conditioned, the application complies with the following General Plan policies and programs: Design and Preservation Element Policy 27.9 (Signs) and 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 installation of signage at 5201 Park Boulevard, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
2. **Sign Lighting:** The proposed sign shall be lit only during the hours of operation approved under conditional use permit #15-0189.
3. **Sign Conduit Lines:** All conduit lines and junction boxes attached to the exterior wall shall be painted to match the color of the exterior wall of the existing building.

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

**REGULAR CALENDAR**

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

**Variance and Design  
Review Permit  
1346 Grand Avenue**

The Property Owners are requesting permission to construct a new approximately 800-square-foot accessory structure in the back (east) yard and an approximately 250-square-foot addition to the garage in the front (west) yard; and to modify hardscape, handrails, exterior lighting, and retaining walls throughout. A variance is required in order to construct the garage within the street yard setback.

Commissioner Ramsey recused himself from the item as he has ownership interest in real property located within 1,000 feet of the subject property.

Written notice was provided to neighbors. **No affirmative response forms and two negative response forms** were received. Correspondence was received from Wendy Irmingier.

**Public testimony** was received from:

Richard Janzen, project architect, reported the Property Owners propose to live in the accessory structure and either rent the main dwelling or allow their grown children to live in the main dwelling. The Property Owners propose the garage addition as additional onsite parking. In order to construct the garage addition outside the front setback, soil supporting the existing house and garage would have to be excavated. The existing garage is located at the front property line, as the garage addition will be. The architectural style of the existing garage will be repeated in the garage addition. The existing garage doors will be replaced with doors that are compatible with the neighborhood context. Other properties along Grand Avenue have three-car garages facing the street. The Property Owners want storage space in the accessory structure's attic; therefore, the accessory structure is designed to be as large as possible and still comply with the required height limit and address neighbors' privacy concerns. The grade of the property at 41 Fairview Avenue will be probably 30-40 feet above the peak of the accessory structure roof, and the home will be 60-70 feet away from the accessory structure. When viewed from 41 Fairview Avenue, the accessory structure will likely appear as an addition to the main house. Mr. Janzen advised that the contractor has either spoken with neighbors or left information for neighbors about the project. The project includes replacing the existing garage's roofing material so that the roof of the garage addition blends with the existing garage roof. The number of trees proposed in the previously approved project can be planted as part of the current project. When planning the addition for the main house a few years ago, the Property Owners discussed an accessory structure with him but chose to delay constructing the accessory structure and garage addition until the addition to the house was near completion.

Dan Franco, project contractor, stated the railing for the front stairs will be wrought iron and will wrap around the front deck. The bronze color of the railing will match the light fixtures and hardware on the front door. The

accessory structure will not obstruct views from any surrounding homes and is located more than 50 feet away from the neighbor to the rear of the property.

Commissioners generally supported the project and granting a variance for the garage addition, stating other garages along the street are located in the front setback, the garage roof's slope away from the street breaks up the mass, and instances of three adjacent garages can be found further down Grand Avenue. However, Commissioners wanted the applicant to submit a detailed landscape plan to ensure trees and vegetation will screen views and buffer noise, particularly at the rear of the property, in response to neighbors' privacy concerns.

While Commissioners Alessio and Strout expressed no concerns regarding the accessory structure's roof profile and dormers, Commissioner Duransoy and Chairman Levine believed the accessory structure roof should be redesigned to match the roof of the main house because matching the heights and slopes of the roofs will reduce the volume and height of the accessory structure and make it more proportional and less visible. Commissioner Duransoy suggested eliminating the dormer windows from the accessory structure in order to reduce the mass of the structure. Commissioner Alessio disagreed because the dormers break up the roofline. Alternate Commissioner Strout felt the accessory structure may screen the view of the addition to the main house and improve privacy with the exception of the dormers and recessed patio. Chairman Levine added that the roofs of the three structures will be visible because they step up the hill, but there is no basis for finding that the application has a materially adverse impact on neighbors' views, light, and privacy.

Director Jackson reported staff has proposed a condition of approval requiring a landscape plan with details about plantings. The Design Review Guidelines state new construction should be consistent with existing architecture. If the accessory structure's roof form is consistent with that of the main home, the Planning Commission could make the necessary findings in support of granting the variance. The architect has explained that the increased roof slope is intended to provide attic storage. If the Property Owners have no attic storage, they could utilize the garage for storage, which negates the benefit of the garage addition.

