

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, October 14, 2019

A Regular Session of the Piedmont Planning Commission was held October 14, 2019, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a), the agenda for this meeting was posted for public inspection on September 30, 2019.

CALL TO ORDER

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

ROLL CALL

Present: Commissioners Allison Alessio, Rani Batra, Yildiz Duransoy, Jonathan Levine, Tom Ramsey

Absent: Alternate Commissioner Doug Strout

Staff: Planning & Building Director Kevin Jackson, Associate Planner Dana Peak, Assistant Planner Mira Hahn, and Planning Technician Steven Lizzarago

PUBLIC FORUM

There were no speakers for the public forum.

REGULAR SESSION

The Commission considered the following items of regular business:

APPROVAL OF MINUTES

Resolution 22-PL-19

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the September 9, 2019, regular hearing of the Planning Commission.

Moved by Ramsey, Seconded by Batra

Ayes: Alessio, Batra, Duransoy, Levine, Ramsey

Noes: None

Abstaining: None

Absent: Strout

CONSENT CALENDAR

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

- 778 Kingston Avenue (Design Review Permit).

Resolution 23-PL-19

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

Moved by Alessio, Seconded by Ramsey

Ayes: Alessio, Batra, Duransoy, Levine, Ramsey

Noes: None

Abstaining: None

Absent: Strout

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

Design Review Permit 778 Kingston Avenue

Resolution 254-DR-19

WHEREAS, the Property Owners are requesting permission to remove the existing playhouse structure and gravel patio at the rear of the property; to construct a detached accessory structure with habitable space of approximately 658 square feet; and to make landscape, hardscape, and exterior lighting modifications, located at 778 Kingston 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 shingle siding, the roof form and material, the window and door material and fenestration pattern, and the guardrail material.

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

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

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03.02.1, 3.12.01.1, 3.12.01.2, 3.12.02.1, 3.12.02.2, 3.12.02.3, 3.12.02.4 (Site Design), 4.01.01.3, 4.02.01.2, 4.02.01.3, 4.02.01.6, 4.02.01.7, 4.02.01.9, 4.02.01.10, 4.03.04.1, 4.03.04.2, 4.03.04.3, 4.03.04.5, 4.03.04.6, 4.03.04.7, 4.05.02.1, 4.05.02.7, 4.05.03.1, 4.05.03.3 (Building Design: General), 4.05.03.4, 5.01.02.1, 5.03.01.1, 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: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 28.12 (Creativity and Innovation), Design and Preservation Element Policy 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 778 Kingston 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 materials for the new windows and doors shall be aluminum-clad wood, wood, and tempered glass.

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 from the exterior wall to the face of window sash 1 inch if casement and 1 inch at the upper sash if double hung, 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. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
7. **Setback from Property Line Verification.** At the discretion of the Building Official and prior to foundation/frame inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the east and south property lines as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property lines.
8. **Building Height and Floor Level Verification.** At the discretion of the Building Official and 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 and roof of the new structure are constructed at the approved heights above grade.
9. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security, emergency access, and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.
 - a. **Construction Site Control of Stormwater.** The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief

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

10. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Applicants shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage of the project as a whole for each phase.
- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Foundation; iii) Completion of Rough Framing; iv) Completion of Electrical; v) Completion of Plumbing; vi) Completion of Mechanical; vii) Completion of Fire Sprinklers; viii) Completion of Home; ix) 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 fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Applicants shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of 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 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.

11. **Fire Safety.** The following are conditions of approval included by the City's Fire Marshall:

- a. **Protected egress.** There shall be an all-weather, permanent masonry walkway to the accessory structure from the street, and it shall be at least 44 inches wide, with path lighting.
- b. **Materials.** The siding and masonry roofing materials shall be Class B fire resistive. The eaves shall be flame resistant. The gutters and downspouts shall be made of metal.
- c. **Changes.** Design changes necessary for compliance shall be subject to staff review and approval.

12. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan around the proposed accessory structure that shows trees proposed for retention on the site. The plan shall include vegetative screening at the northeast corner of the property near the proposed accessory structure. The final plan shall comply with City Code Division 17.34 and Section 17.32.30, 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 Alessio, Seconded by Batra
Ayes: Alessio, Batra, Duransoy, Levine, Ramsey
Noes: None
Abstaining: None
Absent: Strout

REGULAR CALENDAR

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

Variance and Design Review Permit 89 Sea View Avenue

The Property Owner is requesting permission to remodel the residence; construct a 733-square-foot addition as well as landscape changes, fences, outdoor kitchen, and site changes including a spa; and construct a new detached 351-square-foot accessory structure. Three variances are required to construct within the left side yard setback, the right side yard setback, and the rear yard setback.

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

Public testimony was received from:

Matthew Mosey, project architect, reported the proposed project seeks to improve the utility, functionality, and experience of the existing property. The request for variances is driven by the sub-standard lot size of 13,562 square feet

and the siting of the existing structures within the required setbacks. The applicant seeks variances to develop structures presently encroaching into the setbacks. In 1987, the property's zoning was changed to estate residential, which imposed setbacks of 20 feet and caused existing structures to encroach into the side yard and rear yard setbacks. The proposed addition creates new floor area to the west and encloses a volume defined by the horizontal limits of the upper-level terrace. The volume has no south-facing windows at the upper level, reorients the lawn towards the rear yard, and enhances privacy for the adjacent neighbor to the south. Variances pertain to the encroachment of the accessory structure, which replaces a workshop, arbor, and deck, in the rear yard and north yard setbacks. The average lot size of the 23 estate residential properties located within 300 feet of the subject property is 0.60 acres, almost twice the size of the 0.32-acre subject property. Accessory structures are located in the setbacks on 15 of the 23 properties. The front facade and portions of the 1949 house visible from the public way remain largely unchanged. The new addition and the accessory structure will be complementary and sympathetic to the existing structure. The proposed improvements have been reviewed with the four adjacent neighbors, and all four have provided letters of support. The fencing on the south yard is approximately 6-7 feet tall. The subject property drops approximately 12 feet toward the rear. The change in grade will begin approximately 7 feet from the rear property line. The trees along the rear of the property will remain. A 42-inch cable-rail guardrail will be installed atop a concrete retaining wall. The height of the retaining wall varies between 6 feet and 10 feet. The guardrail will be visible to the rear neighbor, but the existing trees will serve as screening. The existing terraces in the back yard render it unusable. Mr. Mosey indicated the property owners have discussed a deck, but they feel changing the grade of the back yard is a more robust and integrated solution. The existing structure encroaches 9 feet 2 inches into the setback, and the applicant seeks to increase the encroachment to 9 feet 8 inches to accommodate the architectural step from the new to the existing structure. The proposed accessory structure will decrease the existing encroachments into the setbacks. The accessory structure is designed to serve as an open pavilion or an enclosed room, and the proposed location is the most suitable in the back yard. Because the accessory structure is considered habitable space, it triggers the 20-foot setback. The change in elevation and the heavy vegetation at the rear of the property should screen the outdoor space from the rear neighbor. The accessory structure will have brick walls and high clerestory windows to mitigate any sound intrusion for the adjacent neighbors. There will be a gap between the structure's roof and the barbecue area.

Generally, the Commission appreciated the design and supported granting the requested variances, indicating the design integrates outdoor spaces nicely and cleans up the rear facade; the design complements the Mid-Century Modern style of the existing house; the accessory structure does not appear to impact the neighbors to the rear of the subject property; the property is unique; the applicant proposes a buffer in front of the retaining wall; the project will not expand the original footprint; the absence of windows facing the neighbors will increase privacy for neighbors; and the applicant proposes to increase one nonconformity by approximately 4 inches.

Resolution 228-V/DR-19

WHEREAS, the Property Owner is requesting permission to remodel the residence; construct a 733-square-foot addition as well as landscape changes, fences, outdoor kitchen, and site changes including a space; and construct a new

detached 351-square-foot accessory structure, at 89 Sea View Avenue, which construction requires a design review permit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the left side yard setback, the right side yard setback, and the rear yard setback; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because the project consists of additions to an existing private residence which is less than 50 percent of the floor area of the structure before the addition, because there are no unusual circumstances associated with the property or the project, because existing General Plan policies and programs are sufficient to address the proposed grading, excavation, fill, and construction, and because there is no substantial evidence that any exception to the Class 3 Categorical Exemption applies to this project, specifically including the unusual circumstances exception; and that the project is consistent with General Plan policies and procedures; and,

