

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, June 8, 2020

A Regular Session of the Piedmont Planning Commission was held June 8, 2020, via ZOOM teleconference consistent with Executive Orders No. N-25-20 and N-29-20 and the Alameda County Health Official's Order #20-04. In accordance with Government Code Section 54954.2(a), the agenda for this meeting was posted for public inspection on May 22, 2020.

CALL TO ORDER

Chair Alessio called the meeting to order at 5:30 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, Associate Planner Gopika Nair, Assistant Planner Steven Lizzarago, Planning Technician Ignacio Franco, Administrative Assistant Mark Enea

PUBLIC FORUM

There were no speakers for the public forum.

ANNOUNCEMENTS

Planning & Building Director Jackson introduced new staff members Gopika Nair and Ignacio Franco.

REGULAR SESSION

The Commission considered the following items of regular business:

APPROVAL OF MINUTES

Resolution 13-PL-20

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

Moved by Levine, Seconded by Duransoy

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:

- 12 Monte Avenue (Variance and Design Review Permit)
- 104 Monticello Avenue (Fence Design Review Permit)
- 7 St. James Drive (Design Review Permit) and
- 334 Wildwood Avenue (Design Review Permit).

Resolution 14-PL-20

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

Moved by Levine, 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
12 Monte Avenue**

Resolution 87-DR-20

WHEREAS, the Property Owners are requesting permission to enclose the existing porch at the northeast corner of the first floor for an additional 26 square feet of habitable space, make window and door modifications, and make various changes to the interior at 12 Monte 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 5-foot front left (north) side yard setback and to exceed the floor area ratio limit; and,

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

WHEREAS, variances from the setback and floor area ratio requirements are approved because they comply with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the home is already constructed within the side yard setback and the home is already above the maximum allowable floor area ratio, 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 neighboring properties are also located within the side yard setbacks; most homes in the neighborhood are similar in size to what is being proposed; and the building envelope is not being expanded.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the house would need to be partially demolished in order to be built outside the side yard setback.

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the wood shingle wall material and the wood 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 development is within the existing building envelope.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project proposes no change to pedestrian and vehicular circulation patterns.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03.02.1 (Site Design), 4.02.01.2, 4.02.01.6, 4.02.01.7, 4.02.01.8, 4.03.03.1, 4.03.03.3, 4.03.03.6 (Building Design: General), 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 28.3 (Additions), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for the construction at 12 Monte 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 3/4 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. **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.

6. **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.

7. 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 Director of Building & Planning. 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.

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

**Design Review Permit
104 Monticello Avenue**

Resolution 89-DR-20

WHEREAS, the Property Owners are requesting permission to construct a 42-inch-tall fence within the 20-foot street yard setback of the corner lot to enclose the rear yard, located at 104 Monticello Avenue, which construction requires a design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, and the project is consistent with General Plan policies and programs, and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development, including the wood fence material and height and the gate material and height.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because there is sufficient vegetative screening; the height of the fence is appropriate to the surrounding neighbors; and the distances between the fence and neighboring properties are appropriate.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project proposes no changes to pedestrian and vehicular circulation patterns.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.09.01.1, 3.09.01.2, 3.09.02.1, 3.09.02.2, 3.09.02.3, 3.09.02.4, 3.09.03.1, 3.09.03.2, 3.09.03.3, 3.09.03.4 (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 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).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application

for construction at 104 Monticello 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. **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.

3. **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 Director of Building & Planning. 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.

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

**Design Review Permit
7 St. James Drive**

Resolution 90-DR-20

WHEREAS, the Property Owner is requesting permission to make various modifications including constructing a 400-square-foot rear addition, constructing new windows and doors throughout, replacing the roof, installing new siding, constructing a new entry path, and making other exterior and interior improvements, located at 7 St. James Drive, which construction requires a design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, and the project is consistent with General Plan policies and programs, and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development, including the stucco wall material for the addition, the horizontal wood siding wall material for the front facade, the gable roof form and asphalt shingle roof material, the window and door design, and the scale of the addition.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distances between the project and neighboring homes are appropriate; the topographical differences are appropriate to preserve privacy, views, and light; and there is sufficient vegetative screening between the addition and neighboring residences.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project proposes no changes to the pedestrian and vehicular circulation.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.12.01.1, 3.12.01.2, 3.12.02.1, 3.12.02.2, 3.12.02.3, 3.12.02.4 (Site Design), 4.01.01.1, 4.01.01.2, 4.01.01.3, 4.01.01.4, 4.01.02.1, 4.02.01.6, 4.02.01.7, 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, 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, 4.04.01.1, 4.04.01.2, 4.04.02.1, 4.04.02.2, 4.04.02.3, 4.04.02.4, 4.04.02.5 (Building Design: General), 5.01.01.1, 5.01.01.2, 5.01.02.1 (Building Design: Single-Family Residential)

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 7 St. James Drive, 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 shall be aluminum clad wood 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 1.5 inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.

