

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, December 14, 2020

A Regular Session of the Piedmont Planning Commission was held December 14, 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 November 30, 2020.

CALL TO ORDER

Chair Alessio called the meeting to order at 5:30 p.m.

ROLL CALL

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

Absent: Commissioner Yildiz Duransoy

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 Kevin Jackson introduced Sustainability Program Manager Alyssa Dykman.

Sustainability Program Manager Dykman shared her background in environmental management and policy as well as public opinion research related to climate change and energy.

REGULAR SESSION

The Commission considered the following items of regular business:

APPROVAL OF MINUTES

Resolution 26-PL-20

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the November 9, 2020, regular hearing of the Planning Commission. Moved by Levine, Seconded by Batra
Ayes: Alessio, Batra, Levine, Ramsey, Strout
Noes: None
Abstaining: None
Absent: Duransoy

CONSENT CALENDAR

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

- 480 Mountain Avenue (Variance and Design Review Permit),
- 1102 Harvard Road (Fence/Site Feature Design Review Permit), and
- 34 Manor Drive (Variance and Design Review Permit).

Resolution 27-PL-20

RESOLVED, that the Planning Commission approves the Consent Calendar as noted.
Moved by Ramsey, Seconded by Strout
Ayes: Alessio, Batra, Levine, Ramsey, Strout
Noes: None
Abstaining: None
Absent: Duransoy

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

**Design Review Permit
480 Mountain Avenue**

Resolution 242-DR-20

WHEREAS, the Property Owners are requesting permission to make significant renovations to the backyard including constructing a new retaining wall, fence, and a minor landscaping and irrigation strip along Dudley Avenue; constructing a new 6-foot-tall 60-square-foot pool equipment enclosure; repairing an existing pool and adding a walkable cover and increasing the size of pool steps; reducing concrete tiled patio space; adding green space in the form of natural turf; and adding exterior downward lighting throughout at 480 Mountain 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: the wall material and massing of the pool equipment enclosure, the landscape and hardscape material, and the design of the fence and retaining wall including materials, height, and step 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; the overall project proposes a replacement of existing features; there is no significant view; there is sufficient existing vegetative screening; and the topographical differences are appropriate to preserve privacy, views, and light.
3. The proposed design does not adversely affect pedestrian or vehicular safety because there are no changes proposed to pedestrian and vehicular circulation in the public right-of-way.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.05.01.1, 3.08.01.1, 3.08.01.2, 3.08.02.1, 3.08.02.2, 3.08.02.3, 3.08.02.4, 3.08.02.5, 3.08.02.6, 3.08.03.1, 3.09.01.1, 3.09.01.2, 3.09.02.1, 3.09.02.2, 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, 3.13.02.4, 3.13.03.1, 3.13.03.2, 3.13.04.2 (Site Design); 4.05.02.1, 4.05.02.2, 4.05.02.3, 4.05.02.4, 4.05.02.5, 4.05.02.6, 4.05.02.7, 4.05.03.1, 4.05.03.2, 4.05.03.3, 4.05.03.4 (Building Design: General).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element,

including: Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.4 (Maintaining Privacy), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.6 (Retaining Walls), Design and Preservation Element Policy 29.8 (Exterior Lighting), Design and Preservation Element Policy 29.9 (Sight Obstruction).

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 construction at 480 Mountain Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

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.

5. 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 and east property lines as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property lines.

6. Arborist's Report and Certified Tree Preservation Plan. Before the issuance of a Building Permit and should the Final Landscape Plan propose to retain the existing Japanese Maple tree, the Property Owner shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures for the Japanese Maple tree designated to remain on the final landscape plan. 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 Japanese Maple tree. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If the tree has been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. A replacement tree size is subject to staff review. It 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 the retained trees have not been compromised by the construction.

7. 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 any in-lieu trees required by a Certified Tree Preservation Plan. The final plan shall comply with City Code Division 17.34 and Section 17.33.30, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. Vegetation proposed in the curbside planting area between the curb and property line along Dudley Avenue shall be subject to staff review and approval. 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.

8. Construction Management Plan. The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust

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

- 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.

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

10. **Outdoor Cooking.** No outdoor cooking equipment construction is approved as part of this application.

