

## PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, February 10, 2020

A Regular Session of the Piedmont Planning Commission was held February 10, 2020, 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 January 27, 2020.

### CALL TO ORDER

Chairman Levine called the meeting to order at 5:32 p.m.

### ROLL CALL

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

Absent: None

Staff: Planning & Building Director Kevin Jackson, Senior Planner Pierce Macdonald-Powell, and Assistant Planner 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 4-PL-20**

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the January 13, 2020, regular hearing of the Planning Commission.

Moved by Alessio, Seconded by Batra

Ayes: Alessio, Batra, Duransoy, Levine, Ramsey

Noes: None

Abstaining: None

Absent: None

### CONSENT CALENDAR

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

- 2 Mesa Avenue (Design Review and Variance Permit) and
- 220 Mountain Avenue (Design Review and Variance Permit).

#### **Resolution 5-PL-20**

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

Moved by Batra, Seconded by Ramsey

Ayes: Alessio, Batra, Duransoy, Levine, Ramsey

Noes: None

Abstaining: None

Absent: None

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

### **Variance and Design Review Permit 2 Mesa Avenue**

#### **Resolution 354-V/DR-19**

WHEREAS, the Property Owners are requesting permission to make changes at the rear (east) and left (north) side of the property, including demolishing and rebuilding an enlarged detached garage in order to provide two conforming parking spaces; enlarging the curb cut and driveway at Moraga Avenue; constructing new steps with landing leading to the garage; adding new skylights, windows, doors, and exterior lighting fixtures at the proposed garage; and

making other landscape and hardscape modifications at 2 Mesa Avenue, which construction requires a design review permit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the 20-foot street yard setback facing Moraga Avenue and the 5-foot rear yard (east) setback; and,

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

WHEREAS, variances from the street yard setback facing Moraga Avenue and the rear yard setback are approved because they comply with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the lot is unusually small and has unusually steep topography, 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 garages or structures located close to the street; a majority of neighboring properties are located in the front setback; and most homes in the neighborhood are similar in size to what is being proposed.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because constructing a garage outside the 20-foot street yard setback would require extensive excavation of the existing up-sloping topography and potentially compromise the existing street tree.

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the wall material, the roof form, the roof material, the window and door material and fenestration pattern, and the 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; there is sufficient vegetative screening; 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 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: 3.03.02.1, 3.05.01.1, 3.11.03.1, 3.11.03.5, 3.11.03.12, 3.11.03.13, 3.11.03.14, 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, 4.02.01.6, 4.02.01.7, 4.02.01.8, 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, 5.01.02.1, 5.02.01.1, 5.02.01.2, 5.02.02.2, 5.02.02.4, 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), 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), 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 2 Mesa Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2 **Window Color Scheme.** All the windows on the proposed detached garage shall have a consistent color scheme with the windows on the main residence.

3 **Window Recess.** All new windows shall be recessed approximately 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 windowsill projection if any.

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

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

7. **Garage Door.** 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.

8. **Environmental Hazards.** Prior to the issuance of a building permit and as required by the Chief Building Official, the applicant shall provide a plan, including necessary testing, to verify compliance with all local, state and federal regulations regarding the disturbance and removal of hazardous materials (if any) on residential properties and/or in the proximity of schools, including lead-based paint and asbestos. Said plan for the proper removal and handling of hazardous materials shall be provided on the appropriate sheets of the construction plan sets and included in the Construction Management Plan.

9. **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 \$2,000,000 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 Planning and Building 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. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, the Applicant shall defend, indemnify, and hold harmless the City against any and all liability, fees and costs arising out of the defense. Applicant shall pay for all costs of City's own selected legal counsel(s). For this purpose, "City" includes the City and its elected and appointed officials, agents, officers, employees, consultants, and volunteers.

13. **Notice of Restricted Use.** The proposed garage does not meet habitation or safety requirements of the Piedmont Municipal Code. A notice of restricted use shall be recorded with the Alameda County Recorder's office advising current

and future owners that the space does not meet the safety codes for habitation purposes.

**14. Setback from Property Line Verification.** Prior to foundation inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the east and north 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 east property line.

**15. 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 and roof of the new structure are constructed at the approved height above grade.

**16. Encroachment Permit.** At the discretion of the Building Official and before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction of the driveway and curb cut within the public right-of-way along Moraga Avenue.

**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 access, and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.

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

**18. Neighboring Property Inspection.** Should the neighboring property owner provide consent, a licensed civil or structural engineer (chosen by the City, and paid for by the Property Owner) shall inspect the neighboring home at 3 Monte Avenue and retaining walls with the intent of establishing base-line information

to later be used in determining whether damage was caused by any activities on Property Owner's property (including damage caused by vibrations or other factors due to excavation, construction or related activities). The inspection shall include both foundations and non-foundation related details (walls, windows, general overall condition, etc.) at a level of inspection City Staff deems appropriate. The inspection shall only include readily visible and accessible areas of the neighboring homes. The licensed civil or structural engineer shall provide a full report to the City of his or her conclusions, and the report may be considered in developing the Construction Management Plan. If other independent consultants or specialists are required by the City to review plans and monitor construction activity, they shall be retained at the Property Owner's cost. Before a neighbor agrees to an inspection, City will advise neighbors that the property inspection is necessarily a public record under the California Public Records Act. Within 45 days after the Certificate of Occupancy is issued on Property Owner's property, the same licensed civil or structural engineer chosen by the City (or a substitute licensed civil or structural engineer chosen by the City) shall inspect the same area in each neighboring home and property initially inspected, and shall present to the City a Report detailing any evidence of apparent damage that has been or reasonably might have been caused by activities on the Property Owner's property. The Report may include text, photographs, diagrams, or other evidence that would document the apparent damage. The Report will become a public record and may be used in connection with private causes of action.

