

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, November 9, 2020

A Regular Session of the Piedmont Planning Commission was held November 9, 2020, via ZOOM teleconference consistent with Executive Order Nos. 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 October 26, 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.

REGULAR SESSION

The Commission considered the following items of regular business:

APPROVAL OF MINUTES

Resolution 24-PL-20

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the October 12, 2020 regular hearing of the Planning Commission.

Moved by Batra, Seconded by Levine

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:

- 1345 Grand Avenue, Suite 103 (Conditional Use Permit) and
- 29 Wildwood Avenue (Conditional Use Permit).

Resolution 25-PL-20

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

Moved by Ramsey, Seconded by Duransoy

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:

**Conditional Use
Permit
1345 Grand Avenue,
Suite 103**

Resolution 241-CUP-20

WHEREAS, Piedmont Oaks Dental is requesting a conditional use permit to modify the existing medical office use, including but not limited to a new floor plan, located at 1345 Grand Avenue, Suite 103, Piedmont, California; 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 recommends that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(a), and the proposal conforms with the criteria and standards of Section 17.68.040 of the Piedmont Municipal Code as follows:

1. The proposed use as a dentist office is compatible with the General Plan, particularly Land Use Element Policy 2.3 (Office Development), and conforms to the zoning code in that the use is related to other surrounding businesses; the use as a dentist office complies with standards for Zone D listed in Section 17.26.
2. The use is primarily intended to serve Piedmont residents rather than the larger region in that over 200 Piedmont residents are already customers of Piedmont Oaks Dental and that the proposed location within Piedmont makes the business more visible and accessible to Piedmont residents.
3. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health, safety, or welfare of persons residing or working in the vicinity. Considerations for this finding include no substantial increase in traffic, parking needs, or noise; no adverse effect on surrounding property values in that pedestrian and vehicular safety will not be affected because the traffic, customer usage, and noise impacts will be similar to the prior use. Given that there is a residential parking permit program already in place along several streets radiating from Grand Avenue, parking shall not be adversely affected. Additionally, in addition to the onsite parking, the street parking along Grand Avenue will serve this use as it has previous uses at this location.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission recommends approval by the City Council of the conditional use permit application by Piedmont Oaks Dental for 1345 Grand Avenue, Suite 103, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Terms of the Approval.** A review of the conditional use permit as provided in City Code Section 17.68.050 shall occur in November 2022 and the conditional use permit shall have the following operational characteristics:

Office Hours: **Monday office closed to public, staff working 8 a.m. – 5 p.m.;**
Dental Hours: Tuesday – Thursday 8 a.m. – 5 p.m.,
Friday 8 a.m. – 3 p.m.

Types of Staff/Personnel: **2 dentists with staggered hours (2 days a week each), 2 hygienists with staggered hours, 1 assistant, 2 front office employees,**

2. **Signage.** Any new or modified exterior signage may require a design review permit as provided in Division 17.36 of the City Code.
3. **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.

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

**Conditional Use
Permit
29 Wildwood Avenue**

Resolution 243-CUP-20

WHEREAS, Piedmont Shell Auto Care is requesting a modification to the conditional use permit to include commercial retail and to convert 54 square feet within the existing building area to a convenience store; 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 recommends that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(a), and the proposal conforms with the criteria and standards of Section 17.68.040 of the Piedmont Municipal Code as follows:

1. The proposed additional use as a retail store is compatible with the General Plan, particularly Land Use Element Policy 2.1 (Local Serving Emphasis), and conforms to the zoning code in that the use is related to other surrounding businesses and the use as a retail store complies with standards for Zone D listed in Section 17.26.
2. The use as a retail store is primarily intended to serve Piedmont residents rather than the larger region in that over all of Piedmont residents are already customers of Piedmont Shell Gas Station and Auto Care and that the proposed location within the business makes it more visible and accessible to Piedmont residents.
3. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health, safety, or welfare of persons residing or working in the vicinity. Considerations for this finding include no substantial increase in traffic, parking needs, or noise; and no adverse effect on surrounding property values in that pedestrian and vehicular safety will not be affected because the traffic, customer usage, and noise impacts will be similar to the prior use. Given that there is a residential parking permit program already in place along several streets radiating from Wildwood Avenue, parking shall not be adversely affected. Additionally, in addition to the onsite parking, the street parking along Grand Avenue and Wildwood Avenue will serve this use.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission recommends approval by the City Council of the conditional use permit application by Piedmont Shell Auto Care for 29 Wildwood Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Terms of the Approval.** A review of the conditional use permit shall occur in November 2022, and the conditional use permit shall have the following operational characteristics:

Office Hours: **Monday – Sunday, 8 a.m. – 9 p.m.**
Number of Staff/Personnel: **5**

2. **Approval of Application.** The approval of this application is subject to the issuance of a building permit for the construction of an area for a convenience store within the footprint of the existing building.