11. **Pool Equipment Enclosure.** Prior to issuance of a building permit, the applicant shall submit drawings of the pool equipment enclosure confirming its height, materials, and design, subject to City staff review and approval.

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

**Fence/Site Feature
Design Review Permit
1102 Harvard Road**

Resolution 256-F/SFDR-20

WHEREAS, the Property Owners are requesting permission to construct a maximum 6-foot-tall fence and gate and install a fire pit within the 20-foot street yard setback at the rear of the house, located at 1102 Harvard Road, 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 and gate design and height, the fire pit location, and the small and unusually shaped corner lot limits.
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; no views or access to light is affected; and the fence provides privacy due to the unusually shaped corner lot.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no effect on pedestrian and vehicular circulation.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.05.01.1, 3.09.01.1, 3.09.01.2, 3.09.02.1, 3.09.02.2, 3.09.02.3, 3.09.02.4, 3.09.03.1, 3.09.03.2, 3.09.03.3, 3.09.03.4, 3.11.01.1, 3.11.01.2, 3.11.02.1, 3.11.02.2, 3.11.02.3, 3.11.02.4, 3.11.02.5, 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, 3.13.02.1, 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).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Policy 29.3 (Front Yard Enclosures).

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 1102 Harvard Road, 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. **Encroachment Permit.** Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction within the public right-of-way.

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.

5. Fence Height. Prior to issuance of a building permit, the applicant shall review the plans to clarify that the new fence shall not exceed the height of the existing fence, subject to review and approval of City staff.

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

**Variance and Design
Review Permit
34 Manor Drive**

Resolution 267-V/DR-20

WHEREAS, the Property Owners are requesting permission to construct a 268-square-foot second-story addition on the side (north) of the house including modifications to the existing entry staircase, widening the existing driveway and garage, modifications to windows and doors throughout, new exterior light fixtures, new exterior wood deck in the rear (east) yard, a new balcony on the upper level (west facade), a series of retaining walls in the street (west) setback, additional dormers to the roof, and various other associated interior and exterior changes on all levels including the addition of a bedroom and a bath at 34 Manor Drive; and requesting approval of a stepped wood fence on the side (north) property line and a wood fence on the rear (east) property line, which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct the second-story addition in the left (north) 5-foot side yard setback; and,

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

Facilities, because it is a minor change to an existing private residence, which is less than 50 percent of the floor area of the structure before the addition (or 2,500 square feet, whichever is less), and the project is consistent with General Plan policies and procedures; and,

WHEREAS, the variance from the application 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, including the lot size, and the placement of the existing house on the lot do not present the opportunity to expand in the rear, front, or side of the main level, so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare because other homes in the area have constructed in the 5-foot side yard setback, and most homes in the neighborhood are two-story homes and similar in size to what is being proposed.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, and construction because the location and size of the lot would prevent any addition being proposed for the house.

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: wall material, roof form, window and door material, guardrail material, fence material, fence height, and the location of the deck.
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; topographical differences are appropriate to preserve privacy, views, and light; and the height of the proposed addition.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the new guardrail on the entry staircase should improve pedestrian safety, and 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, 3.08.01.1, 3.08.01.2, 3.08.02.1, 3.08.02.2, 3.08.02.4, 3.08.02.5, 3.08.02.6, 3.08.03.1, 3.09.01.1, 3.09.01.2, 3.09.02.1, 3.09.02.2, 3.09.02.3, 3.09.02.4, 3.09.03.1, 3.09.03.2, 3.11.01.1, 3.11.01.2, 3.11.02.1, 3.11.02.2, 3.11.02.3, 3.11.02.5, 3.12.01.2, 3.12.02.1, 3.12.02.2, 3.12.02.3, 3.12.02.4 (Site Design), 4.02.01.3, 4.02.01.6, 4.02.01.7, 4.02.01.8, 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, 5.01.02.1, 5.02.02.1, 5.02.02.2, 5.02.02.5, 5.02.02.6 (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 29.1 (Conserving Residential Yards).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for construction at 34 Manor 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 and application material, the building material for the new windows shall be wood. The garage door shall be of aluminum.
2. **Window Trim.** The new window trim shall be consistent with the design of the original trim.
3. **Window Recess.** All new windows shall be recessed 1 ¼ 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. **Window Color Scheme.** All the windows on the house and attached garage shall have a consistent color scheme.
5. **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.
6. **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.
7. **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 north property line as shown on the approved plans.
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.
9. **Roof Color.** The color of the roofing material on the house shall be consistent throughout.