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

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of 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.
  - e. At least two weeks prior to start of construction, the Applicant shall provide written notice to property owners and residents of all adjacent properties on forms provided by the City of Piedmont. This notification shall include information such as the start date and scope of construction, building permit number, a copy of the Construction Completion Schedule, as well as the contact information of the property owner, designer/agent, and contractor(s). The Applicant shall sign an affidavit of said notice and provide a copy to City Building Official.

**20. Arborist’s Report and Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall submit an Arborist’s Report and Certified Tree Preservation Plan that includes tree preservation measures to preserve the street tree located within the street right-of-way and to the right (west) of the new driveway. 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 demolition of the existing garage, initial and final grading, construction of the new garage, and installation of the concrete driveway and apron to ensure the protection of the existing tree that is intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree, 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.

**21. Street Tree Replacement.** In the event that the City-owned street tree located within the street right-of-way and to the right (west) of the new driveway is compromised as a result of the creation the new driveway and curb cut, and in order to mitigate its removal, the applicants shall cover the full cost of labor and materials for the removal of the existing street tree and the installation of a new street tree, which shall be carried out by the City or its contractor(s). Accordingly and prior to the issuance of a building permit, the

applicants shall submit an initial tree replacement payment in the amount of \$750, with any further payments necessary to cover costs in excess of \$750 to be submitted prior to the scheduling of a final inspection. The location, size and species of the replacement street tree shall be determined by the Director of Planning and Building or his designee.

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

**Variance and Design  
Review Permit  
220 Mountain Avenue**

**Resolution 16-V/DR-20**

WHEREAS, the Property Owners are requesting permission to enclose the existing upper-level trellis-covered balcony to create 118 square feet of additional habitable space and to make window and door modifications on the north, south, and west elevations and various interior and exterior modifications, at 220 Mountain 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 5-foot side yard setback; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, and the project is consistent with General Plan policies and procedures; and,

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

1. The property and existing improvements present unusual physical circumstances of the property, including the residence is located within the side yard setback and the previous improvements were approved when the required setback was 4 feet from the side property line, 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 neighboring residential structures are located within setbacks, and most homes in the neighborhood are similar in size and proportion to what is being proposed.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because an addition located outside the setback would not be architecturally compatible with the existing design; and the proposed design is more seamless to the existing architecture than the existing trellis.

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



1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the wall material, the roof form and material, 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 is the same distance between the existing homes; the view is not a significant view; 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 makes no changes to pedestrian and vehicular safety.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 4.01.01.3, 4.01.01.4, 4.02.01.7, 4.02.01.8, 4.02.01.10, 4.03.03.1, 4.03.03.2, 4.03.03.3, 4.03.03.4, 4.03.03.5, 4.03.03.6 (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).

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

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be wood.
2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Window Recess.** All new windows shall be recessed 1 inch to 2 ½ inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details 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 windowsill projection if any.
5. **Roof.** The proposed roof shall be composition shingles to match the existing roof.

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

7. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, the Applicant shall defend, indemnify, and hold harmless the City against any and all liability, fees and costs arising out of the defense, including without limitation, Applicant shall pay for all costs of City's own selected legal counsel(s). For this purpose, "City" includes the City and its elected and appointed officials, agents, officers, employees, consultants, and volunteers.

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 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.
  - e. At least two weeks prior to start of construction, the Applicant shall provide written notice to property owners and residents of all adjacent properties on forms provided by the City of Piedmont. This notification shall include information such as the start date and scope of construction, building permit number, a copy of the Construction Completion Schedule, as well as the contact information of the property owner, designer/agent, and contractor(s). The Applicant shall sign an affidavit of said notice and provide a copy to City Building Official.

10. **Approved Plan Set.** The approved plans are those submitted on January 21, 2020, and revised sheets EX.4 and A.4 submitted on February 7, 2020.

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

## REGULAR CALENDAR

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

### Update to ADU Design Guidelines

Planning & Building Director Kevin Jackson reported the intent of the proposed amendments is to bring the design guidelines for accessory dwelling units (ADU) into compliance with state laws that became effective on January 1, 2020. State laws require the standards for review of accessory unit permits to be nondiscretionary, *i.e.*, objective. The proposed amendments are intended to replace subjective guidelines with objective guidelines. The Planning Commission's role is to review the draft guidelines and to make any changes the Commission deems appropriate. Ultimately, the Planning Commission will make recommendations to the City Council, which is the decision-making body.

Senior Planner Pierce Macdonald-Powell advised that the City Council is scheduled to consider design guidelines for accessory units at a public hearing on February 18, 2020. The City's new ADU and junior accessory dwelling unit (JADU) zoning regulations take effect on March 4, 2020. Staff developed the draft design guidelines to provide staff, applicants, and members of the public with a clear path toward ministerial approval of ADUs and JADUs. The proposed standards are objective, measurable, and consistent with state laws. The draft guidelines were developed with the City Attorney's assistance to

describe the kinds of ADU and JADU standards that the City can lawfully apply to permit applications. Draft standards are intended to maintain the quality of Piedmont's architectural design as well as neighbors' privacy and quiet enjoyment of neighboring property.

Staff has prepared changes to provide the following:

- Objective standards for architecture and landscape in general,
- Objective standards for onsite architectural design compatibility,
- Fire safe construction and fire marshal review, and
- Building permit procedure and standard conditions of approval.

Design guidelines for accessory structures that are not ADUs or JADUs will not change and will remain in effect for any project subject to design review.