**Resolution 49-V/DR-19**

WHEREAS, the Property Owner is requesting permission to construct a new approximately 800-square-foot accessory structure in the back (east) yard and an approximately 250-square-foot addition to the garage in the front (west) yard; and to modify hardscape, handrails, exterior lighting, and retaining walls throughout at 1346 Grand Avenue, which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct within the 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, 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; without demolishing the house, a Code-compliant garage cannot be constructed; and a garage located outside the setback would require a tremendous amount of excavation; 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 the neighboring properties have garages located close to the street, and the proposed garage makes the property conforming to the Piedmont parking requirements.
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 supply a garage 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 material, the window and door material and fenestration pattern, and the garage placement and pattern of the garage door.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate; and the topographical differences are appropriate to preserve privacy, views, and light.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project improves onsite parking conditions and maintains adequate visibility for entering and exiting the driveway; and the new handrails and on-grade steps should improve pedestrian safety.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.05.01.1, 3.08.01.1, 3.08.01.2, 3.08.02.1, 3.08.02.2, 3.08.02.3, 3.08.02.4, 3.08.02.5, 3.08.02.6, 3.08.03.1, 3.11.01.1, 3.11.01.2 (Site Design); 4.02.01.1, 4.02.01.2, 4.02.01.3, 4.02.01.4, 4.02.01.5, 4.02.01.6, 4.02.01.7, 4.02.01.8, 4.02.01.9, 4.02.01.10, 4.02.01.11, 4.03.04.1, 4.03.04.2, 4.03.04.3, 4.03.04.4, 4.03.04.5, 4.03.04.6, 4.03.04.7 (Building Design: General), 5.01.01.1, 5.01.01.2, 5.01.02.1, 5.02.02.1, 5.02.02.2, 5.02.02.3, 5.02.02.4, 5.02.02.5, 5.02.02.6, 5.02.03.1, 5.02.3.2, 5.03.02.1, 5.04.01.1, 5.04.02.1 (Building Design: Single-Family Residential).
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 Policy 16.4 (Permeable Pavement); Design and Preservation Policy 28.1 (Scale, Height, and Bulk

Compatibility); Design and Preservation Policy 28.4 (Setback Consistency); Design and Preservation Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Policy 28.6 (Exterior Materials); Design and Preservation Policy 28.8 (Acoustical and Visual Privacy); Design and Preservation Policy 29.6 (Retaining Walls); Design and Preservation Policy 29.7 (Driveway and Parking Location).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for the construction at 1346 Grand Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Plans Set.** The approved plans are those submitted on May 29, 2019 and Sheets G11.01 and A6.03 submitted on August 1, 2019, after notices to neighbors were mailed and the application was available for public review.
2. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be fiberglass.
3. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
4. **Window Recess.** All new windows shall be recessed 2 inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.
5. **Pre-Construction Inspection.** Prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department to review the approved installation criteria, such as the window recess, window trim if any, and window sill projection if any.
6. **Roof Color.** The proposed flat roof shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties.
7. **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. **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.

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

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

**12. Double Trailer Truck Prohibition.** To reduce potential damage to the streets and to avoid traffic hazards on narrow curving city streets, no double trailers shall be used as part of the Project.

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

**14. 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.

**15. Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows trees proposed for retention as well as in-lieu trees required by a Certified Tree Preservation Plan. Using the landscape plan approved under Design Review Permit #17-0237, the Plan shall provide vegetative screening between the new accessory structure and the rear property line. The final plan shall comply with City Code Division 17.34 and Section 17.33.30, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. Upon the determination of the Director, minor differences in the number, size and/or species of vegetation between those shown on the approved landscape plan and those installed at the time of final inspection that do not involve an increase in hardscape or structure coverage may be subject to staff review and approval. Significant differences between the vegetation installed at the time of final inspection and vegetation shown on the approved landscape plan are subject to a design review permit.

**16. Foundation/Shoring/Excavation Plan.** The Property Owner shall submit foundation, excavation, and shoring plans prepared by a licensed civil or structural engineer that fully address issues of site shoring, fencing and hillside

security issues. The plans shall not require any trespassing or intruding into neighboring properties (without prior written consent), and shall mitigate against any subsidence or other damage to neighboring properties. Such plans shall incorporate as appropriate the recommendations of the Property Owner's geotechnical engineer and the City's geotechnical consultant, and shall be subject to approval by the City Engineer and the Chief Building Official.

**17. 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/Roofing/Framing Plans and any related work 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.

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

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

Approved Construction Completion Schedule and be binding on the Applicant. The City may, at the Applicant's sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

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

**19. 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.

**20. Roof Slope.** The slope of the roof of the new accessory structure shall match the slope of the roof on the main residence.

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

Noes: None  
Recused: Ramsey  
Absent: Batra

**Variance and Design  
Review Permit  
350 Moraga Avenue**

The Property Owner is requesting permission to construct a 498-square-foot multilevel expansion at the existing residence, including window and roof changes, new exterior lighting fixtures, and other exterior and interior changes; modify the side of the property fronting Bonita Avenue including changes to the main entry from Moraga Avenue to Bonita Avenue and construct a new entry porch, deck, and stairs, an upper-level deck, a two-car garage, a new driveway and curb cut with access to Bonita Avenue, new brick siding at the basement level, and new retaining walls of a maximum height of 3 feet and 3 inches to replace the existing fencing; modify the east side of the property including expansion of the existing lower-level deck and removal of the existing shed, deck, stairs, and chimney; and demolish the porch and stairs, add new fencing on the south side yard, and make various landscape and hardscape modifications throughout. A variance from the 20-foot street yard setback is required to construct the proposed additions on the Bonita Avenue side of the property.