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

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 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 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.

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

14. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan on the street yard around the proposed retaining wall 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. California's Water Efficient Landscape Ordinance (WELO): Applicant shall comply with the requirements of California's Model Water Efficient Landscape Ordinance that went into effect December 1, 2015. All projects that disturb 2,500 sq. ft. of landscaping shall submit the following required information to the Building Department for review and approval:

- (a) Landscape Documentation Package that includes the following 6 items: i) Project Information; ii) Water Efficient Landscape Worksheet; iii) Soil Management Report; iv) Landscape Design Plan; v) Irrigation Design Plan; and vi) Grading Design Plan. The Landscape Documentation Package is subject to staff review and approval before the issuance of a building permit.
- (b) Once a building permit has been issued, the Applicant shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District.
- (c) After completion of work, the Applicant shall submit to the City and East Bay Municipal Utility District a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report. The City may approve or deny the Certificate of Completion.

16. 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.

17. Street Trees. The driveway expansion shall not necessitate the street tree removal along the west property line (closer to the existing driveway). Should the applicant wish to remove any affected street tree, the applicant shall seek approval from the Park Commission. Further, that during the course of construction, care shall be exercised to not damage the existing street trees and their root structures. The tree preservation measures shall be on the appropriate sheets of the construction plans. An arborist report shall be required for any street tree that has construction within a 5-foot radius of the trunk. The arborist shall be onsite during critical construction within the 5-foot zone, 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 and approved by the Director of Public Works. The Park Commission 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. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

18. **Eave.** Prior to issuance of a building permit, the applicant shall revise the design of the addition so that the eave is unbroken, including underneath the dormers, subject to staff review and approval.

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

REGULAR CALENDAR

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

Variances and Design Review Permit 65 Fairview Avenue

The Property Owner is requesting permission to reconstruct a single-car garage adjacent to the sidewalk such that the garage contains 198 square feet and measures 10 feet tall, including associated exterior lighting and site changes. Variances are required to construct the garage within the street yard setback and the right side yard setback and without providing a parking area measuring 18 feet in depth or 10 feet 6 inches in width.

Commissioner Ramsey recused himself from the item as he has an ownership interest in real property located within 500 feet of the subject property.

Public testimony was received from:

Richard Hunt, project architect, understood in 2012 the then-existing garage partially collapsed, and the previous homeowner began demolishing the garage. The Building Department halted demolition and required the homeowner to obtain a permit. The previous homeowner chose not to obtain a demolition permit because removing the garage required approval of a variance from the requirement for onsite covered parking. Consequently, the order to cease demolition of the garage remains in effect. The current homeowner plans to rebuild the garage as it was and to make seismic improvements to the foundation. If the previous homeowner had rebuilt the garage within two years of removing it, the current homeowner would not have to request variances. The siting of the house on the lot constrains the ability to relocate the garage outside the setbacks and maintain access to Fairview Avenue. The most expedient solution appears to be to preserve the structurally sound portions of the remaining garage and finish the garage as it was. The cost of grading and expanding the garage prevents the Property Owner from providing a conforming parking area. The inside dimensions of the existing garage are 17 feet by 10 feet. The Property Owner could apply for an encroachment permit to expand the width of the existing driveway.

Senior Planner Pierce Macdonald-Powell noted receipt of correspondence from Lisa Joyce, neighbor at 1416 Grand Avenue, expressing concerns about the significant difference between the proposed and required sizes and the appropriateness of the industrial-style garage door.

Generally, the Commission preferred that the size of the garage conform to Code requirements and a garage door more residential in style and the Commission indicated relocating the garage outside the setbacks would require extraordinary measures.