In response to questions, staff explained that staff has not proposed any revisions to fire safe construction; however, applicants should be aware of the use of fire safe construction practices depending on the criteria of a building's setting. The proposed design guideline for conversion of a garage to an accessory dwelling unit states any garage apron shall be replaced with landscaping in cases where a garage door is removed. The intention of the guideline is to have site paving and site planning relate to the design of the new accessory dwelling unit. An acceptable alternative regulation requires the maintenance of the existing parking pad and garage door such that the structure continues to resemble a garage or the placement of a planter strip between the parking pad and the front of the accessory dwelling unit.

**Public Testimony** was received from:

Robert Kelly proposed replacing “fence” with “screening,” preferably landscape screening, in Guideline 5.03.01.1. Fencing would be inappropriate, a waste of money, and would remove greenery. Guideline 5.03.01.4 should be deleted as a duplicate of a requirement in the Piedmont Design Guidelines. He indicated some of his clients have discussed their accessory dwelling unit projects extensively with neighbors.

Garrett Keating suggested the Planning Commission continue this item and think about ways to improve the public process. Story poles can alert neighbors to future construction. Property owners may start with a bias towards a fence and then negotiate something softer with their neighbors. He questioned whether the Planning Commission needs to revise the guidelines prior to March 4.

Melanie Robertson noted parking is controversial within the community. Converting a garage to an accessory dwelling unit affects parking for the main dwelling. The guidelines do not consider impacts on the entire property. There may be a way to do a curb cut so that some parking can be restored. She agreed with the statement about fencing. If an accessory unit is exempt from floor area ratio requirements, the parcel may be crowded with structures. Inoperable bedroom windows violate the Building Code. The standards do not address the many scenarios of construction of an accessory structure atop a garage that is located on a hillside.

Michael Henn requested an explanation of the amendment regarding notice to neighbors that was discussed at the Council meeting. The guidelines do not have sections for process and protocols, submittal requirements, or a checklist of

requirements. Under the requirements for location of an entrance, an accessory unit in a garage space could not have an entrance if the garage abuts an existing house to the rear. There is no appeal process for denial of a permit. The guidelines do not explain how newly constructed space differs under the regulations from using existing space for an ADU with respect to decks, balconies, entry locations, windows, etc. The California Department of Housing and Community Development (HCD) will issue guidelines for local governments in the next month; therefore, there is no rush to amend the guidelines. In response to questions, Mr. Henn assumed HCD's guidelines will be a model that can be adapted to each jurisdiction. Contra Costa County adopted guidelines prior to the end of 2019.

Planning Director Jackson explained the proposal to amend the standard condition of approval regarding a construction management plan to require the applicant to provide notice to neighbors prior to construction.

Don Chandler inquired about the effects of the new laws and guidelines on his rent-restricted second unit.

Planning Director Jackson advised that "ADU" is the new term for a second unit.

Commissioner Batra expressed concern that the HCD guidelines may require additional amendments to the design guidelines. The suggestion for story poles is interesting as a means to notify neighbors of construction and to encourage communications with neighbors.

Commissioner Ramsey recommended the proposed changes include options, such as fencing and vegetative screening, where appropriate. Some of the ADUs under consideration for Design Awards will be discouraged under the new requirements. Inoperable windows may be viewed as unsafe and prohibiting the use of a room as a bedroom. He supported the requirement for translucent glazing except when a window is below the height of a 6-foot fence or vegetative screen.

Commissioner Duransoy agreed with including options for fencing in the guidelines.

Commissioner Alessio preferred operable windows for safety reasons.

Chair Levine suggested staff clarify mechanical equipment in Guideline 6.03.01.4. He supported guidelines for inoperable windows and frosted/translucent glazing. Guidelines 5.03.02.1(i) and 5.03.02.1(j) are confusing. If an accessory dwelling unit is located in the rear of the property, the doorway may not need to match the main dwelling entry. He preferred allowing a neighbor to decide or at least have input into the screening used to separate properties, whether the screening is vegetative or fencing. The guidelines cannot require that, but they can contain some language that aspires to that or encourages the applicant to confer with neighbors in advance of designing a project.

Director Jackson did not recommend the Planning Commission continue the item to await guidelines from HCD. It is his understanding that HCD's guidelines will apply to state law and local regulations rather than design review criteria. Applicants will not have guidelines until the Planning Commission

recommends them to Council and the Council adopts them. The guidelines can be amended as necessary. Some of the objective standards are meant to mitigate possible impacts on architectural features and neighbors. He would not recommend a requirement for story poles because state law eliminated public participation in accessory dwelling unit projects. Currently, City policy does not require an applicant install story poles for a proposed structure 15 feet or less in height. The notice contained in the condition of approval for a construction management plan provides the beginning date of construction and contact information for the contractor. The condition of approval applies to all projects of significant scope, not just ADUs. Staff is looking for ways to allow a second-story accessory dwelling unit beyond the 16-foot height limit. Variances are not allowed for accessory dwelling units under the regulations. New construction within any setback is not allowed. An appeal process is discretionary, which is not allowed for accessory dwelling units. The 16-foot height limit came from state law under which accessory dwelling units that meet certain requirements can be 16 feet tall by right. An applicant may talk with neighbors about a project, but the City cannot require it. A neighbor's input regarding a permit application is discretionary, which is not allowed for accessory dwelling units.

Senior Planner Macdonald-Powell related that the Council has requested staff prepare amendments to the ordinance that allow greater ADU heights in certain circumstances. Existing discretionary design guidelines urge the City and applicants to respect the privacy of adjacent neighbors. The standards for entrance locations, fixed-sash windows, and translucent glazing are intended to preserve neighbors' privacy. Existing zoning standards allow operable windows and clear glazing in new construction when there is 10 feet between adjacent dwellings. Second-story space above a garage can go through design review to develop as habitable space and later be converted to an accessory unit. Guideline 5.03.02.1(i) requires the ADU doorway match an original door on the main dwelling, not necessarily the main entryway. The City can give applicants minimum specifications for fencing materials. Overseeing or regulating vegetation in Piedmont is difficult because there are no protections for the removal of the vegetation in the future or maintenance of it.