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

**Public testimony** was received from:

Tom Zhang, project architect, reported the house has suffered from deferred maintenance. The project will improve the house and the neighborhood. The applicant proposes to relocate the entrance from Moraga Avenue to Bonita Avenue because traffic blocks the Moraga Avenue entrance to the property. The existing house has two stories, but the second floor is not useful. The master suite is long and narrow, and ceiling heights do not comply with the legal definition of habitable space. The roof will be raised about 2 feet and the slope changed to make the second floor more livable. The first floor will be dedicated to family living space with a living room opening to a deck, an open kitchen, a formal dining room, and a family room connected to the backyard. The facade will have brick siding on the lower level and stucco on the upper level to complement the adjacent house and the house across the street. Aluminum-clad Marvin windows consistent in color and style will replace existing windows. The eaves will have decorative brackets to add interest. The survey of neighborhood homes included columns, brackets, roof profiles, and roof slopes. The proposed stairs prevent the garage from being recessed, but they utilize existing excavated space. Mr. Zhang indicated he did consider a more traditional window jamb detail, but the bottom window seal adds interest. The windows are recessed 2 inches. Revising the spacing and proportions of columns, using double columns, installing two garage doors, and extending the roof overhang are possible. The deck and stairs will probably have stone tile rather than ceramic tile. The trash enclosure at 3 feet 9 inches will reach the top of the trash bin and will probably have a decorative cover. The Property Owners have decided to delay renovation of the garage in order to determine the best use of it. In the meantime, the garage will be cleaned, repaired, and painted. The roofs facing Moraga Avenue and Bonita Avenue will be copper. The house will not block sunlight from the home on Bonita Avenue because the adjacent home is north of the subject home and because there is an ample side yard setback. Stepping back the second floor will cause the rooms to be less useful. Mr. Zhang advised that the adjacent neighbor on Bonita Avenue does not have any objection to the project as proposed. The materials of the fencing along Moraga

Avenue are still good and solid, and the fencing will be cleaned and straightened. The base for sheet A1.1 was prepared by a surveyor.

Don Chandler, neighbor at 17 Bonita Avenue, opposed the requested variance based on the bulk and size of the Bonita Avenue facade. The peak of the roof will be about 37 feet above the sidewalk. The project includes moving the house 5-6 feet toward the street when many of the homes along Bonita Avenue are set back 20 feet from the street. Most of the roofs along Bonita Avenue have some slope. The Bonita Avenue facade is not compatible with other homes along the street and the character of the neighborhood.

Lester Ellis, neighbor at 12 Bonita Avenue, concurred with Mr. Chandler's remarks. He expressed concerns regarding construction traffic and parking and suggested five construction vehicles could be permitted to park on Moraga and Bonita Avenues.

Catherine Zhang, Property Owner, advised that backing out of the existing driveway into traffic is dangerous. Relocating the drive and garage to Bonita Avenue will be good for the neighborhood. Ms. Zhang stated the next-door neighbor welcomes the proposed improvements to the house. She proposed asking construction workers to carpool to the jobsite.

Generally, the Planning Commission liked the project as it would improve the home's appearance and the neighborhood and supported relocating the driveway and entry to Bonita Avenue, but many components of the project should be redesigned. The spacing and proportions of the columns along the front should be consistent with other traditionally styled homes in the neighborhood. The Design Guidelines recommend two garage doors rather than one large garage door. Alternatively, one garage door that appears to be two doors could be used. At a minimum, the existing garage should be painted and repaired. The trash enclosure should be larger to accommodate a third cart and comply with Code requirements for height. Setting back the second floor will help reduce the massing of the home. The rooms could be better composed such that the house does not appear to lean to one side. The architectural details should complement the traditional style of the house. The roof overhang could be extended. The front entry and porch are heavy with a lot of structural bulk; railing could alleviate some of the heaviness. The parking of construction vehicles element of the Construction Management Plan should be carefully considered.

Commissioner Ramsey remarked that relocating the entryway is an opportunity for a graceful, well-integrated, traditional porch on Bonita Avenue. A porch would relieve some of the massing and provide a shadow line and foil for the mass of the house.

Director Jackson explained that the City's standard conditions of approval are meant to be relevant to projects in general, rather than specific projects. If the Planning Commission wishes to address construction vehicle parking, it could revise the condition of approval for a Construction Management Plan to require minimization of construction vehicles parking on both Moraga and Bonita Avenues.