Resolution 191-V/DR-20

WHEREAS, the Property Owner is requesting permission to reconstruct a single-car garage adjacent to the sidewalk such that the garage contains 198 square feet and measures 10 feet tall, including associated exterior lighting and site changes at 65 Fairview 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 the garage within the street yard setback and the right side yard setback and without providing a conforming parking area; 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, variances from front street yard setback and right side yard setback are approved because they comply with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the rear yard is not conducive to the siting of a garage, the lot has unusually steep topography, and the proposed project rebuilds a single-car garage in the same location as the previous single-car garage demolished without benefit of a permit, 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 with similar topography have garages located in the front yard.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because a significant portion of the front yard would need to be excavated and paved for a driveway in order to supply a garage in either side yard or under the house. A variance for parking size is not granted because accomplishing a garage that provides a conforming parking area would not cause unreasonable hardship in planning, design, or construction because there is sufficient space to expand the garage to the rear and side.

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the wall material, the roof form and material, and the 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 distances between the project and neighboring homes are appropriate, and the height of the project has been kept as low as possible.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project returns a required covered parking space to the four-bedroom residence.
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), 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 (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 28.5 (Garage, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.2 (Landscape Design), 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 denies the variance application for parking size at 65 Fairview Avenue; and

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application for street yard and side setback variances and the design review permit application for the construction at 65 Fairview Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
2. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to

City property or to neighboring property, the Property Owner shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$2,000,000 per occurrence. The insurance shall include an endorsement requiring notice to the City if the insurance is cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

3. 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.

4. 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.

5. 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. The site landscaping and improvements shall be repaired and returned to their existing condition as shown in site photographs, prior to final inspection approval.
- 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.

6. Garage Door. To facilitate vehicular access, the garage door shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.

7. Exterior Lighting. Any exterior lighting for the garage shall be shielded and directed downward subject to staff review and approval prior to issuance of a building permit.

8. Location Verification. Prior to foundation inspection, Applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the garage is located entirely on the property at 65 Fairview Avenue.

9. Garage Size. Prior to the issuance of a building permit, the garage shall be designed with interior clearance dimensions that provide one parking space that conforms to size requirements provided in City Code Section 17.30.050. Design

modifications necessary to meet this condition shall be subject to staff review and approval.

10. **Garage Door Design.** Prior to issuance of a building permit, the garage door shall have a design and material that is appropriate for residential garages. Design modifications necessary to meet this condition shall be subject to staff review and approval.

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

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

The Property Owner is requesting permission to remodel the residence and garage; to construct an approximately 143-square-foot addition including new second-story gable roof form addition and main-level living room addition at the rear of the house as well as decks, exterior lighting, doors, windows, skylights, covered entry feature; a comprehensive landscape renovation including a new swimming pool, terraces, pergola, outdoor kitchen, exterior lighting, grading, site steps, railings, paved areas, retaining walls, perimeter walls and fences, gates, trash and recycling enclosure, and other changes; and convert the existing second-story living space above the garage into a fifth bedroom/guest cottage with kitchen.

Public testimony was received from:

Stephen MacCracken, project architect, reported the Property Owner seeks to update and upgrade the 1930s home while maintaining the qualities of the existing Monterey Colonial style. Project goals are to increase natural light, enhance interior volumes, emphasize an indoor-outdoor connection, and maintain design continuity. The steel-and-glass entry canopy will protect visitors from the weather and emphasize the entryway. The steel components of the canopy will be painted the same color as the wood deck behind it. Brick, cement plaster, steel window frames, and terracotta roof tiles that match the existing home will be used for the remodel and addition. New windows and doors except for the entry door will have steel sashes. The Property Owners want to reduce the intrusion of the patio stairway into the driveway but maintain access to the patio. The proposed stair is a solid wall of stucco with a simpler balustrade. The front fencing will not have a rail above the brick cap. The steel in the front gates will be painted to match the entryway. The gates connect to the entry doors. The retaining walls will have a cement plaster finish, and the trellis will be wood.

Daniel Robinson, project architect, advised that the roofline of the north-facing hip roof will extend to the existing chimney and will match the clay tile material on existing roofs. Due to required clearances, the chimney height will be extended. The double doors to the lawn will be replaced with a 3-foot stucco bump-out that will accommodate a folding steel-framed door. Above the door, a bump-out will accommodate a window seat in the primary bedroom and align with the bump-out below. The new entryway will complement the existing brick facade and provide natural light in the entry area. Visitors can walk from the front gate to the entry via the new walkway rather than the driveway. The proposed fencing will be set back approximately 5 feet from the property line, and the fencing and gate will measure 4 feet tall. The pool has been relocated further from the property line to accommodate a planting strip for privacy and

will be surrounded on three sides with a vertical board fence. Neighbors' concerns about noise from the garage recording studio have been addressed with sound-rated walls. Construction parking will be onsite with street parking used occasionally for overflow. Sheet A1.13 shows the lighting types and locations for the rear yard. The front facade of the existing home is brick and stucco while the rear facade is stucco.