WHEREAS, variances from the right side yard, left side yard, and rear yard setbacks are approved because they comply with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the existing residence was built within the setbacks required at the time of construction; the existing accessory structure is built within the setbacks and reduces the existing noncompliance, and the lot is unusually small compared to the minimum lot size for Zone E so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare because other nearby properties have building areas and accessory structures in side yard and rear yard setbacks.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the addition works within the existing footprint; the lot size is small compared to the minimum lot size for Zone E; the location of the existing accessory structure is the only reasonable place for the proposed accessory structure; and the proposed accessory structure will replace the existing structure.

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 existing stucco and brick siding and new period-appropriate vertical wood paneling; the roof deck form and material; the addition's roof form and material are consistent with the existing house; the window and door material and fenestration pattern are

consistent with the existing house; and the guardrail material is minimalist and unobtrusive.

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 a significant view; there is ample vegetative screening; the accessory structure will have no windows on the rear; and the height of the accessory structure will be below the vegetative screening at the rear of the property.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the driveway and steps to the entry provide improved access.

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, 3.08.01.1, 3.08.01.2, 3.08.02.1, 3.08.02.2, 3.08.03.1, 3.09.01.1, 3.09.01.2, 3.09.02.1, 3.09.02.2, 3.09.02.3, 3.02.03.3, 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, 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, 3.11.03.11, 3.11.03.12, 3.11.03.13, 3.11.03.14, 3.12.01.1, 3.12.01.2, 3.12.02.1, 3.12.02.2, 3.12.02.3, 3.12.02.4 (Site Design), 4.01.01.1, 4.01.01.2, 4.01.01.3, 4.01.01.4, 4.01.02.1, 4.02.01.1, 4.02.01.2, 4.02.01.3, 4.02.01.5, 4.02.01.6, 4.02.01.7, 4.02.01.8, 4.02.01.10, 4.02.01.11, 4.03.03.1, 4.03.03.2, 4.03.03.3, 4.03.03.4, 4.03.03.5, 4.03.03.6, 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, 5.01.01.2, 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 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 28.12 (Creativity and Innovation), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.6 (Retaining Walls), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Design and Preservation Element Policy 29.8 (Exterior Lighting), Design and Preservation Element Policy 29.9 (Sight Obstructions).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for the construction at 89 Sea View Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Plan Set.** The approved plans are those submitted on September 13, 2019, unless modified in these conditions of approval below.

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

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

4. **Window Recess.** All new windows shall be recessed a minimum of 2 ½ inches from the exterior wall to the face of window sash, unless specified otherwise on the approved window schedule, Sheet A6.1. 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 and Skylights.** The proposed roofing shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties and all skylight flashing shall be painted a medium or dark color to match the bronze color of the skylight.

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

8. **Garage Door.** The garage doors 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 Chapter 5 Article I of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

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

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

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

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

16. **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 new plantings to replace trees, hedges, and shrubs to be disturbed by construction. The final plan shall comply with Municipal Code Section 17.17.3, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway.

17. **Arborist's Report and Certified Tree Preservation Plan.** Before the issuance of a Building Permit, the Property Owner shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures for the trees designated to remain on the final landscape plan such as the City-owned street trees and trees on the property lines shared with 87 and 93 Sea View Avenue and 74 King Avenue. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The arborist shall document in writing and with photographs the tree protection

measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. The Director shall determine the number of in-lieu replacement trees that are required to replace trees proposed for removal, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

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

- a. Landscape Documentation Package that includes the following 6 items: (i) Project Information; (ii) Water Efficient Landscape Worksheet; (iii) Soil Management Report; (iv) Landscape Design Plan; (v) Irrigation Design Plan; and (vi) Grading Design Plan.

The Landscape Documentation Package is subject to staff review and approval before the issuance of a Building Permit.

- b. Once a Building Permit has been issued, the Property Owner shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District.
- c. After completion of work, the Property Owner shall submit to the City and East Bay Municipal Utility District a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report. The City may approve or deny the Certificate of Completion. (The form for the Landscape Document Package and a Frequently Asked Question document on the CA-WELO requirements is available at the Public Works Counter and on the City website at www.ci.piedmont.ca.us).