3. **Signage.** Any new or modified exterior signage may require a design review permit as provided in Division 17.36 of the City Code.

4. **Defense of Legal Challenges.** The Applicant shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter “City”) from any claim, action or proceeding (hereinafter “Proceeding”) brought against the City to attack, set aside, void or annul the City’s actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the Applicant’s project (“Challenge”). City may, but is not obligated to, defend such Challenge as City, in its sole discretion, determines appropriate, all at Applicant’s sole cost and expense. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney’s fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Applicant, City, and/or parties initiating or bringing such Proceeding. If the Applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City. Per Government Code Section 66474.9, the City shall promptly notify Applicant of any Proceeding and shall cooperate fully in the defense.

Moved by Levine, Seconded by Batra
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:

The Brown Act

Deepa Sharma and Denise Bazzano from the City Attorney's Office reported the intent of the Brown Act and the basic rule for all meetings; defined legislative body and meeting; described regular, special, emergency, and improper meetings, including serial, daisy chain, and spoke-and-hub meetings, as well as non-meetings; shared requirements for the agenda, public comment, and non-agendized items; and explained the presiding officer's role, conflicts of interest, the right to fair decision-makers, findings, conditions of approval, and nexus and proportionality requirements for conditions of approval.

In response to questions, Ms. Sharma recommended Commissioners receive rather than give information when discussing Planning Commission items with the public or interested parties outside a meeting. Ms. Bazzano advised that the time for Commissioners to ask questions of an applicant or interested party depends on the Planning Commission's procedures and the presiding officer's wishes. Planning and Building Director Jackson added that the Commission may vote on a Commissioner's request to pose additional questions to interested parties after the public comment period has closed. Ms. Sharma suggested the Commission should develop all the required findings, whether to approve or deny an application, as a way to provide facts and the Commission's motivations for its decision, should an appeal be filed.

**Design Review Permit
308 Pala Avenue**

The Property Owners are requesting permission to construct an 807-square-foot second-story addition on the north side of the residence, construct new windows and doors throughout, install skylights on the upper floor, and make various interior and exterior modifications.

Public testimony was received from:

Carolyn Van Lang, project architect, reported the second-floor addition is located on the northeast corner of the home because in that location the stairway will comply with Building Code requirements and work with the existing floor plan, and the addition will work well with the exterior massing and will not impact a large portion of the roof or light, air, view and privacy. Moving the master suite upstairs will improve access to the backyard. The shape of the addition provides as much natural light as possible. The closets are tucked into the attic space to reduce their visibility. The proposed project is consistent with the development pattern of the neighborhood. The addition is compatible with the Mediterranean style of the house. The window in the master bedroom is not symmetric with other windows because the addition is not symmetric with the existing front elevation. The difference will not be noticeable from the street due to the distance the house is set back from the street. The windows are larger in order to increase natural light in the home and to provide views from the house. The addition's roof material will be terra cotta tile, and its slope is proposed to match the existing roof slope.

Zach Kau, Property Owner, advised that the addition will meet his family's need for space and privacy, especially with everyone working and learning at home.

In general, Commissioners appreciated the beauty of the existing home and the design of the addition. Commissioners Duransoy and Levine could not support the application because of concerns about the proportion, verticality, and size of the addition, and the design of the roof. Commissioners Batra and Ramsey and Chair Alessio could support the application, indicating the addition is tucked into the house, the size of the addition is acceptable because it does not protrude from the main house, the addition is set back so that the roof joins the two masses, the change in roof form decreases the mass of the second story, the mass of the addition is proportional to the mass of the house, the placement of the addition is correct, and the design of the addition is compatible with the main house.