Jennifer Evans, neighbor at 245 Sandringham Road, requested time to obtain a survey of her property. The applicant proposes to demolish an existing fence that is located on her property and rebuild it on the subject property.

The Commission in general appreciated the style of the existing home and the proposed improvements. However, Commissioners expressed concern regarding the entryway design, materials, and size. Chair Alessio concurred with Commissioner Batra's request for the applicant to provide more details of the patio stairway and other outdoor features and indicate how they connect to the updated architectural style of rest of the property.

Resolution 246-DR-20

WHEREAS, the Property Owner is requesting permission to remodel the residence and garage; to construct an approximately 143-square-foot addition including new second-story gable roof form addition and main-level living room addition at the rear of the house as well as decks, exterior lighting, doors, windows, skylights, covered entry feature; a comprehensive landscape renovation including a new swimming pool, terraces, pergola, outdoor kitchen, exterior lighting, grading, site steps, railings, paved areas, retaining walls, perimeter walls and fences, gates, trash and recycling enclosure, and other change; and convert the existing second-story living space above the garage into a fifth bedroom/guest cottage with kitchen, located at 316 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, because the proposed project is a minor change to an existing private residence, which involves negligible or no expansion of use and is less than 10,000 square feet, and the project is in an area where all public services and facilities are available to allow for the maximum development permissible in the General Plan, and the area in which the project is located is not environmentally sensitive, 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 roof material, eave, skylights, and massing of the gable addition; the wall materials and massing of the main floor addition; the window and door material and fenestration pattern; the renovations to the detached garage wall, door, and window materials, and the new accessory structures.

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 significant; the topographical differences are appropriate to preserve privacy, views, and light; there is sufficient vegetative screening; and there is minimal new structure that will affect anyone's views, privacy, and light.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project ensures adequate visibility for entering and exiting the driveway; and the project provides a significant setback so that cars can wait off the roadway while the new automatic driveway gates open and close.

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, 3.05.01.1, 3.09.01.1, 3.09.01.2, 3.09.02.1, 3.09.03.1, 3.09.03.2, 3.09.03.3, 3.09.03.4, 3.11.01.1, 3.11.01.2, 3.11.03.1, 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, 3.13.03.1, 3.13.03.2, (Site Design), 4.01.01.3, 4.02.01.1, 4.02.01.3, 4.02.01.5, 4.02.01.6, 4.02.01.7, 4.02.01.8, 4.02.01.9, 4.02.01.10, 4.02.01.11, 4.03.03.1, 4.03.03.3, 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, 4.04.01.2, 4.05.02.1, 4.05.02.2, 4.05.02.3, 4.05.02.4, 4.05.02.5, 4.05.02.6, 4.05.02.7, 4.05.03.1, 4.05.03.2, 4.05.03.3, 4.05.03.4 (Building Design: General), 5.01.01.1, 5.01.01.2, 5.01.02.1, 5.02.01.1, 5.02.01.2, 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 (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 28.3 (Additions), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 28.12 (Creativity and Innovation), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Design and Preservation Element Policy 29.8 (Exterior Lighting), Design and Preservation Element Policy 29.9 (Sight Obstructions), 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 316 St. James Drive, 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 November 19, 2020.
2. **Pool and Spa Equipment Noise.** Prior to issuance of a building permit, the applicant shall provide noise specifications and calculations for the swimming

pool equipment and spa equipment to show that the noise level at the nearest property line is 50 dBA per occurrence.

3. **Window and Door Material.** As specified in the plans, the building material for the new windows shall be steel to match existing windows. Doors shall be steel, and front door shall be wood or steel with glazing.

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

5. **Window Recess.** As specified in the approved window schedule, all new windows shall be recessed 3 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. **Door Recess.** New doors shall be recessed a minimum of 2 inches from the exterior wall to the face of the door in order to maintain consistency with the original architecture.

7. **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.