The Planning Commission expressed interest in staff exploring Code amendments that would allow upper-level accessory units above garages while mitigating adverse impacts on neighbors.

**Resolution 6-PL-20**

RESOLVED that the Planning Commission recommends that the City Council approve the proposed resolution adopting revisions to the Piedmont Design Guidelines for accessory dwelling units with staff to modify the proposed amendments as follows: 1) add language to encourage onsite parking; 2) provide options for privacy in Guideline 5.03.01.1 and a minimum standard for fencing; 3) delete all requirements for non-operable windows; 4) clarify Guideline 5.03.02.1(i) as to which door is recommended to match; and 5) add introductory language that encourages applicants to work with neighbors to preserve privacy, light, and views prior to submittal of an application.

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

**SPECIAL SESSION**

The Planning Commission will conduct a Special Session during its dinner break to review projects completed in 2019 for the City's annual Design Awards program and to select winners for the March 12 Design Awards Presentation and Reception.

The Commission recessed for dinner at 7:11 p.m. and reconvened at 7:53 p.m.

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

The Property Owner is requesting permission to construct a 498-square-foot multi-level expansion at the existing residence, including window and roof changes, new exterior lighting fixtures, and other exterior and interior changes; to modify the side of the property fronting Bonita Avenue by relocating the main entry from Moraga Avenue to Bonita Avenue and constructing a new entry porch, deck, 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, new retaining walls of a maximum height of 3 feet 3 inches to replace the existing fencing; to modify the east side of the property by expanding the existing lower-level deck and removing the existing shed, deck, stairs, and chimney; to demolish the porch and stairs and add new fencing on the south side yard; and to 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.

**Public testimony** was received from:

Catherine Zhang, Property Owner, reported the intent of the project is to improve the worst-looking house in the neighborhood and to make the corner lot bright and welcoming. The location of the garage on Moraga Avenue makes backing into the street dangerous. The design will have a minimal impact to the adjacent neighbor. She has begun trimming bushes and trees on the property. She indicated she has communicated with neighbors about the project, and they have expressed concerns about parking during construction. Ms. Zhang proposed contractors carpool and park on Moraga Avenue to address neighbors' concerns. Landscaping will match neighbors' landscaping. In response to Commissioners' comments, the project has been modified to include more Craftsman details.

Tom Zhang, project architect, advised that the roof style has been changed from gable to pitched in order to reduce massing. Balconies have mansard roofs to mimic the main roof. The columns at the entry have been doubled, and the opening has been centered with the entry door and the fenestration of the living room window. The columns of the porch will be wood. The bay window has been removed to reduce the bulk of the facade facing Bonita. Windows have divided lights and have been recessed 2 inches from the surface of the stucco wall. The trash enclosure has been moved to the Moraga Avenue side of the lot near the side gate. Changes to the south elevation are related to the change in the stairway, which has been changed to improve interior circulation. The lower window on the south elevation faces the adjacent neighbor, but the view is blocked by the fence. The upper window overlooks the neighbor's home where there are no major windows. He has adjusted placement of the columns several times to align with the French doors above, to balance the French door and the door with side lights, and to balance the garage doors below. The balcony is placed to provide a view of the Bay and to enhance the fenestration pattern. The side lights can be removed, but that will result in a blank wall. The brick will be red, and the wood will likely be painted white.

Stephane Pearson, landscape architect, indicated the fence along Bonita Avenue will be removed, and the planting will be layered and terraced toward the house. Pervious pavers will be installed at the driveway. Street trees will be replaced as needed. Along Moraga Avenue, plants will be added to the existing landscape, and the fence will be repaired or replaced. A matching gate will replace the existing gate. Work in the backyard has been minimized to protect existing trees. A lawn and pathway to the garage has been added. Fencing at the corner of the lot will be softened with trees and shrubs and could have a pilaster. The base layer of walls at the stairs will be brick with concrete above.

Don Chandler, neighbor at 17 Bonita Avenue, expressed concern about parking during construction because construction is also occurring at 15 Bonita Avenue. He requested construction parking be limited to the north side of Bonita Avenue and contact information for the jobsite superintendent be provided to neighbors.

Lester Ellis, neighbor at 12 Bonita Avenue, expressed no objections to the current design. A construction completion schedule should be required for the project. He challenged the Planning Commission to limit the number of construction vehicles parked at a site.

Generally, the Planning Commission supported approval of the project and the variance, stating the entrance of the garage on Moraga Avenue is unsafe for vehicles exiting the driveway, moving the garage to Bonita Avenue will integrate the house with the street, the applicant incorporated the Planning Commission's comments from the prior hearing, the design is balanced, cohesive, and a big improvement over the prior design, and modification of the roof is a good improvement. Commissioners discussed eliminating the balcony or the side lights to reduce the prominence of the balcony. Commissioners also considered constructing a new fence along Moraga Avenue, softening the fence at the corner of the lot with vegetation, and reviewing detailed plans for the fence at the corner of the lot. Commissioner Ramsey raised concerns about porch details not matching the Craftsman style and suggested modifications, to which Commissioners agreed. In addition, Commissioners discussed the applicant providing the contractor's or an onsite superintendent's contact information to neighbors and the applicant's plan for contractor parking.

Director Jackson explained that the construction management plan directs the applicant to provide a plan for construction vehicle parking. "The parking plan shall favor parking along Moraga Avenue" can be added to the condition of approval regarding a construction management plan.