Resolution 193-DR-20

WHEREAS, the Property Owners are requesting permission to construct an 807-square-foot second-story addition on the north side of the residence, construct new windows and doors throughout, install skylights on the upper floor, and

make various interior and exterior modifications, located at 308 Pala 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), that 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 addition's height, scale, and bulk, the stucco wall material, the clay tile roofing, and the window and door material and design.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distances between the project and neighboring homes are appropriate; there is no significant view; the addition is located within the existing building footprint; the area of the second-floor addition is much smaller than the area of the existing ground floor; the topographical differences are appropriate to preserve privacy, views and light; and the setback of the second-story addition reduces the view from the public way.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project does not alter the existing pedestrian and vehicular circulation.

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, 3.12.01.1, 3.12.01.2, 3.12.02.1, 3.12.02.2, 3.12.02.3, 3.12.02.4 (Site Design); 4.01.01.3, 4.02.01.6, 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 (Building Design: General); 5.01.01.2, 5.01.02.1 (Building Design: Single-Family Residential).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.8 (Exterior Lighting), and Design and Preservation Element Policy 31.3 (Context-Sensitive Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 308 Pala 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 metal 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 1 inch 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. **Skylight Flashing.** The metal flashing around the new skylight(s) shall be painted to match the adjacent roof color.
7. **Office.** The upstairs office shall be open to the master bedroom hall with no header provided above the opening so that the opening is clear to the ceiling.
8. **Defense of Legal Challenges.** The Applicant shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the Applicant's project ("Challenge"). City may, but is not obligated to, defend such Challenge as City, in its sole discretion, determines appropriate, all at Applicant's sole cost and expense. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney's fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Applicant, City, and/or parties initiating or bringing such Proceeding. If the Applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City. Per Government Code Section 66474.9, the City shall promptly notify Applicant of any Proceeding and shall cooperate fully in the defense.
9. **Setback from Property Line Verification.** Prior to frame inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the north property line as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line.

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

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

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

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

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

b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the Approved Construction Completion Schedule and be binding on the Applicant. The City may, at the Applicant'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 Batra
Ayes: Alessio, Batra, Ramsey
Noes: Duransoy, Levine
Recused: None
Absent: None

The Commission recessed for dinner at 6:57 p.m. and reconvened at 7:10 p.m.

**Variance and Design
Review Permit
109 Bonita Avenue**

The Property Owners are requesting permission to construct an attached 493-square-foot garage on the south side of the house, construct an exterior staircase leading up to the existing patio on the rear (southwest corner) of the house, make window modifications on the south facade, make various other associated exterior changes including a new replacement driveway, and make various changes to the interior including the addition of a fourth bedroom on the basement level. A variance is required to exceed the City's lot/structure coverage limit.

Public testimony was received from:

Howard Backer, Property Owner, reported the house was built in 1907, and an addition was constructed in 1995. The project includes construction of a garage on the driveway where vehicles currently park. The stairs from the deck have to be relocated in order to attach the garage to the house. With the garage, there will be room for a third parking space on the driveway. With the addition of two

covered parking spaces, the house is allowed to have four bedrooms, which he and his wife want. Therefore, the project proposes to add a shower to an existing bathroom without increasing living space. The proposal requires a variance to exceed the lot/structure coverage limit. Construction of the garage will eliminate two small planting strips located at the side of the house. The project was designed with a low profile and tucks into the back corner of the existing house. He indicated he has shared the plans with the four surrounding neighbors, and they support the project. The proposal includes solar panels, and the solar company will determine the appropriate location for the panels. The length of the garage is constrained by the slope of the driveway and existing landscaping. Extending the garage to the rear would require removal of the existing magnolia tree and modification of the proposed exterior stair, which also provides access to the existing patio beneath the deck.

Doug McQuillan, project architect, advised that he considered modifying the size of the garage, but the proposed size accommodates the deck posts and the stair. The sill height of the dining room windows has to be raised to accommodate the structure. Matching the garage roof to the sloped roof of the house is not necessary because many garages in Piedmont have flat roofs in order to minimize volume. The stair is counted in lot coverage and contributes to the house exceeding the lot/structure coverage limit. Reducing the size of the garage to comply with the limit would result in a one-car garage. The stair could be modified so that the garage accommodates two conforming parking spaces, but as shown on the proposed garage layout, there is sufficient space for the Property Owners' two cars without doing that. Extending the garage will increase the lot coverage even more.