8. **Garage Door.** To facilitate vehicular access, the garage doors shall be motorized. If design modifications such as size or operation are required to comply with this condition, such modifications shall be subject to staff review and approval prior to the Applicant's implementation of such modification. In addition, 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 designed to operate when activated in the event of an electrical outage.

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

10. **Skylight Flashing.** The metal flashing around the new skylights shall be painted to match the adjacent roof color or a dark brown.

11. **Setback from Property Line Verification.** Prior to construction of the front wall and gates, the Applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located entirely on the subject property at 316 St. James Drive, as shown on the approved plans.

12. **Contractor's General Liability Insurance.** In order to ensure that the contractor performing work on the Project is responsible for any damage to City property or neighboring property caused by any work in conjunction with the project, the Applicant shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not

less than \$2,000,000 per occurrence. The insurance shall include an endorsement requiring 10 days' prior notice to the City if the insurance is to be cancelled or changed, and Applicant shall immediately arrange for substitute insurance coverage meeting the City's requirements. If the contractor's insurance carrier states in writing that it is unable to provide the required endorsement, Applicant shall be responsible for providing the City with the required notice if the insurance is to be cancelled or changed. Applicant's failure to provide such notice shall constitute grounds for revocation of the City's design review approval and/or permit. If Applicant does not have a general contractor, the Applicant shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section, to the Planning and Building Director's satisfaction.

13. **BAAQMD Compliance.** The applicant shall comply with the Bay Area Air Quality Management District regulations related to any building demolition. The Demolition Notification form is available on their website at www.BAAQMD.gov/forms.

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

15. **Modifications to Conditions.** Any insurance or site security requirement may be modified with the approval of the Director of Planning and Building and the City Attorney.

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

17. **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.

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

19. **Roof Water Runoff.** Water runoff from the Project site shall not drain onto neighboring properties. If design modifications are required to comply with this requirement, any such modifications shall be subject to staff review and approval.

20. **Final Landscape Plan.** Before issuance of a building permit, the Applicant shall submit for staff review and approval a Final Landscape Plan. The final plan shall comply with City Code Division 17.34 and Section 17.32.30, 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.

21. **California's Water Efficient Landscape Ordinance:** Applicant shall comply with the requirements of California's Model Water Efficient Landscape Ordinance that went into effect December 1, 2015, by submitting the following required information to the Building Department:

- (a) Landscape Documentation Package that includes the following 6 items: i) Project Information; ii) Water Efficient Landscape Worksheet; iii) Soil Management Report; iv) Landscape Design Plan; v) Irrigation Design Plan; and vi) Grading Design Plan. The Landscape Documentation Package is subject to staff review and approval before the issuance of a building permit.
- (b) Once a building permit has been issued, the Applicant shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District.
- (c) After completion of work, the Applicant shall submit to the City and East Bay Municipal Utility District a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report. The City may approve or deny the Certificate of Completion.

22. **Construction Management Plan.** The Applicant shall develop a comprehensive Construction Management Plan, to the Planning and Building Director's satisfaction. 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. Renovation / New Construction. Pursuant to Section 17.32.6 of the Municipal Code, if for any reason more than 70% of the physical structure (as determined by the Building Official) is demolished or destroyed, the building shall conform to new building and planning Code requirements. If this occurs during demolition, all work must stop and a new hearing and public review by the Planning Commission is required.
- c. Neighboring Property Owner Permission. Should the execution of the Foundation/Shoring/Excavation Plan require excavation into a neighboring property or if access onto the neighboring property is necessary for construction, the applicant shall submit, prior to the issuance of Building Permit, a written statement from the neighboring property owner granting permission for access onto his/her property for the purpose of excavation and/or construction.

23. 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.

24. Land Survey and Fencing. Prior to issuance of a building permit, the Applicant shall provide to the City Building Official a survey map prepared by a California-licensed land surveyor or civil engineer that shows the location of all property lines and the location of existing fencing near the perimeter of the property. Copies of the survey map shall be made available to each adjacent neighbor.

25. Front Entry. Prior to issuance of a building permit, the front entry shall be reduced in size and re-designed to be more consistent with the Monterey Colonial architectural style of the residence and Piedmont Design Guidelines, subject to City staff review and approval.