4. **Pre-construction Inspection.** Prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department to review the approved installation criteria, such as the window recess, window trim if any, and 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. In addition and in compliance with California Health and Safety Code Section 19892, an automatic garage door opener for the garage door(s) shall have a battery backup function that is design to operate when activated in the event of an electrical outage.

7. **Sound.** The air conditioning unit shall meet the sound requirements of 50 decibels maximum at the nearest property line. Any modifications necessary to meet this requirement are subject to staff review and approval.

8. **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.

9. **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 17.32.30, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. Upon the determination of the Director, minor differences in the number, size and/or species of vegetation between those shown on the approved landscape plan and those installed at the time of final inspection that do not involve an increase in hardscape or structure coverage may be subject to staff review and approval. Significant differences between the vegetation installed at the time of final inspection and vegetation shown on the approved landscape plan are subject to a design review permit.

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

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

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

**Design Review Permit
334 Wildwood Avenue**

Resolution 91-DR-20

WHEREAS, the Property Owners are requesting permission to replace and relocate selective windows and doors, replace a street-facing garage door and adjacent property entry gate within the 20-foot street yard setback, located at 334 Wildwood Avenue, which construction requires a design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, and the project is consistent with General Plan policies and programs, and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development, including the window and door material and fenestration pattern, the window and door recess, and the replacement entry gate design and height.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distances between the project and neighboring homes are appropriate, and the gate is consistent with the existing gate's height and will be located in the existing location.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project proposes no changes to pedestrian or vehicular circulation.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.09.01.01, 3.09.01.2, 3.09.02.1, 3.09.02.2, 3.09.02.3, 3.09.02.4, 3.09.03.1, 3.09.03.2, 3.09.03.3, 3.09.03.4 (Site Design), 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. 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 28.5 (Garages, Decks and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 334 Wildwood 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 June 1, 2020, after notices to neighbors were mailed and the application was available for public review.

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

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

4. **Window Recess.** All new windows shall be recessed 5 1/4 inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.

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

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

7. **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.

8. **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 Director of Building & Planning. 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.

Moved by Ramsey, Seconded by Levine
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:

Fence Design Review

The Property Owners are requesting permission to construct a 5-foot-10-

**Permit
60 Oakmont Avenue**

inch-tall fence and gate along the front of the property within the 20-foot street yard setback along Oakmont Avenue.

Public testimony was received from:

Emile Chang, Property Owner, reported the project is to build a fence behind the hedge in the side yard and a gate into the backyard. The gate will have an open design and be made of cedar with a wrought iron inset that matches the window trim on the existing house. The fence will be made of cedar lattice panels and will not be visible from the street. The gate is slightly taller than the fence to provide privacy. Moving the fence back will reduce the size of an already small yard. The proposed fence will not be as tall as the hedge and is a standard height. A lower fence will not provide privacy.

In general, Commissioners indicated the fence and gate designs are nice. Commissioner Ramsey proposed moving the fence back to align with the house and to provide a sense of openness, and Commissioner Levine proposed lowering the height of the fencing to 4 feet and the gate to 5 feet as recommended in the Design Guidelines. Commissioners Batra and Duransoy and Chair Alessio noted the proposed fence will provide privacy for the family's use of their only open space, deter deer, be transparent should the hedge die, and will allow maximum use of a small space.

Resolution 79-FDR-20

WHEREAS, the Property Owners are requesting permission to construct a 5-foot-10-inch-tall fence and gate along the front of the property within the 20-foot street yard setback, located at 60 Oakmont Avenue, which construction requires a fence design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, and the project is consistent with General Plan policies and programs, and 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 fence's wire mesh design and mix of metal and wood materials; the fence height; and the gate design and height.
2. The design does not affect neighboring properties' existing views, privacy, and access to direct and indirect light because there is sufficient vegetative screening; and the height and location are appropriate relative to existing fencing and neighbors.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project proposes no changes to pedestrian and vehicular circulation patterns.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.09.01.1, 3.09.01.2,

3.09.02.1, 3.09.02.2, 3.09.02.3, 3.09.02.4, 3.09.03.1, 3.09.03.2, 3.09.03.3, 3.09.03.4 (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 28.4 (Setback Consistency), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), Design and Preservation Element Policy 29.5 (Fence and Wall Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the fence design review permit application for the improvements at 60 Oakmont Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **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 east property line. 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. At the discretion of the Public Works director, an encroachment permit may be required in order to construct within the sewer right-of-way.