**Resolution 264-V/DR-19**

WHEREAS, the Property Owner is requesting permission to construct a 498-square-foot multi-level expansion at the existing residence, including window and roof changes, new exterior lighting fixtures, and other exterior and interior changes; to modify the side of the property fronting Bonita Avenue by relocating the main entry from Moraga Avenue to Bonita Avenue and constructing a new entry porch, deck, 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, new retaining walls of a maximum height of 3 feet 3 inches to replace the existing fencing; to modify the east side of the property by expanding the existing lower-level deck and removing the existing shed, deck, stairs, and chimney; to demolish the porch and stairs and add new fencing on the south side yard; and to 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 are necessary to construct within the 20-foot street yard setback along Bonita Avenue; and,

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

1. The property and existing improvements present unusual physical circumstances of the property, including the lot is small, unusually shaped, and located near a busy intersection, 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 garages located close to the street.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because constructing the garage at another location is difficult due to the layout of the stairs and the congestion of the street.

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, 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 distance between the project and neighboring homes is appropriate; there is sufficient vegetative screening; and the height of the project has been kept as low as possible.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project 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: 3.03.01.1, 3.03.02.1, 3.03.02.2, 3.03.02.3, 3.03.02.4, 3.05.01.1, 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, 3.09.03.3, 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, 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, 3.13.02.2, 3.13.02.3, 3.13.02.4, 3.13.03.1, 3.13.03.2, 3.13.04.1, 3.13.04.2 (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, 4.04.02.3, 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, 5.02.01.1, 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, 5.02.03.2 (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 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks and Porches, Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), Design and Preservation Element Policy 29.6 (Retaining Walls), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Design and Preservation Element Policy 29.8 (Exterior Lighting), and 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 350 Moraga 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 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 windowsill 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. **Skylight.** The new skylight shall project no more than 12 inches from the roof surface and the flashing shall be painted to match the surrounding roof material.
8. **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.
9. **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 Planning and Building and the City Attorney, consistent with the intent of the condition.
10. **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.
11. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
12. **Setback from Property Line Verification.** Prior to foundation and 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 west and south property lines as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property lines.

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

**14. Street Tree Replacement.** In order to mitigate the removal of a City-owned street tree within the street right-of-way as indicated on the provided landscape plans, the Applicant shall cover the full cost of labor and materials for the removal of the existing street tree and the installation of a new street tree, which shall be carried out by the City or its contractor(s). Accordingly and prior to the issuance of a building permit, the Applicant shall submit an initial tree replacement payment in the amount of \$750, with any further payments necessary to cover costs in excess of \$750 to be submitted prior to the scheduling of a final inspection. The location, size and species of the replacement street tree shall be determined by the Director of Planning and Building or his designee.

**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. 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. Arborist's Report and Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures to preserve the two street trees near the new curb cut, the two existing trees near the proposed deck at the east side yard, as well as any nearby off-site trees near the existing garage. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation

measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

**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 access, and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.

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

**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 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.

**19. Sewer Main Condition and Repair.** City records indicate that City storm and sewer mains and associated easement(s) may be located near the proposed construction next to the north and west property lines. At the discretion of the Building Official and prior to the issuance of a building permit, the Property Owner shall submit a revised copy of the survey prepared by Moran Engineering to show sewer manhole covers and any easements. Said easements and manhole covers shall also be shown on the building permit drawings. The applicant shall also work with City staff to verify the location and depth of the storm and sanitary sewer mains. In addition, the City shall videotape the existing sanitary and storm sewer mains to assess their pre-construction condition in order to make a determination as to whether any repairs to or replacement of the sewer main is required prior to the commencement of excavation and/or construction. (The City is responsible for the cost of the main line, and the property owner for costs of the lateral.) As part of the final inspection the same sanitary and storm sewer lines shall be inspected as required by the Director of Public Works, who shall also determine if the sewer lines were damaged as a result of the construction and therefore must be repaired at the applicant's expense. The

applicant is responsible to locate their private sewer lateral and note such location on the building permit drawings.

20. **Entry Porch and Front Façade Design.** The design of the porch shall be modified so that the porch columns are greater than 4 inches in width and taper towards the top, the header is sized to be in proportion to the column dimensions, and the center columns are eliminated for a resulting single span across the length of the entry porch. The upper level balcony/deck shall be eliminated with the porch roof remaining sloped as proposed. The balcony doors and side lights shall be replaced with windows consistent in proportion with windows on the remainder of the house. The final design shall be subject to staff review and approval.

21. **Fence Design.** The existing fence shall be replaced in its entirety in the same proposed location so that it is a quality consistent with that of the remodeled residence and so that the transition from Moraga Avenue to Bonita Avenue is not abrupt. The final design shall be subject to staff review and approval.

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

**Design Review Permit  
14 Caperton Avenue**

The Property Owner is requesting permission to construct a 2,177-square-foot upper-level addition that includes balconies on the front facade; to legalize an unpermitted study room located on the northwest corner of the main floor; to make window and door modifications throughout; to install new exterior lights; and to make various other exterior and interior changes.

Commissioner Duransoy recused herself from this item as she has an ownership interest in real property located within 500 feet of the subject property.

**Public testimony** was received from:

Julia Zhen, Property Owner, reported the home's living space is very tight. One bedroom is located behind the kitchen, and she wants to eliminate it. She intends to follow closely the construction management plan. She indicated she has discussed the project with the adjacent neighbor because it will affect the neighbor. Ms. Zhen apologized for not discussing the project with other neighbors.