Planning Director Jackson clarified that the Code requires two non-tandem, covered parking spaces, each space measuring 8.5 feet wide by 18 feet deep.

Commissioners generally appreciated the addition's design and the proposal to provide off-street parking and discussed the size of the proposed garage, the size of a conforming parking space, and the effects of modifying the garage size on the rear yard, vegetation, and lot coverage. Commissioners Batra, Duransoy, and Levine noted constructing two conforming parking spaces would not necessarily increase the lot coverage further and indicated they could approve the application for a variance if the garage could be modified to include two parking spaces of the required dimensions. Commissioner Ramsey advised that he could approve the project as proposed because a variance will be required to construct two parking spaces on the property, the garage is lower than the street and will not be visible, and parking will be closer to the house and slightly further away from the adjacent neighbor. Chair Alessio indicated she could not make the findings for a variance, she did not particularly like the flat roof, and the project needs work.

Resolution 231-V/DR-20

WHEREAS, the Property Owners are requesting permission to construct an attached 493-square-foot garage on the south side of the house, construct an exterior staircase leading up to the existing patio on the rear (southwest corner) of the house, make window modifications on the south facade, make various other associated exterior changes including a new replacement driveway, and make various changes to the interior including the addition of a fourth bedroom on the basement level at 109 Bonita 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 exceed the lot/structure coverage 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 15303, Class 3(e), new construction or conversion of small structures, and the project is consistent with General Plan policies and procedures; and,

WHEREAS, a variance from the 40% lot/structure coverage limit 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 size and shape of the lot prevent the construction of a conforming two-car garage on the lot, and a garage is not located on the lot when most houses on the street have a garage, 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 with the variance, the property will not have an advantage over other properties in the neighborhood, and the proposed garage is the minimum size needed to provide two-car covered parking.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because constructing two, covered parking spaces on the property is impossible without a variance from structure coverage limits.

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, which is different from the roof form of the main house but consistent with other garages at houses of similar age along the street; and the window and door material.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the topographical differences are appropriate to preserve privacy, views, and light; the distances between the project and neighboring homes are appropriate; the height of the project has been kept as low as possible; and the project is set back from the street.
3. The proposed design does not adversely affect pedestrian or vehicular safety because of the location of the garage and because the project improves onsite parking conditions.

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, 3.12.01.2, 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, 4.02.01.1, 4.02.01.6, 4.02.01.7, 4.02.01.9, 4.02.01.11, 4.03.04.1, 4.03.04.2, 4.03.04.3, 4.03.04.4, 4.03.04.5, 4.03.04.6, 4.03.04.7 (Building Design: General); 5.01.01.1, 5.01.01.2, 5.01.02.1, 5.02.01.1, 5.02.02.1, 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), 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 29.7 (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 109 Bonita 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.** The Applicant shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the Applicant's project ("Challenge"). City may, but is not obligated to, defend such Challenge as City, in its sole discretion, determines appropriate, all at Applicant's sole cost and expense. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney's fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Applicant, City, and/or parties initiating or bringing such Proceeding. If the Applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City. Per Government Code Section 66474.9, the City shall promptly notify Applicant of any Proceeding and shall cooperate fully in the defense.

2. **C&D Compliance.** Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

3. **Window Material.** As specified in the plans and application material, the building material for the new windows shall wood.

4. **Window Trim.** The new window trim shall be consistent with the design of the original trim.

5. **Window Recess.** All new windows shall be recessed 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.

6. **Window Color Scheme.** All the windows on the house and attached garage shall have a consistent color scheme.

7. **Pre-Construction Inspection.** After the issuance of a building permit and prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department. The inspection will review the approved installation criteria, noted on the approved building permit drawings and specifications, such as the window recess, window trim if any, and windowsill projection if any, with the existing conditions.

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

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

10. **Setback from Property Line Verification.** Prior to foundation inspection, 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 south property line as shown on the approved plans.

11. **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.

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 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.

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.

- 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.

14. Final Landscape Plan. Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan for the south and south west corner around the proposed new construction. 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.