26. Staircases. Prior to issuance of a building permit, the Applicant shall provide plans, materials, and elevations providing more detail for the exterior staircases, railings, and steps, subject to City staff review and approval.

27. Outdoor Living Areas. Prior to issuance of a building permit, the Applicant shall provide plans and elevations providing more detail for outdoor living areas, which shall include added elements to tie these proposed areas including the rear

barbecue, fencing, gates, dining trellis, great room trellis, walls, and stone terraces and other paving into the overall update of the Monterey Colonial architectural design and materials, subject to City staff review and approval.

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

The Commission recessed for dinner at 6:56 p.m. and reconvened at 7:15 p.m.

**Design Review Permit
121 Scenic Avenue**

The Property Owners are requesting permission to demolish an existing detached garage at the northwest corner of the property; remove a tennis court in the rear yard; construct a 3,357-square-foot two-story rear addition; construct a new 616-square-foot detached garage; make various interior changes including the addition of four bedrooms; make window, door, and exterior lighting modifications throughout; add skylights; and make various site improvements in the rear yard including a sport court that also serves as a vehicle turnaround area, fence modifications, an arbor, terraced patios, retaining walls, and landscape areas.

Public testimony was received from:

Serge Saxonov, Property Owner, reported the project includes an accessible guest suite. The architect has preserved the historical character of the home and designed the project in harmony with the topography of the lot and neighboring homes. The addition steps down the slope while the main-level extension splits across the yard and the lower ground level. The addition has been relocated further away from property lines; the sizes of the windows have been reduced; and the outdoor patio has been removed to address neighbors' privacy concerns. The bay window in the guest room has been retained in order to provide natural light and a seating area. The bay window on the west end of the house relates to the bay window on the north end of the house. The proposed garage, located at the northwest corner of the property, complies with the 5-foot setbacks. The height of the garage has been reduced by a foot to address the neighbor's concern.

Robert Pennell, project architect, advised that the south end of the lot is the best and only location for the addition that will maintain the privacy and view lines of surrounding neighbors. The addition steps down the site and is compatible with the massing and scale of the William Wurster architecture. The materials, details, proportions, and style of the additions are appropriate to the original house. Existing trees will screen the south addition from neighbors. The proposed garage will be located 5 feet away from the garage at 561 Blair Avenue. The height of the garage from the slab to the eave will be approximately 9 feet 9 inches. Existing trees will screen the home from neighbors. The upper floor addition will replace the roof terrace, which will increase privacy. The additions are located north of neighboring properties and will not impact views and light for neighboring properties. Sill heights of significant windows along the south and west elevations have been increased 6-8 inches to enhance privacy. The fence and gate along the shared driveway have been simplified in order to be compatible with fencing at 121 Scenic Avenue and 655 Blair Avenue. New windows will be metal-clad wood and appropriate to the original windows. Debris from demolition of the tennis court will be used

as non-expansive fill on the property per the soils report. If necessary, the space behind the garage can be used for construction materials such that use of the shared driveway is reduced. The length and width of the proposed wing have been reduced by reducing the sizes of the family room and the guest room's bathroom and closet.

Art Shartsis, neighbor at neighbor at 555 Blair Avenue, indicated the proposed garage will be located within his turning easement. The garage needs to be moved 5 feet east or 8.5 feet south. From his property, the garage appears to be closer to 13 feet tall from the ground to the roofline. With the additions, the home will no longer represent William Wurster's design. The applicant essentially proposes to construct a four-bedroom home in the rear yard of the existing home. The finished project will loom over adjacent homes. The project does not meet the City of Piedmont's style, mass, and scale requirements.

Sean Lewis, neighbor at 561 Blair Avenue, related that the addition will loom over his property even though it has been moved. The story poles are visible from most rooms in his home. The bay window is a privacy concern. He noted the Property Owners are no longer interested in planting additional vegetative screening to address his privacy concerns.

Iwei Yeah, Property Owner, believed Mr. Shartsis' concern about the garage and the easement may be referred to the City Attorney. She reported she and her husband met with Mr. Lewis and Ms. Wagner prior to the October Planning Commission meeting to discuss the bay window in the guest suite and other privacy concerns. The night before the October meeting, she received an email from them indicating their preference for removal of all south-facing windows and the bay window. The current project includes moving the bay window further from the property line, as suggested by Mr. Lewis; however, this does not seem to have reduced Mr. Lewis' concerns. Viewing small portions of her home through the heavy landscape screening does not mean the home encroaches on their privacy.