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

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

- a. Peer Review. The City, at the Property Owner's sole expense, shall retain an independent geotechnical consultant to perform a peer-review of the Property Owner's geotechnical report and advise the City in connection with the Property Owner's proposals. The City Engineer shall select this independent geotechnical consultant, whose services shall be provided for

the sole benefit of the City and whose reports and recommendations can be relied upon only by the City. The independent geotechnical consultant shall also review the building plans during the permit approval process, and may provide periodic on-site observations during excavation and construction of the foundations as deemed necessary by the City Engineer. The Property Owner shall provide payment for this at the time of the Building Permit application submittal.

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

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

22. City Facilities Security. The Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("City Facilities Security") in the amount of \$25,000 as established by the Director of Public Works at the time of Building Permit application submittal. This financial vehicle serves as an initial sum to cover the cost of any potential damage to City property or facilities in any way caused by Property Owner, Property Owner's contractors or subcontractors, or any of their agents, employees or assigns, and related in any way to the Project. The Property Owner is responsible for the full cost of repair as determined by the City Engineer prior to final inspections. The form and terms of such City Facilities Security shall be determined by the Director of Public Works after consultation with the Property Owner. The Director may take into account any of the following factors: the cost of construction; past experience and costs; the amount of excavation; the number of truck trips; the physical size of the proposed project; the logistics of construction; the geotechnical circumstances at the site; and City right-of-way and repaving costs.

a. To provide clear baseline information to assist in determining whether damage to the City's facilities has been caused by the Property Owner or others working for or on behalf of Property Owner, the City will document such facilities (including, without limitation, streets and facilities along the approved construction route as specified in the Construction Management

Plan, to establish the baseline condition of the streets and facilities. The City shall further re-document the streets as deemed appropriate after the Project commences until the Director of Public Works determines that further documentation is no longer warranted. As part of the documentation, the City may water down the streets to better emphasize any cracks or damage in the surface. The Property Owner is responsible for the full cost of the documentation and repair work as determined by the City Engineer, and shall reimburse the City for those costs prior to the scheduling of final inspection.

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

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

- a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a Building Permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.
- b. Renovation / New Construction. Pursuant to Section 17.32.6 of the Municipal Code, if for any reason more than 70% of the physical structure (as determined by the Building Official) is demolished or destroyed, the building shall conform to new building and planning Code requirements. If this occurs during demolition, all work must stop and a new hearing and public review by the Planning Commission is required.
- c. Neighboring Property Owner Permission. Should the execution of the approved plan require excavation into a neighboring property or if access onto the neighboring property is necessary for construction, the applicant shall submit, prior to the issuance of Building Permit, a written statement from the neighboring property owner granting permission for access onto his/her property for the purpose of excavation and/or construction.

24. Construction Completion Schedule. Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner shall submit for approval a Construction Completion Schedule, which will

specify, in detail, the duration and percentage of the project as a whole for each phase.

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

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

**Variance and Design
Review Permit**

The Property Owners are requesting permission to construct a 242-square-foot addition in the front of the home; create living space on the lower level of the

15 Littlewood Drive

home; add new landscaping in the courtyard; and make various exterior modifications. A variance is required to construct within the street yard setback.

Director Kevin Jackson noted the applicants have submitted a separate application for an accessory dwelling unit permit, which is processed ministerially as required by State law. The application for an accessory dwelling unit permit is deemed incomplete until the applicants obtain approval of the structure housing the accessory dwelling unit. The application for a design review permit is before the Planning Commission. The construction of an addition within the 20-foot street yard setback requires a variance; therefore, the request for a variance is attached to the application for a design review permit.