2. **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.

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.

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 Director of Building & Planning. 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.

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

Recused: None
Absent: None

**Design Review Permit
212 Bonita Avenue**

The Property Owners are requesting permission to construct a two-story, 1,257-square-foot accessory building on a 14,245-square-foot property and replace the existing garage located behind the residence. The 25-foot-tall accessory building would provide a two-car garage and 840 square feet of living space. The project includes landscape and site changes to accommodate the construction. The project includes new doors and windows, new exterior lighting, a new trash and recycling enclosure, an as-built 4-foot-tall urn in the street yard setback, and other changes.

Public testimony was received from:

Fernanda Meagher, Property Owner, reported she and her husband have significantly renovated the house over the past five years while attempting to preserve architectural details of the house. The proposed garage will complement the house and the property and highlight architectural features. The size and scale of the garage are in proportion to the house, and its placement is logical given the site constraints. Relocating the garage away from the property line will remove a portion of the structure from the neighbor's property. The dormer windows will not directly face 408 Blair Avenue; views between the two will be obstructed by tree foliage; and the garage structure will not align with the home at 408 Blair Avenue. While the proposed turnaround space is not ideal, it will be an improvement on the current condition. A shadow study was conducted to address concerns of the neighbor at 408 Blair Avenue. Changing the slope of the garage roof is an option. The proposed roof form with dormers is preferred and will maintain the architectural integrity of the main house design. Alternative locations for the garage have been considered, but the current location is best because the driveway could not be repurposed and there are other structures on the property. Relocating the garage could impact neighbors.

Amy Nunes, project architect, advised that the project is a two-car garage with a bonus second-floor room. The structure will be similar to an accessory structure that was approved a few years ago. The project meets or exceeds all development standards applicable to the property. The garage will be cohesive with the main structure. Alternative 2 was developed in response to neighbors' concerns and has a lower roof height and a roof that matches the roofs on the rear of the house. Alternative 1 has dormer windows; Alternative 2 does not. Alternative 2 is an acceptable design, but it is a downgrade from the design of Alternative 1. The aesthetics of the garage structure are a concern as the garage will be the view from the rear of the house. A row of trees has been planted along the property line to screen the garage. The garage is designed to comply with standards, to provide two conforming parking spaces, and to provide as much space as possible for a vehicle to access the garage. Ms. Nunes indicated she has not considered removing the stairs at the corner of the house because she understood backing out from the driveway is acceptable. Relocating the garage a few feet to the south may further constrain access to the second garage parking space. Vehicles accessing the garage are not allowed to drive on the easement; although, it would improve access to the garage. The plans show the space for a vehicle to access the garage without utilizing the easement. The Property Owners will likely agree to modify the stairs at the corner of the house. The height of the windowsill at 412 Blair Avenue is lower than the garage's eave height. The neighbor at 412 Blair Avenue raised concerns about the structure

height after plans had been submitted for review. Alternative 2 was prepared in response to the neighbor's concerns, but it has not been studied in detail.

Thomas Tagliarini, representative of the neighbor at 408 Blair Avenue, indicated vehicles are not allowed to utilize the easement; although, that has occurred. The submitted plans fail to reflect existing trees or the correct locations of existing trees on the adjacent property. Mr. Tagliarini shared the neighbor's concerns regarding the width of the driveway, the size of the turnaround area, and potential damage to her property, trees, and vegetation.

Alice Creason, neighbor at 408 Blair Avenue, stated the proposed 90-degree turn in the driveway is a radical change from the existing condition. The property is sufficiently large for the garage to be located elsewhere on the property. The easement as shown in the plans is not correct. The project does not comply with the City's General Plan and guidelines. The driveway will create problems for pedestrians, vehicles, and emergency vehicle access. Ms. Creason related that the applicant refused to provide her with plans and blocked her view of the story poles.

Seamus Meagher, Property Owner, reported the purpose of the easement is to allow a passenger to exit a vehicle. Vehicles drive on the paved portion of the driveway. The house at 412 Blair Avenue is set back 2 feet from the property line. The proposed garage will have a minimal impact on light reaching the house at 412 Blair Avenue. Replacing the one-car garage with a new two-car garage will significantly improve access to the garage. Trimming the brick abutment could provide additional clearance for vehicle access to the garage. The garage will conform with development standards, be aesthetically pleasing, and provide privacy.