**Resolution 134-V/DR-19**

WHEREAS, the Property Owner is requesting permission to construct a 498-square-foot multilevel expansion at the existing residence, including window and roof changes, new exterior lighting fixtures, and other exterior and interior

changes; modify the side of the property fronting Bonita Avenue including changes to the main entry from Moraga Avenue to Bonita Avenue and construct a new entry porch, deck, and stairs, an upper-level deck, a two-car garage, a new driveway and curb cut with access to Bonita Avenue, new brick siding at the basement level, and new retaining walls of a maximum height of 3 feet and 3 inches to replace the existing fencing; modify the east side of the property including expansion of the existing lower-level deck and removal of the existing shed, deck, stairs, and chimney; and demolish the porch and stairs, add new fencing on the south side yard, and make various landscape and hardscape modifications throughout at 350 Moraga Avenue, which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct within the 20-foot street yard setback; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is 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 detailing and recess for windows and door and window placement are inconsistent and do not match an overall historical detail; the eave overhang is not consistent with the architectural style of the house as recommended in Design Guideline 4.0.1 (Building Style); the proportion and placement of the porch and porch columns are inconsistent with the style of architecture and the scale and proportions of the house; the column placement at the centerline of the elevation is not traditional; the columns are not proportional to the elevation volume or Craftsman style; and the existing garage is inconsistent with Design Guideline 5.02.01.2.B.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distances between the neighboring houses are unchanged; the distances between the project and the neighboring homes are appropriate; there is no significant view; there is sufficient landscaping provided; and the height of the project has been kept as low as possible.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project improves onsite conditions by providing conforming parking; and the project maintains adequate visibility for entering and exiting the driveway.
4. The application does not comply with the following Design Review Guidelines and General Plan policies and programs: 4.01.01.1, 4.01.01.2, 4.01.01.3, 4.01.01.4, 4.01.02.1 (Building Design: General); 5.02.01.2.B (Building Design: Single-Family Residential).

5. The project is not consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility) specific to the porch and garage; Design and Preservation Element Policy 28.2 (Style Compatibility) with respect to the components of the project and the overall architectural style of the house; Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches).

WHEREAS, regarding a variance from street yard setback requirements, the Planning Commission, in denying without prejudice the design review permit for construction at 350 Moraga Avenue, finds that there is no approved design for which a variance is 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 350 Moraga Avenue, 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 Ramsey, Seconded by Alessio  
Ayes: Alessio, Duransoy, Levine, Ramsey, Strout  
Noes: None  
Recused: None  
Absent: Batra

The Commission recessed for dinner at 6:25 p.m. and reconvened at 6:55 p.m.

**Variance and Design  
Review Permit  
36 Greenbank Avenue**

The Property Owners are requesting permission to omit construction of a previously approved one-car detached garage located at the southwest side of the rear yard and to provide two uncovered, tandem parking spaces on the existing driveway. A variance is required to omit the previously approved garage without supplying onsite conforming parking.

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

**Public testimony** was received from:

Rudi Widmann, consulting architect, reported locating the garage at the rear of the lot requires constructing a plinth with a 5-foot skirt wall in the center of the terraced landscape. In addition, the garage would be located 16 inches from the south property line, which is very close to the adjacent neighbor's deck and view. A survey of the neighborhood found at least 19 properties do not have off-street covered parking. Therefore, approving off-street covered parking would be compatible with the neighborhood. Not building the garage would eliminate at least 30 feet of driveway. A garage at the rear of the lot would probably not be used as a garage. The Planning Commission granted a variance from the right side yard setback requirement for construction of the proposed garage; locating a garage in the side yard setback would require a variance; omitting the previously approved garage requires a variance. Not constructing the garage is better for neighbors and the Property Owner. A cover could be constructed over the tandem parking space on the driveway. The driveway will have a mostly permeable surface. The parking area could be permeable parking pavers or

wheel strips to minimize the amount of impervious material. A garage at the rear of the lot would require construction of retaining walls because of the lot's topography. Locating a garage 16 inches from the property line and adjacent to the neighbor's deck is a hardship for planning and design. The previously approved garage includes tandem parking, and tandem parking arrangements are often approved.

Rem Kinne, Property Owner, advised that he and his wife were not aware that parking could be provided in forms other than a garage when they proposed the previous project. The previously approved garage will have a heavy impact on existing landscaping, the use of the property, and adjacent neighbors' use of their properties. Providing parking on the driveway will have less of an environmental impact. The properties that do not have covered parking are part of a parking district, and parking is not an issue in his area.

Director Jackson related that the original application proposed interior modifications, window and door changes, and extra structure in the right side yard setback, which required a variance. The original project did not increase the number of bedrooms. The applicant proposed removal of the existing garage and construction of a new garage, which did not increase the parking nonconformity and did not require a variance from the parking requirements. If the original application proposed removal of the existing garage only, a variance from the parking requirements would have been required.

Commissioners generally could not support the request for a variance, stating the Planning Commission has denied recent applications to remove conforming parking because it provided an unfair advantage for the applicants; and the variance findings cannot be made because the approved application found construction of covered parking on the lot is possible.