15. Arborist's Report and Certified Tree Preservation Plan. Before the issuance of a Building Permit, the Property Owner shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures for the Magnolia tree designated to remain on the final landscape plan on the south-west portion of the rear yard on the property. 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 one or more of the trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. The Director shall determine the number of in-lieu replacement trees that are required to replace trees proposed for removal, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

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

17. **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.

18. **Garage and Exterior Deck Stairs.** The design of the garage and exterior deck stairs shall be modified to supply a garage with an interior depth of 36 feet for two 18-foot-long parking spaces. The modified design shall entail the minimum increase in structure coverage necessary and shall be subject to staff review and approval.

Moved by Levine, Seconded by Batra

Ayes: Batra, Duransoy, Levine

Noes: Alessio, Ramsey

Recused: None

Absent: None

**Design Review Permit
218 Bonita Avenue**

The Property Owners are requesting permission to construct a 970-square-foot two-story addition on the rear of the residence, make window and door changes throughout, modify patios, decks, and landscaping in the rear yard, and construct other various interior and exterior renovations.

Public testimony was received from:

Tim Wooster, project architect, advised that the proposal is a two-story addition at the rear of the house. The existing ridgeline has been extended and carries the lower roof element, which creates a flat and concealed location for a solar array. A shallow balcony at the northeast corner provides variation in the massing and adds architectural variation to the rear two-story corner. The balcony also provides a visible buffer between neighbors' yards and views from the master bathroom window. The shallow depth of the balcony restricts the number of people who can use it at a given time. The major views from the master bedroom, master bathroom, kitchen, and den are oriented toward the backyard. The project will reduce the amount of glazing facing the north property line. The sill heights of windows in the master bathroom and master bedroom closet are 4 feet and 4 feet 8 inches respectively. Built-in cabinets beneath the windows make it difficult for someone to look into the neighbor's yard. The goal is to locate the main outdoor space equidistant from all neighbors. The windows and doors on the bottom floor of the east elevation do not have divided lights and are not visible to neighboring properties. The absence of divided lights is intended to create a modern look and to increase light in interior spaces.

Anna Putnam, Property Owner, advised that the primary goal of the project is to connect interior and exterior living spaces. In addition, the project will increase the energy efficiency of an older home.

Fernanda Meagher, neighbor at 212 Bonita Avenue, expressed concern about the windows and balcony being located near the setback and facing her yard. There could be fewer windows, and the balcony could be pushed closer to the master bedroom. While the balcony is intended to be a buffer, people on the balcony can look into the main outdoor living area of her yard.

Generally, Commissioners commended the applicant for reducing the amount of glazing and increasing the windowsill heights on the north elevation, including

solar panels in the project, designing a beautiful and seamless addition that complements the house and aligns with the shape of the lot, and attempting to address privacy concerns.

Commissioners Ramsey, Duransoy, and Batra could approve the application as presented. They noted the design guidelines address placement of windows along adjoining property lines and state windows along the property line should not be excluded; the windows are nicely contained and grouped; a different window type on the rear should not be an issue because not all the windows on the house have the same mullion pattern; the different windows should fit in the category of innovation as mentioned in the design guidelines; and the applicant has provided sufficient detail in the design of the addition to preserve the historical character of the house. With respect to the balcony, they explained that a majority of the length of the balcony faces the back; the balcony is too small to be a gathering space; balconies face the rear on other houses in the area; a balcony without a door is not logical.

Chair Alessio could approve the application as presented but preferred to require windows with divided lights at the rear. She recalled the design guidelines stating windows should match and preferred the new windows match the existing windows. By decreasing the amount of glazing, the applicant is actually increasing privacy overall. She liked the balcony because it adds dimension to the house and the right amount of interest from the exterior.

Commissioner Levine could approve the project if the applicant is required to replace the existing rear windows with the same type of window and replace the balcony door with a window. He did not believe the code distinguishes front windows from rear windows, and installing windows without divided lights to create a modern look and provide more interior light is not consistent with the design guidelines when the rest of the house has windows with divided lights. He noted plantings may obstruct the Meaghers' view of the new windows on the rear. He seemed to recall a design guideline discouraging upper floor balconies. Replacing the balcony door with a window would reduce the neighbor's privacy issues and provide ventilation and light.