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

Public testimony was received from:

John Malick, project architect, reported the existing bay features are the traditional vocabulary of this type of home. The cladding of the existing bay over the garage, the stained wood siding, the new natural stained wood garage door, new aluminum windows, a lower level entry addition with painted wood eaves will be harmonious. The deep shadows of the eaves will emphasize the strong horizontal mass typical of this style. The front yard landscaping will be contained in raised board-finished concrete planters, which complement the painted cement plaster finish on the balance of the home. The new entry intentionally will reduce the mass of the house as seen from the street by stepping the eaves. The eaves will recede as they climb up the hill to match the hillside topography. The homes on the same side of the street as the subject property are built within the front setback. Half of the addition will be located in the front setback because the home is built within the front setback. Constructing the addition in the courtyard and as a second-story addition were studied at great length. The property owners' primary requirement for the addition is direct access to the street. The stairway from the house into the garage is a barrier to pushing more of the space underneath the home. Landscaping the rear yard is not a component of the project. The crawlspace adjacent to the proposed bathroom could be habitable space, but it would have no windows or natural light.

In general, Commissioners felt the design was good, attractive, and consistent with the architecture of the residence. With the exception of Commissioner Allesio, Commissioners could not make the findings to grant the variance because the addition would be only 6 feet from the sidewalk; there were no unique circumstances for the lot; the proposed addition would not conform to the setback pattern of the neighborhood; the addition could obstruct views of the street for cars exiting the driveway; and more of the addition could be constructed within the existing home's footprint. Commissioner Allesio, noting the house to the right is also built in the setback, felt the project is consistent with the setback pattern of the neighborhood.

Resolution 255-V/DR-19

WHEREAS, the Property Owners are requesting permission to construct a 242-square-foot addition in the front of the home; create living space on the lower level of the home; add new landscaping in the courtyard; and make various exterior modifications, at 15 Littlewood Drive, which construction requires a design review permit; and,

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

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

WHEREAS, a variance from the street yard setback is not approved because it does not comply with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements do not present unusual physical circumstances, including the fact that the lot is a conforming lot and is similar in topography to other homes in the area 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 garages rather than additions are typically located in the public way; the existing home is currently compatible with the surrounding neighborhood and is being used in a similar manner as other properties; the amount of new construction proposed within the setback is significant; 100 percent of the proposed addition is within the setback; and the reduction of the front yard setback is significant, which is out of character with the neighborhood.
3. Accomplishing the improvement without a variance would not cause unreasonable hardship in planning, design, or construction because other options for expansion are available; the applicant could develop existing space on the lower level that remains uninhabitable in this proposal; there are locations on the property where an addition would not be built in the setback; and granting the variance would provide the property owners an advantage over other properties by allowing them to build in the public-facing space when the lot has untouched outdoor 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 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: wall material, roof form, and window and door material and fenestration pattern.
2. The design has an effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distances between the project and neighboring homes are not appropriate because it is built completely within the front setback.
3. The proposed design will adversely affect pedestrian or vehicular safety because the addition encroaches on sightlines for people and vehicles entering and exiting the driveway.

4. The application does not comply with the following Design Review Guidelines and General Plan policies and programs: 3.05, 3.05.01, 3.11.01 (Site Design).

5. The project is not consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 29.1 (Conserving Residential Yards).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the variance application and the design review permit application for the addition at 15 Littlewood Drive, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

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

The Property Owners are requesting permission to replace and add windows and doors on each facade of the house, add a metal guardrail on the existing deck above the garage, and add a new deck and trellis in the rear yard. Four variances are required to construct within the rear yard setback and the left side yard setback, to exceed the structure coverage limit, and not to comply with the landscape coverage minimum.

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

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

Public testimony was received from:

Jane Lin, Property Owner, reported the claims of the neighbor at 106 Magnolia Avenue are unfounded. Social activities at the home are similar to those enjoyed by other neighbors in the area. A fourth bedroom is allowed because there is a conforming onsite parking space. She does not plan to rent the fourth bedroom or to utilize it as an accessory dwelling structure. Improvements to the bathroom will restore a previously permitted bathroom. The kitchenette will be located in the southwest corner of the lower level as allowed by the Municipal Code. Ms. Lin advised that other neighbors in the area support the project, and neighbors at 107 Wildwood Avenue and 108 Magnolia Avenue have submitted written support for the project. She indicated she had not spoken with the neighbor about his privacy concerns (106 Magnolia Avenue). Four variances are required for the proposed deck, which will be less than 2 feet above grade and contain 333 square feet. At the southern corner, the deck will be 26 inches above grade. The deck will be level with the door threshold from the lower-level living room. The existing patio is broken and not level, and the deck will provide a level surface. The deck would have to be constructed at grade to eliminate the need for variances. She had considered other options, but the deck is the least

intrusive option. The trellis will be made of curved wooden slats spaced less than 4 inches apart and will be covered with a vine to obstruct the view of activities on the deck. At 3,400 square feet, the lot is one of the smaller lots in the neighborhood. New windows, French doors, and garage door will enhance the Craftsman character of the house. The improvements are in keeping with other homes in the neighborhood.