**Resolution 174-V/DR-19**

WHEREAS, the Property Owner is requesting permission to omit construction of a previously approved one-car detached garage located on the southwest side of the rear yard and provision of two uncovered, tandem parking spaces on the existing driveway at 36 Greenbank Avenue, which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to omit the previously approved garage without supplying onsite conforming parking; and,

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

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

1. The property and existing improvements do not present unusual physical circumstances of the property, including an approved garage is located on the property, so that strictly applying the terms of this chapter would not prevent the property from being used in the same manner as other properties in the zone.

2. The project is not compatible with the immediately surrounding neighborhood and the public welfare because neighboring homes have covered parking spaces.

3. Accomplishing the improvement without a variance would not cause unreasonable hardship in planning, design, or construction because a garage can be designed properly to accommodate a parking space.

WHEREAS, regarding the design review permit, the Planning Commission finds that the proposal does not conform to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. The proposed design is not consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are not consistent with the original architecture and neighborhood development: the lack of covered off-street parking.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light.

3. The proposed design does adversely affect pedestrian or vehicular safety because removing the existing nonconforming parking will adversely affect parking conditions on the street.

4. The project is not consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Transportation Policy 11.1 (Off-Street Parking Standards).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the variance application and the design review permit application for modifications at 36 Greenbank Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Design Review Permit  
29 Lake Avenue**

The Property Owners are requesting permission to construct a 792-square-foot second-story addition atop the main residence; demolish the existing brick chimney and construct a new chimney with stucco finish; and make other interior and exterior modifications.

Alternate Commissioner Strout recused himself from the item as he has ownership interest in real property located within 500 feet of the project site.

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

**Public testimony** was received from:

Steven Marks, project architect, reported the addition of a fourth bedroom suite has been inserted into the ridgeline of the existing hipped roof. The addition will increase the overall height of the structure by approximately 6 feet. The project includes a second non-covered parking space. Materials for the addition are consistent with materials used in the existing home. The addition could be located in the center of the roofline, but offsetting the addition's mass balances the bay window on the left and the dormer in the center. Also, offsetting the addition moves it away from the neighboring house. Other roof designs were considered, but the proposed roof design is the most appropriate for the existing house. The lower the top plate, the more the roof is compressed onto the windows.

Pierre Garrigues, Property Owner, advised that recent improvements have been made to the kitchen, the accessory structure, and landscaping.

Generally, the Planning Commission supported the project, referring to the addition matching the existing roof slope and details of the existing roof and house, and the location of the addition providing privacy for the adjacent neighbor. Commissioner Ramsey suggested lowering the height of the addition or breaking up the plane of the addition in an effort to reduce the massing. Chairman Levine concurred with lowering the height by approximately a foot. Commissioners Duransoy and Alessio did not agree with lowering the height of the addition because it could result in the home not appearing proportional from the front and could affect the smaller windows on the west side of the home. In addition, the massing may not be visible from the street. Chairman Levine suggested centering the addition would hide the bulk of the addition behind the roof peak.

Director Jackson suggested a different shingle pattern, a flare, or lowering the trim could break up the appearance of the addition. The Planning Commission could add a condition of approval requiring modification of the front such that the flat wall plane massing of the addition is reduced.

**Resolution 187-DR-19**

WHEREAS, the Property Owner is requesting permission to construct a 792-square-foot second-story addition atop the main residence; demolish the existing brick chimney and construct a new chimney with stucco finish; and make other interior and exterior modifications, located at 29 Lake 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 wall material, the roof form and material, and the window and door material and fenestration pattern.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate, and the view is not a significant one.

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: 3.03.01.1, 3.03.02.1, 3.03.02.2, 3.03.02.3, 3.03.02.4 (Site Design); 4.01.01.1, 4.01.01.2, 4.01.01.3, 4.01.01.4, 4.02.01.1, 4.02.01.7, 4.02.01.8, 4.02.01.9, 4.02.01.10, 4.03.04.1, 4.03.04.2, 4.03.04.3, 4.03.04.4, 4.03.04.5, 4.03.04.6, 4.03.04.7, 4.05.03.1, 4.05.03.2, 4.05.03.3, 4.05.03.4 (Building Design: General); 5.01.01.1, 5.01.01.2, 5.01.02.1 (Building Design: Single-Family Residential).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 28.11 (Design Review), Design and Preservation Element Policy 28.12 (Creativity and Innovation), Design and Preservation Element Policy 31.3 (Context-Sensitive Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 29 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 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 2 inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details such as 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. **Building Height and Floor Level Verification.** Prior to frame inspection, the applicant shall provide the Building Official written verification by a licensed land surveyor stating that the floor level and roof of the new structure are constructed at the approved height above grade.

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.