Tom Zhang, project architect, advised that the house is sited at an angle to the street. Constructing a horizontal addition is difficult due to mature trees and the boundaries and topography of the site. The house is lower than the home located to the north, and the neighboring property has solid fences and walls and few windows overlooking the subject site. Extra-large foyer space has been used for a staircase to the upper addition. The concept is to cascade the house along the sloping street and to step back the center of the addition. The 2,800 square footage includes the unpermitted space. The homeowner wishes to maintain the existing Japanese-style landscape. He attempted to make the addition as subtle as possible so that it is compatible with the existing house. The balconies, roof pitch, material, and window style for the addition continue the style of the house. Windows and doors for the addition will be wood with true divided lights. The back portion of the house is higher than the front, and he used the

height of that top plate for the addition's top plate. If the ceiling height of the addition is 8 or 9 feet, the addition would not be in proportion to the house. He wants to use the tall composition of doors and windows of the lower level for the upper-level addition. The entrance porch is taller than the eave and fits well with the addition. Locating a balcony above the entrance is not a good idea. The balcony at the center references the lower balcony. The balconies are decorative. He sent notices to the neighbors and has not received any inquiries or comments about the project.

Linda Reddy, neighbor at 29 Caperton Avenue, remarked that the neighbor to the north of the subject property is elderly and may be living in a convalescent home. She expressed disappointment that she was not contacted about the project and concern about the number of bedrooms and parking. Ms. Reddy inquired about the possibility of obtaining Ms. Zhen's agreement not to object to a future second-story addition at Ms. Reddy's home on the basis of the addition blocking Ms. Zhen's views.

The Planning Commission generally opposed the project, stating the addition seems to be designed from the inside out, the addition and existing house do not have a single comprehensive style, the 10-foot addition hurts the proportions of the house, the entry is lost with the addition, the project does not address privacy for the neighbor to the rear, and the addition is too much. Commissioners requested the applicant provide a landscape plan and communicate with neighbors.

Director Jackson explained that language in the Municipal Code allows the Planning Commission to evaluate the intensity of use when addressing parking. If the Planning Commission does not feel the parking provided is adequate for an increase in the intensity of use of the home, it could require conforming parking. If a homeowner changes a home's floor plan such that rooms meet the definition of a bedroom, the homeowner would need to supply conforming parking or request a variance. The cottage was approved in 2002 as a fifth bedroom, and a variance from parking requirements was granted because the proposal included a parking space on the driveway adjacent to the two conforming spaces. The occupant can obtain a home occupation permit to operate a business from the home, but there are limits on that.

**Resolution 324-DR-19**

WHEREAS, the Property Owner is requesting permission to construct a 2,177-square-foot upper-level addition that includes balconies on the front facade; to legalize an unpermitted study room located on the northwest corner of the main floor; to make window and door modifications throughout; to install new exterior lights; and to make various other exterior and interior changes, located at 14 Caperton 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 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 the project has no predominant building style, the existing entry feature is not integrated into the second-floor addition, the proportion of the second-floor addition is too tall, the wall/roof intersection to the right of the door is unresolved, and the architectural style of the addition is not consistent with the architectural style, scale, and mass of the existing building. However, the wall material and window and door material are consistent with the City's General Plan and Piedmont Design Guidelines.

2. The design affects neighboring properties' existing views, privacy, and access to direct and indirect light because of the mass of the second-floor addition.

3. The proposed design adversely affects pedestrian or vehicular safety because the application does not provide enough onsite parking for the intensity of use being proposed.

4. The application does not comply with the following Design Review Guidelines and General Plan policies and programs: 4.01.01.1, 4.02.01.3 (Building Design: General), 5.01.02.1 (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: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility) and Design and Preservation Element Policy 28.2 (Style Compatibility).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the design review permit application for construction at 14 Caperton, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Variance and Design  
Review Permit  
99 Crocker Avenue**

The Property Owners are requesting permission to comprehensively remodel and replace the carport and deck including preserving the existing retaining walls and parking pad; rebuilding the carport and deck; raising the level of the deck above the carport by 2 feet and raising the enclosing walls by approximately 3 feet 6 inches; and installing new exterior lighting, a metal and canvas sunshade pergola and a barbecue grill. A variance is required to reconstruct the taller carport and deck structure in the 20-foot street yard setback.

**Public testimony** was received from:

Armen Tajirian, Property Owner, reported the roof of the existing carport is approximately 22 inches below the bottom edge of the main rear door. He proposes to raise the level of the carport roof and place a shade structure over the deck. He indicated the only adjacent neighbor is amenable to the project. The carport was probably built in the 1960s, prior to his ownership of the property. He has considered demolishing the carport, but financial

considerations prevent that. The project will improve the street view of the home.

Sundeep Grewal, project architect, advised that a conforming deck would be 16 feet shorter than the existing deck. A shorter deck would result in a nonconforming carport because the carport would not be covered. The sunshade, modeled on a Mediterranean design, has been modified to reduce its height. The rear elevation now includes architectural features from the front of the house. Removing the steps will increase the safety of children playing in the yard. The red tape on the story poles is not applicable to the project. The project will improve the structure and aesthetics of the carport. He considered a wood structure to support the sunshade, but the upper structure would be much larger. The sunshade can be removed during the winter to allow sunlight into the house; the steel structure will remain. The height of the guardrail was increased to create privacy. None of the landscaping will change. Vines will grow on the deck guardrails.

Commissioners supported the project in general, citing the need to improve the carport and better integrate it with the house. Commissioners expressed concern about the sunshade not being consistent with the Mediterranean style of the house. Commissioner Duransoy suggested the guardrails should have more metalwork than stucco.

**Resolution 343-V/DR-19**

WHEREAS, the Property Owners are requesting permission to comprehensively remodel and replace the carport and deck including preserving the existing retaining walls and parking pad; rebuilding the carport and deck; raising the level of the deck above the carport by 2 feet and raising the enclosing walls by approximately 3 feet 6 inches, installing new exterior lighting, a metal and canvas sunshade pergola and a barbecue grill at 99 Crocker Avenue, which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code are necessary to reconstruct the taller carport and deck structure in 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 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% of floor area before the addition, and the project is consistent with General Plan policies and procedures; and,

WHEREAS, the variance from 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 existing carport is built within the street yard setback and the lot has an unusual peninsula shape surrounded by public roadways on three sides, 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 existing carport is built within the street yard setback.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the location of the proposed carport and deck is the only reasonable place for the proposed new carport and deck; and the height of the proposed carport and deck is an improvement to safety and access for the occupants.