The Planning Commission generally appreciated the applicant proposing a conforming, two-car garage with an attractive and complementary design. However, Commissioners could not support the project because of the second-story's impacts on light, views, and privacy for the neighbor at 412 Blair Avenue, the narrow driveway, and the difficulty of vehicles accessing the garage. Commissioners suggested relocating the garage, constructing a single-story, two-car garage in the existing location, or modifying the stairs at the corner of the structure.

Resolution 85-DR-20

WHEREAS, the Property Owners are requesting permission to construct a two-story, 1,257-square-foot accessory building on a 14,245-square-foot property and replace the existing garage located behind the residence; the 25-foot-tall accessory building would provide a two-car garage and 840 square feet of living space; the project includes landscape and site changes to accommodate the construction, new doors and windows, new exterior lighting, a new trash and recycling enclosure, an as-built 4-foot-tall urn in the street yard setback, and other changes, located at 212 Bonita 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. While the proposed design is consistent and harmonious with the architecture of the existing primary structure, the 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 height of the structure in relation to its impact on neighbors, and the arrangement and siting of the structure on the parcel.
2. The proposed design affects at least one neighboring property's existing views, privacy, and access to direct and indirect light because of the height and proximity of the structure to the neighbor's bedroom windows.
3. The proposed design may adversely affect pedestrian and vehicular safety because the design of the driveway and turnaround makes vehicular egress from the garage and property so difficult that it is likely to require a vehicle to back down a long, narrow driveway and into the street.
4. The application does not comply 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, 3.07.03, 3.07.04 (Site Design), 5.01.01.1, 5.01.01.2, 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), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.2 (Landscape Design).

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 212 Bonita Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

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

The Property Owners are requesting permission to install new windows, doors, and skylights throughout the residence and make various interior modifications including the conversion of a family room into a bedroom. A variance is required to add a fourth bedroom without providing conforming parking spaces.

Public testimony was received from:

Filip Syzmanski, Property Owner, reported the goal of the project is to harmonize the appearance of the home internally and externally by utilizing elements original to the house. Proposed modifications will result in an aesthetically pleasing home with the character of a 1940s home. A variance is needed to convert the family room into a fourth bedroom with a laundry area. The existing house does not have a laundry area. On-street parking is available around the house. His use of online resources indicates one of the 15

neighborhood homes has a two-car garage. Stairs, a mature tree, a basement, and a sewer lateral constrain the ability to design a conforming garage.

Commissioners generally supported the proposed modifications to improve the appearance of the house and, with the exception of Commissioner Ramsey, could make the findings to support granting a variance. Commissioners noted the location of the garage makes expanding it difficult, the garage walls appear to be load-bearing walls, the intensity of use with a fourth bedroom is consistent with the neighborhood, the project will not expand the building envelope, and most neighborhood homes have four bedrooms and one-car garages. Commissioner Ramsey could not support granting a variance and referred to revisions to parking standards for this type of situation, ways in which a fourth bedroom could be added without providing conforming parking, Municipal Code Section 17.30.010.B, and Jerome Avenue being narrow such that cars park partially on the sidewalk.

Resolution 88-V/DR-20

WHEREAS, the Property Owners are requesting permission to install new windows, doors, and skylights throughout the residence and make various interior modifications including the conversion of a family into a bedroom at 400 Jerome Avenue, which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to add a fourth bedroom without providing conforming parking spaces; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is 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 parking requirements is approved because it complies with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the home is located in setback areas and the lot is unusually shaped with 20-foot street yard setbacks 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 a majority of neighboring properties have no more than one-car garages with four bedrooms, 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 expanding the garage to supply conforming parking spaces would require significant excavation and relocating load-bearing walls would cause a significant hardship in supporting the upper living area.

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the stucco wall material, the asphalt shingle roof material, and the window and door design.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distances between the project and neighboring homes are appropriate and remain unchanged; the topographical differences are appropriate to preserve privacy, views, and light and remain unchanged; and the development is within the existing building envelope.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project proposes no changes that impact pedestrian and vehicular circulation.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 4.02.01.6, 4.02.01.7, 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. 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 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for the construction at 400 Jerome Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows shall be metal clad 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 1.75 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. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.

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

7. **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.

8. **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 Director of Building & Planning. 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.

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

ADJOURNMENT

There being no further business, Chair Alessio adjourned the meeting at 7:15 p.m.