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 Rough Framing; ii) Completion of Electrical; iii) Completion of Plumbing; iv) Completion of Mechanical; v) Completion of Fire Sprinklers; vi) Completion of Home; vii) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Planning and Building.
- b. Before the Project begins, the Director of Planning and Building 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 Planning and Building 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 Planning and Building. 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 Planning and Building 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 Planning and Building, 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 Planning and Building, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

10. **Front Façade.** The front façade of the upper level addition shall be modified to effectively reduce its overall appearance. Options include but are not limited to lowering the clipped gable or reducing the building height. Revised plans shall be subject to staff review and approval.

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

**Variance and Design  
Review Permit  
30 Jerome Avenue**

The Property Owner is requesting permission to construct a 708-square-foot second-story addition; expand the existing garage to provide a tandem, two-car garage; modify windows and doors throughout; install new exterior lights; construct a new deck with a guardrail, a patio, a sport court, and retaining walls at the rear of the house; demolish the existing rear patio; and make various interior modifications, which include the addition of a fourth bedroom. A variance is required to increase the number of bedrooms from three to four without meeting the onsite parking requirements.

Commissioner Ramsey recused himself from the item as he has ownership interest in real property located within 1,000 feet of the project.

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

**Public testimony** was received from:

Brian Armstrong, Property Owner, reported the addition will expand the home by slightly more than 700 square feet and provide an additional bedroom and bathroom. The existing downstairs space will be reconfigured. Because the number of bedrooms will increase from three to four, a second parking space will be provided under the house. The existing garage will be expanded to

provide two tandem parking spaces. The addition's roofline mimics existing rooflines, and the new windows and trim detail will have the same style as the existing windows. Two windows will be removed as part of the kitchen expansion. A detailed landscape plan can be submitted and will address the neighbor's concern about privacy at the rear fence. Mr. Armstrong advised that the neighbor at 32 Jerome Avenue has not expressed any concerns regarding the project.

Generally, the Commission appreciated the redesigned project, noting the balanced design, good proportions, reorganized windows on the facade, and responsiveness to the Commission's earlier comments.

**Resolution 192-V/DR-19**

WHEREAS, the Property Owner is requesting permission to construct a 708-square-foot second-story addition; expand the existing garage to provide a tandem, two-car garage; modify windows and doors throughout; install new exterior lights; construct a new deck with a guardrail, a patio, a sport court, and retaining walls at the rear of the house; demolish the existing rear patio; and make various interior modifications, which include the addition of a fourth bedroom at 30 Jerome Avenue, which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to increase the number of bedrooms from three to four without complying with onsite parking requirements; and,

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

WHEREAS, a variance from the parking requirements 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 an unusually small lot and a garage cannot be added without demolishing the house, 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 many of the neighboring properties have a second story and the proposed addition is within the existing footprint of the house.
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 supply a conforming garage.

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the stucco wall material, the gable roof form, the composition shingle roof material, the window and door material and fenestration pattern, and the wood deck and guardrail material.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate; the view is not a significant view; and the development is within the existing building footprint.

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: 3.03.01.1, 3.03.02.1, 3.03.02.2, 3.03.02.3, 3.03.02.4, 3.08.02.1, 3.08.02.2, 3.09.01.1, 3.09.01.2, 3.09.02.1, 3.09.03.1, 3.09.03.2, 3.11.01.1, 3.11.01.2, 3.11.03.1, 3.11.03.2, 3.11.03.3, 3.11.03.4, 3.11.03.5, 3.11.03.6, 3.11.03.7, 3.11.03.8, 3.11.03.9, 3.11.03.10, 3.12.01.2, 3.12.02.1, 3.12.02.1, 3.12.02.2, 3.12.02.4, 3.13.02.2, 3.13.03.1, 3.13.03.2 (Site Design); 4.01.01.1, 4.01.01.2, 4.01.01.4, 4.02.01.3, 4.02.01.4, 4.02.01.6, 4.02.01.7, 4.02.01.9, 4.02.01.10, 4.02.01.11, 4.03.04.1, 4.03.04.2, 4.03.04.3, 4.03.04.4, 4.03.04.5, 4.03.04.6, 4.03.04.7, 4.05.02.1, 4.05.02.2, 4.05.02.3, 4.05.02.4, 4.05.02.5, 4.05.02.6, 4.05.02.7, 4.05.03.1, 4.05.03.2, 4.05.03.3, 4.05.03.4 (Building Design: General), 5.01.01.1, 5.01.02.1, 5.02.01.1, 5.02.02.1, 5.02.02.2, 5.02.02.5, 5.02.02.6, 5.02.03.1, 5.02.03.2 (Building Design: Single-Family Residential).