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 and new stucco siding, the roof deck form and material, and the guardrail material.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the openings in the carport walls protect sightlines to pedestrians and vehicles and the project maintains the existing situation for pedestrians and vehicles.

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, 3.09.01.1, 3.09.01.2, 3.09.02.1, 3.09.02.2, 3.09.02.3, 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, 3.11.03.1, 3.11.03.2, 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), 4.02.01.1, 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, 4.05.02.1, 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), 5.01.01.1, 5.01.01.2, 5.01.02.1, 5.02.01.1, 5.02.02.1, 5.02.02.2, 5.02.02.3 (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 99 Crocker 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 January 30, 2020, unless modified in these conditions of approval below.

2. **Exterior Lighting.** Prior to issuance of a building permit, 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, subject to staff's review and approval.

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

4 **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$2,000,000 per occurrence. The insurance shall include an endorsement requiring 10 days prior notice to the City if the insurance is to be cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the contractor's insurance carrier states in writing that it is unable to provide the required endorsement, Property Owner shall be responsible for providing the City with the required notice if the insurance is to be cancelled or changed. Property Owner's failure to provide such notice shall constitute grounds for revocation of the City's design review approval and/or permit. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

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

6. **C&D Compliance.** Compliance with 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.

7. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, the Applicant shall defend, indemnify, and hold harmless the City against any and all liability, fees and costs arising out of the defense. Applicant shall pay for all costs of City's own selected legal counsel(s). For this purpose, "City" includes the City and its

elected and appointed officials, agents, officers, employees, consultants, and volunteers.

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

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

**10. 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 and hedges proposed for retention, as well as new plantings to replace trees, hedges, and shrubs to be disturbed by construction and new climbing vines and shrubs in a planter strip running the length of the base of the carport. 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. If any part of the existing concrete garage driveway and carport driveway paving is damaged or demolished as part of the carport remodeling project, then both driveways shall be replaced with new paving made up of individual pavers. Driveway curb cut constructed in the public right-of-way shall remain concrete or shall be repaired and replaced with new grey-colored concrete.

**11. 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.

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

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

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

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

- d. The failure of the Property Owner to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code (“City Code”). The failure of the Property Owner to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Property Owner fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may make a claim against the Property Owner’s Site Security, if one is required, in order to complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.
3. At least two weeks prior to start of construction, the Applicant shall provide written notice to property owners and residents of all adjacent properties on forms provided by the City of Piedmont. This notification shall include information such as the start date and scope of construction, building permit number, a copy of the Construction Completion Schedule, as well as the contact information of the property owner, designer/agent, and contractor(s). The Applicant shall sign an affidavit of said notice and provide a copy to City Building Official.

**14. Deck Canopy Design.** The deck canopy shall be redesigned so that it is more consistent with the Mediterranean-style architecture of the residence. The final design shall be subject to staff review and approval.

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

**Resolution 7-PL-20**

RESOLVED, that the Planning Commission conduct a public hearing for Application 20-15, 1133 Winsor Avenue, prior to Application 19-358, 1 Parkside Drive.

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

**Variance and Design  
Review Permit  
1133 Winsor Avenue**

The Property Owners are requesting permission to construct a maximum 42-inch-tall concrete wall, a 6-foot tall wall (containing a 42-inch-tall concrete wall with a 3-foot-tall redwood fence above), and a stone patio; and to remove two trees in the front yard. A variance is required to construct a patio within the 20-foot street yard setback.

**Public testimony** was received from:

Applicant's representative reported a variance is requested to build a 30-36-inch-tall wall within the front setback. The project includes construction of a patio and removal of two unhealthy trees that pose hazards for the property owners and pedestrians. Vines will be planted along the fence to soften its appearance. The homeowners want to remove the hedge in order to increase their security when arriving after dark. The new fence will be consistent with the existing fence along the side of the property.

In general, Commissioners with the exception of Commissioner Allesio supported the project because the redwood gate will match the house and the patio will match the garage. Commissioner Allesio favored retaining the hedge. Commissioners discussed retaining the hedge, reducing the proposed size of the patio, and vegetation in a planting strip between the wall and the street.

Director Jackson advised that the applicant needs a variance to expand the patio area.

**Resolution 15-V/DR-20**

WHEREAS, the Property Owners are requesting permission to construct a maximum 42-inch-tall concrete wall, a 6-foot tall wall (containing a 42-inch-tall concrete wall with a 3-foot-tall redwood fence above), and a stone patio; and to remove two trees in the front yard at 1133 Winsor 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 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 20-foot street yard setback is approved because it complies with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including an unusually small lot, a house located within the street yard setback, and an existing patio within the street yard setback, so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare because several neighboring properties have patios within the street yard setback.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the house is



located within the street yard setback, and any changes to the front would require Planning Commission review.

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 and height, the fence material and height, and the patio material and size.
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 fence is appropriate to preserve privacy.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no adverse effect on pedestrian and vehicular safety.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.09.01.1, 3.09.01.2, 3.09.02.1, 3.09.02.2, 3.09.02.3, 3.09.02.4, 3.09.03.01, 3.09.03.2, 3.09.03.3, 3.11.01.1, 3.11.01.2, 3.11.02.1, 3.11.02.5, 3.11.03.1, 3.11.03.5, 3.11.03.7, 3.11.03.8, 3.11.03.9, 3.11.03.10, 3.11.03.11, 3.11.03.12 (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 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), Design and Preservation Element Policy 29.4 (Maintaining Privacy), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.6 (Retaining Walls).