Resolution 244-DR-20

WHEREAS, the Property Owners are requesting permission to construct a 970-square-foot two-story addition on the rear of the residence, make window and door changes throughout, modify patios, decks, and landscaping in the rear yard, and construct other various interior and exterior renovations, located at 218 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 categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, that 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 addition's height, size, and bulk; the roof design and material; the stucco wall material; the

window and door proportions, material, and design; and the rear deck and guardrail 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; there is no significant view; there is sufficient vegetative screening along the property line; the amount of glazing on the north elevation has been reduced; and the distances from the balcony to neighboring homes, the size of the balcony, and the orientation of the balcony to the rear of the house address privacy concerns.

3. The proposed design does not adversely affect pedestrian or vehicular safety because there are no proposed changes in pedestrian or vehicular circulation.

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, 3.11.01.1, 3.11.01.2, 3.11.03.1, 3.11.03.3, 3.11.03.12, 3.11.03.13, 3.11.03.14, 3.12, 01.1, 3.12.01.2, 3.12.02.1, 3.12.02.2, 3.12.02.3, 3.12.02.4 (Site Design); 4.01.01.3, 4.02.01.1, 4.02.01.3, 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 (Building Design: General); 5.01.01.1, 5.01.02.1 (Building Design: Single-Family Residential).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 218 Bonita Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

3. **Window Recess.** All new windows shall be recessed 2 inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details 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. **Office.** The opening from the proposed office to the upstairs hallway shall have a minimum width of 50% of the wall length in order to not be classified as a bedroom. The opening between the office and hall shall not have a header so that the opening is clear to the ceiling.

7. **Defense of Legal Challenges.** The Applicant shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter “City”) from any claim, action or proceeding (hereinafter “Proceeding”) brought against the City to attack, set aside, void or annul the City’s actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the Applicant’s project (“Challenge”). City may, but is not obligated to, defend such Challenge as City, in its sole discretion, determines appropriate, all at Applicant’s sole cost and expense. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney’s fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Applicant, City, and/or parties initiating or bringing such Proceeding. If the Applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City. Per Government Code Section 66474.9, the City shall promptly notify Applicant of any Proceeding and shall cooperate fully in the defense.

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 north property line as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line(s).

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

a. **Construction Site Control of Stormwater.** The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and

effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

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

11. **Approved Plan Set.** The approved plans are those submitted on October 22, 2020 and new sheets submitted on November 9, 2020, after notices to neighbors were mailed and the application was available for public review. The new plans show window and door modifications on the north, south, and east sides of the residence.

12. **Rear, Ground-Level Doors.** The applicant shall have the option of adding divided light grilles to the rear, ground-level doors, subject to staff review and approval.

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

**Design Review Permit
355 San Carlos
Avenue**

The Property Owner is requesting permission to reconstruct the existing detached garage as a trellised carport with storage below, construct dormers and install skylights on the upper level, reconstruct and expand the rear deck and balcony, construct new windows and doors throughout, modify the rear-yard landscaping, and make various exterior and interior improvements.

Public testimony was received from:

Tim Wooster, project architect, reported the project addresses deferred maintenance and under-utilized spaces and increases the architectural harmony of the exterior. The project proposes to replace existing windows that are visible from the street with windows that match existing windows on the front elevation. The existing windows on the rear of the house do not have divided lights, and the project proposes to retain that condition in order to enhance views from the house. The new rear deck will obscure the windows from view. Having different windows should not jeopardize the structure's historic appearance from the public right-of-way. The rear deck will be replaced to upgrade its structural support and to provide access to the lower yard and a second point of egress for the main level. The attached garage will be replaced with a lighter and less imposing carport. The ceiling of the existing master bedroom and bath is pitched with some very low points, and there are few opportunities to introduce natural light to this level. The proposal is to convert some areas into attic space and to construct two dormers off the rear ridge to create a brighter and functional master suite. This proposal will reduce the overall floor area ratio. The existing structure has few exterior details, and the project adds details in the Tudor style. Windows on the side of the lower level will have divided lights.

Lindsay Cookson, Property Owner, advised that the goals of the project are to make repairs and improvements, maintain and enhance the architectural interest

of the exterior, and create a welcoming, safe, and efficient home for her family. She indicated she has letters of support from three neighbors.