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 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.6 (Retaining Walls), 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 30 Jerome Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be fiberglass and 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 such as recess and sash dimensions shall be submitted for review and approval at the time of building permit application.
4. **Pre-Construction Inspection.** Prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department to review the approved installation criteria, such as the window recess, window trim if any, and window sill projection if any.
5. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
6. **Garage Door.** To facilitate vehicular access, the garage door shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.
7. **C&D Compliance.** Compliance with Section 9.04 of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
8. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
9. **Building Height and Floor Level Verification.** Prior to foundation and/or frame inspection, 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 are constructed at the approved height above grade.
10. **Notice of Restricted Use.** The room labeled as storage/furnace room on the proposed lower level plan 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/sleeping purposes.
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 Planning and Building.
- b. Before the Project begins, the Director of Planning and Building shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the Approved Construction Completion Schedule and be binding on the Applicant. The City may, at the Applicant's sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Planning and Building 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 Planning and Building. 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 Planning and Building 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 Planning and Building, 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 Planning and Building, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

**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.

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

**Design Review Permit  
89 Maxwellton Road**

The Property Owners are requesting permission to construct a 798-square-foot single-story accessory structure and associated site changes pursuant to Section 17.38.070.B of the Piedmont City Code.

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

**Public testimony** was received from:

Leila Mashhoodi, project architect, reported the architectural style of the accessory structure matches the style of the main residence as do the materials, paint color, windows, and light fixtures. Hedges will be planted along the west and south property lines and six native buckeye trees along the south property line to provide privacy. Two trees will be removed from the lot. The height of the accessory structure, 17 feet 8 inches, has been kept as low as possible. The building will not be visible from the street but will have steps for access from Maxwellton Road. The project complies with requirements and does not need a variance. The hedges will be 8 feet tall when planted, but they could be replaced with a fence. The accessory structure was originally proposed as a part of the house and increased the bulk and height of the house. Separating the accessory structure from the house is a different approach that reduces the height and mass of the main house.

Senior Planner Macdonald-Powell noted the handrail along the walkway to the accessory structure is open. The floor area calculation of the house approved in December 2018 included space located beneath the driveway bridge because

space with a ceiling height of 7 feet or more and 42 inches or more of exposed wall area is included in the calculation of floor area. The total floor area of the main house, the space beneath the driveway bridge, and the accessory structure would exceed the maximum allowable floor area ratio (FAR) if the exemption for accessory dwelling units of 800 square feet or less or 10 percent of the lot size is not applied.

Keven Kwok, Property Owner, advised that he has discussed the project with neighbors on both sides of the property, and the project accommodates their feedback as much as possible. The project has been redesigned to reduce the height and mass and to change the roofline and pitch. The highest point of the roof will be slightly lower than the floor level of 81 Maxwellton Road. An 8-foot-tall hedge along the side of the property will screen 81 Maxwellton Road from view. A fence, a different type of tree, or planting vegetation on the neighbor's property are options for screening. The accessory structure will be integrated visually with the main house. Mr. Kwok related that he has notified neighbors that the accessory structure would not be a component of the project approved in December, and the neighbors supported that project. The square footage of the main home and accessory structure will be more than 4,500 square feet, but the massing of the main house has been reduced by relocating the accessory structure. The accessory structure's roof will be visible to neighbors.

Joyce Tang, Property Owner, related that the accessory structure will provide flexibility for childcare and economic stability. The site has four off-street parking spaces, and a parking space for the accessory structure is not required.

Philip Stein, neighbor at 16 Nellie Avenue, opposed the application. The current application seeks to bypass a prior proposal, which the Planning Commission denied, by enlarging the original accessory structure and constructing it as a separate structure. Allowing multifamily occupancy will significantly alter and fundamentally change the character of the neighborhood. Mr. Stein expressed disappointment with the Property Owner's lack of candor and transparency regarding the multiple applications. The application is a proxy for building two separate, fully contained residences at 89 Maxwellton Road. The project should have been presented to the Planning Commission and the neighborhood as two residences because of the precedence it would set.

Director Jackson clarified that the applicant submitted two applications: an application for a design review permit for the accessory structure which is being considered by the Planning Commission, and an application for an Accessory Dwelling Unit Permit. The State prohibits the City from considering ADU permits if the applications meet all Code criteria, and the ADU application submitted by the applicant meets all Code criteria. Therefore, the application for an ADU permit is not before the Planning Commission for consideration.

Jean Stein, neighbor at 16 Nellie Avenue, expressed concern about safety. Maxwellton Road is narrow, winding, and steep. There are no sidewalks along Maxwellton Road, and walking to public transportation is unsafe. Two households with the potential for four drivers will introduce new hazards.

Jack Preston, neighbor at 102 Maxwellton Road, shared the origin of the parking area located in front of his home on Maxwellton Road. Visitors, delivery people, and repairmen utilize the parking area when they are in the neighborhood. He and his family hear the comings and goings of people parking in that area. If the

project is approved, the parking area could be in constant use, and the cars will block his views, mailbox, and walkway. Nothing in the plans will improve the neighborhood.

Virginia Preston, neighbor at 102 Maxwellton Road, appreciated new property owners building or remodeling homes in the neighborhood. In those instances, the impacts of construction have remained within the confines of property lines and have not affected the neighbors. No other lot in the vicinity contains more than one residence. Approving this application could encourage others to build similar structures in an area where they are not logical.