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 1133 Winsor 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, the Applicant shall defend, indemnify, and hold harmless the City against any and all liability, fees and costs arising out of the defense, including without limitation, Applicant shall pay for all costs of City's own selected legal counsel(s). For this purpose, "City" includes the City and its elected and appointed officials, agents, officers, employees, consultants, and volunteers.
2. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape 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 approved 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.

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

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

**4. 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.
- e. At least two weeks prior to start of construction, the Applicant shall provide written notice to property owners and residents of all adjacent properties on forms provided by the City of Piedmont. This notification shall include information such as the start date and scope of construction, building permit number, a copy of the Construction Completion Schedule, as well as the contact information of the property owner, designer/agent, and contractor(s). The Applicant shall sign an affidavit of said notice and provide a copy to City Building Official.

**5. Wall Height and Location.** The perimeter wall shall be no more than 3 feet in height and shall have a 12-inch minimum planting strip with irrigation between the sidewalk and wall.

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

**Variances and Design  
Review Permit**

The Property Owners are requesting permission to construct a 567-square-foot addition along Parkside Drive containing a two-car garage with master suite

## 1 Parkside Drive

above and a 25-square-foot expansion at the northwest corner of the house; to remove the existing driveway and convert the existing garage to a workshop; to construct a fence within the street yard setback along Ronada Avenue and new decking and patio in the rear yard; to install new windows and doors throughout the residence; and to modify other exterior features including retaining walls, exterior lighting, new front awning, and guardrails. Three variances are required to construct within the 20-foot street yard setback along Parkside Drive, the 20-foot street yard setback along Ronada Avenue, and the 5-foot side yard setback.

**Public testimony** was received from:

Rebecca Schnier, project architect, reported the neighbors' main concern seems to be the garage located on the Parkside Drive side of the house. The lot is small and uniquely shaped. The only possible location for a two-car garage is on Parkside Drive, which will also increase pedestrian and vehicular safety. The existing house sits within the setback along Parkside Drive. Locating the proposed addition outside the setback would result in the addition blocking all windows for an existing bedroom. Other properties in the area have two-car garages. The addition with a second floor, a gabled roof, and a single flush face will be consistent with neighboring homes. She noted the homeowner met with the neighbor at 3 Parkside Drive, and the neighbor understood the windows on the addition will not affect the neighbor's privacy. According to the homeowner, the neighbor at 3 Parkside Drive did not greatly oppose the project. One master bedroom window faces the street. The horizontal windows are located above the bathroom sinks, and people in the bathroom cannot look out them. The small window is located near the floor, and the view from it is of a garden. Also, there is a good distance between the two homes. Currently, visitors and delivery people are confused as to which side of the property is the front. A fenced patio on the Ronada Avenue side of the house will direct visitors to the front door on Parkside Drive. The landscaped open space will remain for neighborhood use. The floor of the proposed master suite will be at the same level as the floor of the existing home. Lowering the garage will result in steps between the existing house and the master suite. Theoretically, the garage and addition could be lowered. The roof height of the addition is higher than the existing roof height. The size of the master suite is comparable to master suites in other Piedmont homes and accommodates the homeowners' program. She considered a flat roof for the addition, but it would not be consistent with the house. The gabled roof matches the existing roof and allows cathedral ceilings to provide some spaciousness to the second-floor addition. The second-floor addition could be stepped back. A two-car garage of the required size cannot be constructed outside the setback.

Generally, the Planning Commission could not approve the project, referring to the size of the master suite, concerns about the impact to the neighbor's privacy and light, the height of the addition, and the bedroom addition being the prominent component of the house.

### **Resolution 358-V/DR-19**

WHEREAS, the Property Owners are requesting permission to construct a 567-square-foot addition along Parkside Drive containing a two-car garage with master suite above and a 25-square-foot expansion at the northwest corner of the house; to remove the existing driveway and convert the existing garage to a workshop; to construct a fence within the street yard setback along Ronada Avenue and new decking and patio in the rear yard; to install new windows and doors throughout the residence; and to modify other exterior features including

retaining walls, exterior lighting, new front awning, and guardrails at 1 Parkside Drive, which construction requires a design review permit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the 20-foot street yard setback along Parkside Drive, the 20-foot street yard setback along Ronada Avenue; and within the 5-foot side yard setback; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is 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 proportions of the new master bedroom addition will dominate the mass of the existing home. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with architecture and neighborhood development: the wall material, the roof form and material, the window and door material and fenestration pattern, and the eave overhand dimension.
2. The design adversely affects neighboring properties' existing views, privacy, and access to direct and indirect light because the addition is built within the side yard setback with the longest dimension of the addition adjacent to the downhill neighbor.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project improves onsite parking conditions. However, the applicant should demonstrate that adequate sightlines can be maintained at the proposed retaining walls adjacent to the driveway, and the new handrails will improve pedestrian safety.
4. The application does not comply with the following Design Review Guidelines: 5.01.01.1, 5.01.02.1 (Building Design: Single-Family Residential).

WHEREAS, regarding variances from side yard and street yard setbacks requirements, the Planning Commission in denying without prejudice the design review permit for construction at 1 Parkside Drive finds that there is no approved design for which variances are necessary.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the design review permit application for the construction at 1 Parkside Drive, Piedmont, California, and continues the consideration of the request for variances to a subsequent hearing at which the Commission considers a subsequent application for a design review permit submitted by the applicant for a revised design for the house.

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

**ADJOURNMENT**

There being no further business, Chairman Levine adjourned the meeting at 10:48 p.m.