The Commission in general supported the application, noting the beautiful design, the architect's creative approach to improving the function and decreasing the floor area ratio of the house, the lower height of the carport compared to the garage, and the details of the Tudor style are restrained on the front elevation, tie the elevations together, and add character to the home.

Resolution 245-DR-20

WHEREAS, the Property Owner is requesting permission to reconstruct the existing detached garage as a trellised carport with storage below, construct dormers and install skylights on the upper level, reconstruct and expand the rear deck and balcony, construct new windows and doors throughout, modify the rear-yard landscaping, and make various exterior and interior improvements, located at 355 San Carlos 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), that 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 dormer location and design, the stucco wall material, the deck size and design, the window and door material and design, and the carport 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 view is not a significant view; there is significant vegetative screening; and the design protects the privacy of neighbors.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no adverse effects on pedestrian and vehicular circulation and the carport design improves visibility for 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, 3.03.02.3, 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, 3.13.02.1, 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); 4.01.01.4, 4.01.02.1, 4.02.01.1, 4.02.01.3, 4.02.01.4, 4.02.01.5, 4.02.01.6, 4.02.01.7, 4.02.01.8, 4.02.01.10, 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 (Building Design: General); 5.01.01.1, 5.01.01.2, 5.01.02.1, 5.02.01.1, 5.02.01.2, 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, 5.04.01.1, 5.04.02.1.

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 28.7 (Hillside Home Design), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.8 (Exterior Lighting), Design and Preservation Element Policy 31.3 (Context-Sensitive Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 355 San Carlos Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be aluminum clad wood 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 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. **Skylight Flashing.** The metal flashing around the new skylight(s) shall be painted to match the adjacent roof color.
7. **On-Grade Rear Deck.** The on-grade deck in the rear yard shall be no greater than 12 inches above grade. If the on-grade deck cannot meet this requirement, it shall be subject to a new design review permit.
8. **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.

9. Defense of Legal Challenges. The Applicant shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter “City”) from any claim, action or proceeding (hereinafter “Proceeding”) brought against the City to attack, set aside, void or annul the City’s actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the Applicant’s project (“Challenge”). City may, but is not obligated to, defend such Challenge as City, in its sole discretion, determines appropriate, all at Applicant’s sole cost and expense. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney’s fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Applicant, City, and/or parties initiating or bringing such Proceeding. If the Applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City. Per Government Code Section 66474.9, the City shall promptly notify Applicant of any Proceeding and shall cooperate fully in the defense.

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

11. Final Landscape Plan. Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan for the rear yard that shows trees proposed for retention as well as in-lieu trees. 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.

12. Arborist’s Report and Tree Preservation Plan. Before the issuance of a building permit, the Applicant shall submit an Arborist’s Report and Tree Preservation Plan that includes tree preservation measures to preserve the existing trees in the rear yard. The tree preservation measures shall appear on the appropriate sheets of the construction plans. In the event the arborist determines that one or more trees have been compromised, the Applicant shall submit to the City remediation and mitigation measures in writing and certified by the project Arborist, to the Planning and Building Director’s satisfaction. If the trees are proposed for removal, an in-lieu replacement tree shall be planted on the property. Please submit a landscape plan with the location, species, and size of the proposed tree for staff review and approval. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Applicant shall

submit a report from the project arborist certifying that all tree preservation measures as recommended have been implemented and that all retained trees have not been compromised by the construction.

13. Sewer Main Condition and Repair. City records indicate that City storm and sewer mains and associated easements may be located near the proposed construction next to the west property line. 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.

14. 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.
- 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.

- 15. 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.

16. **Windows.** All the windows on the south facade shall have divided light grilles. The design for this modification shall be subject to staff review and approval.

Moved by Batra, Seconded by Levine

Ayes: Alessio, Batra, Duransoy, Levine, Ramsey

Noes: None

Recused: None

Absent: None

ANNOUNCEMENTS

Planning Director Jackson announced the City Council will hear the conditional use permits for 1345 Grand Avenue, Suite 103, and 29 Wildwood Avenue on November 16, 2020. The Planning Commission will not meet in January 2021. The Pedestrian and Bicycle Advisory Committee will meet on November 12, 2020.

ADJOURNMENT

There being no further business, Chair Alessio adjourned the meeting at 8:34 p.m.