Commissioners Alessio and Strout could make the findings to approve the application, stating the project complies with requirements, the accessory structure's style and form complement and are consistent with the main house, the accessory structure has a low profile, and the accessory structure will not impact significantly the adjacent neighbor.

Commissioners Duransoy and Ramsey and Chairman Levine could not support approval of the application because the accessory structure will have a materially negative impact on the privacy of the neighbor at 81 Maxwellton Road; removing the mature trees will have adverse effects on nature; the project returns mass that was previously removed from the site in response to the Planning Commission's concerns and increases the structural coverage of the lot; the project conflicts with Design Guidelines 3.11.03.1 and 5.03.01, Design and Preservation Element Policy 28.1, and the December 2018 presentation to the Planning Commission; and the project will increase the amount of soil excavated from the site when the amount of excavation was a factor in the Planning Commission's rejection of two earlier proposals for the site.

**Resolution 195-DR-19**

WHEREAS, the Property Owner is requesting permission to construct a 798-square-foot, single-story accessory structure and associated site changes pursuant to Section 17.38.070.B, located at 89 Maxwellton Road, which construction requires a design review permit; and,

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

1. The proposed design is not consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are not consistent with the original architecture and neighborhood development, including bulk, and this application's proposal to increase the development area of the previously approved application does not minimize impacts on the existing terrain.
2. The design has an effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the proposed new development is located within the view from 81 Maxwellton Road and does not preserve privacy for the neighbor at 81 Maxwellton Road.

3. The proposed design adversely affects pedestrian safety because access to the site is via a railroad-tie walkway to stairs that descend four stories along the property line.

4. The application does not comply with the following Design Review Guidelines and General Plan policies and programs: 3.11.03.1 (Site Design) and 5.03.01.1 (Building Design: Single-Family Residential).

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 Policy 14.4 (Retention of Healthy Native Trees), Design and Preservation Elevation Policy 28.1 (Scale, Height, and Bulk Compatibility), Lane Use Element Policy 1.2 (Neighborhood Conservation).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the design review permit application for construction at 89 Maxwelton Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Design Review Permit  
816 Blair Avenue**

The Property Owners are requesting retroactive permission to construct a fence and retaining walls within the 20-foot street yard setback and permission to construct a handrail on the stairs within the 20-foot street yard setback, all of which is located at the rear property line along Blair Place.

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

**Public testimony** was received from:

Chris Call, Property Owner, reported the fence and retaining walls replaced a dilapidated retaining wall made of railroad ties. He did not submit an application for construction of the fence and retaining walls because he assumed the project was part of a 2012 permit issued for foundation work. His contractor had informed him that a permit was not needed for the fence, but he later learned a permit was needed. While he preferred to retain the artificial turf, he agreed to remove it if required to do so.

Director Jackson advised that he spoke with the City's Chief Building Official regarding the landing and the stairway. After reviewing the submitted plan and photographs and visiting the site, the Chief Building Official determined that the stairs are not egress stairs and do not need to comply with Code requirements. The Chief Building Official has not flagged the condition as a violation of the Building Code. Building a structure over the property line usually requires an encroachment permit. The Planning Commission can approve the design but, if the design cannot be built in conformance with the Building Code, a building permit will not be issued.

Generally, Commissioners supported the project, noting the fence complements the style of the house and the plantings in the rear are beautiful.

**Resolution 198-DR-19**

WHEREAS, the Property Owner is requesting retroactive permission to construct a fence and retaining walls within the 20-foot street yard setback and permission to construct a handrail on the stairs within the 20-foot street yard setback, all of which is located at the rear property line along Blair Place, located at 816 Blair 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, 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 retaining wall material, neighboring properties have similar terracing retaining walls, and the fencing promotes an open feeling.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the view is not affected.
3. The proposed design does not adversely affect pedestrian or vehicular safety because adding the new handrails should improve pedestrian safety, and vehicular safety is not impacted.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.09.01.1, 3.09.01.2, 3.09.02.1, 3.09.02.2, 3.09.02.3, 3.09.02.4, 3.09.03.1, 3.09.03.2, 3.09.03.3, 3.09.03.4, 3.11.01.1, 3.11.01.2, 3.11.02.1, 3.11.02.2, 3.11.02.3, 3.11.02.4, 3.11.02.5 (Site Design).
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 28.6 (Exterior Materials), 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).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 816 Blair Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the

Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

2. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that complies with Piedmont City Code Section 17.34.040.

3. **Property Line Verification and Encroachment Permit.** Prior to the issuance of a building permit, the applicant shall submit to the Building Official verification by a licensed land surveyor of the location of the south (rear) property line in relation to the approved construction. Should the approved construction extend into the public right-of-way along Blair Place, the applicant shall apply for an encroachment permit to allow for the construction of the new stair and retaining wall within the public right-of-way.

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

**ADJOURNMENT**

There being no further business, Chairman Levine adjourned the meeting at 8:55 p.m.