The Planning Commission generally supported the project, stating the applicants are improving the property; the trellis will blend in nicely but separate outdoor spaces; constructing the deck level with the house will make the property safer; the deck will be a reasonable size; outdoor activities should not intrude on neighbors with the screening; the deck will make the backyard usable; and the deck will not change the use of the property.

Resolution 256-V/DR-19

WHEREAS, the Property Owners are requesting permission to replace and add windows and doors on each facade of the house, add a metal guardrail on the existing deck above the garage, and add a new deck and trellis in the rear yard at 104 Magnolia Avenue, which construction requires a design review permit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the rear yard setback and the left side yard setback, to exceed the structure coverage limit, and not to comply with the landscape coverage minimum; 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, variances from the left side yard setback, rear yard setback, structure coverage limit, and landscape coverage minimum are approved because they comply with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the lot is unusually small; the outdoor living area is extremely constrained; the lot is unusually shaped; and the lot has steep topography that necessitates leveling for outdoor recreation, so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare because a majority of neighboring properties have structures within the side and/or rear setback; the neighbors have existing structure and landscape coverage that exceed the limit; and the majority of neighbors also have decks similar to the proposed deck.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because additional land would need to be purchased from a neighbor to increase the area available for the deck and the required landscaping; a portion of the house would need to

be demolished in order to reduce the structure coverage to 40 percent; the hardscape areas are necessary for circulation and recreation purposes; the ground level of the rear property falls approximately 2 feet; and the level of the rear yard as it exists is unusable for outdoor recreation.

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 guardrail material, and the window and door material and fenestration pattern as well as the garage door pattern.
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 significant; there is sufficient vegetative screening on the trellis and on the side yard; the height of the project has been kept as low as possible; and the distances between the project and neighboring homes are appropriate given the lot size.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project proposes no changes on the public right-of-way; the project maintains adequate visibility for entering and exiting the driveway, and the project improves the onsite parking conditions by having an extra parking space in front of the garage.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 4.02.01.3, 4.02.01.6, 4.02.01.7, 4.02.01.8, 4.03.03.1, 4.03.03.2, 4.03.03.3, 4.03.03.4, 4.03.03.5, 4.03.03.6, 5.02.02.2, 5.02.02.3, 5.02.02.6.
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 28.2 (Style Compatibility), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.1 (Conserving Residential Yards).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for the construction at 104 Magnolia Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be fiberglass composite.
2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Window Recess.** All new windows shall be recessed 1 1/8 inches, with the exception of the replacement emergency egress windows which shall be recessed 1 1/2", from the exterior wall to the face of window sash (as shown in

the Window Schedule) in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.

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

5. Garage Door. If technically feasible, the garage door shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

6. Roof Water Runoff. Water runoff will not be permitted to drain onto neighboring properties. If design modifications are required to address this requirement, they shall be subject to staff review.

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

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. 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. Neighboring Property Owner Permission. Should the execution of the Foundation/Shoring/Excavation Plan require excavation into a neighboring property or if access onto the neighboring property is necessary for construction, the applicant shall submit, prior to the issuance of Building Permit, a written statement from the neighboring property owner granting permission for access onto his/her property for the purpose of excavation and/or construction.
- b. 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 Planning and Building Department and on-line at cleanwaterprogram.org.

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

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

ANNOUNCEMENTS

Director Jackson announced the City and Piedmont Connect will launch the Piedmont Climate Challenge platform on November 7 at Piedmont Community Hall. The public is invited to the event. A special meeting of the Planning Commission is scheduled for October 29, 2019 to consider Crown Castle's applications for wireless communication facilities. The Planning Commission will provide a recommendation to the City Council for consideration at its November 18 meeting.

ADJOURNMENT

There being no further business, Chairman Levine adjourned the meeting at 6:25 p.m.