Commissioners in general appreciated the modifications made in response to comments in the October 2020 hearing and the attractive design. Commissioners noted the large lot size and the large size of the addition. Commissioners Levine and Batra did not support approval of the application because the addition is not consistent with neighborhood development, the Property Owners are relying on vegetation to screen views, the bay window could be removed, the structure could be moved an additional 2 feet into the property, and the project will change the intensity of use of the property and increase traffic on a narrow roadway with limited visibility. Commissioner Ramsey, Alternate Commissioner Strout, and Chair Alessio supported approval of the application, stating the project will contain outdoor activities away from neighbors more than the existing house, the addition is consistent with the original architecture, the applicants are not requesting any variances, the lot will accommodate onsite parking and a vehicle turnaround area, the wing will step down with the slope of the lot, the height of the garage will be as low as possible without utilizing a flat roof, the bay window can be modified to increase privacy, and the lot coverage will be less than 50 percent after the project is constructed.

Resolution 266-DR-20

WHEREAS, the Property Owners are requesting permission to demolish an existing detached garage at the northwest corner of the property; remove a tennis court in the rear yard; construct a 3,357-square-foot two-story rear addition;

construct a new 616-square-foot detached garage; make various interior changes including the addition of four bedrooms; make window, door, and exterior lighting modifications throughout; add skylights; and make various site improvements in the rear yard including a sport court that also serves as a vehicle turnaround area, fence modifications, an arbor, terraced patios, retaining walls, and landscape areas, located at 121 Scenic Avenue, which construction requires a design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because the proposed project is a minor alteration to an existing private residence, which involves negligible or no expansion of use and is less than 10,000 square feet, and the project is in an area where all public services and facilities are available to allow for the maximum development permissible in the General Plan, and the area in which the project is located is not environmentally sensitive, and the project is consistent with General Plan policies and programs, and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development, including the wall material and massing of the addition, the roof form and material, the window and door material and fenestration pattern, the skylight placement and shape, and the detached garage wall and window material.

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 view is not a significant view; there is sufficient vegetative screening; and the topographical differences are appropriate to preserve privacy, views, and light.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project does not propose changes to pedestrian and vehicular circulation in the public right-of-way; the project improves the onsite parking condition, including a vehicle-turnaround area that meets the criteria in the Piedmont Design Guidelines; and the project maintains adequate visibility for entering and exiting the driveway.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03.01.1, 3.03.02.1, 3.03.02.2, 3.03.02.3, 3.03.02.4, 3.05.01.1, 3.09.01.1, 3.09.01.2, 3.09.02.1, 3.09.03.1, 3.09.03.2, 3.09.03.3, 3.09.03.4, 3.11.01.1, 3.11.01.2, 3.11.03.1, 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, 3.13.03.1, 3.13.03.2 (Site Design), 4.01.01.3, 4.02.01.1, 4.02.01.3, 4.02.01.5, 4.02.01.6, 4.02.01.7, 4.02.01.8, 4.02.01.9, 4.02.01.10, 4.02.01.11, 4.03.03.1, 4.03.03.3, 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, 4.04.01.2, 4.05.02.1, 4.05.02.2, 4.05.02.3, 4.05.02.4, 4.05.02.5, 4.05.02.6, 4.05.02.7, 4.05.03.1, 4.05.03.2, 4.05.03.3, 4.05.03.4 (Building Design: General), 5.01.01.1, 5.01.01.2, 5.01.02.1, 5.02.01.1, 5.02.01.2,

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 (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 28.3 (Additions), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 28.12 (Creativity and innovation), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Design and Preservation Element Policy 29.8 (Exterior Lighting), Design and Preservation Element Policy 29.9 (Sight Obstructions), 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 121 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Driveway Easement.** Prior to the issuance of a building permit, the Applicants shall demonstrate to the City Attorney's satisfaction that Applicants legally possess an easement granting the Applicant access to the new detached garage, by means of the driveway abutting the Applicants' north property line, located on the property at 555 Blair Avenue, including a temporary construction easement authorizing access to the property for construction purposes.
2. **City Attorney Cost Recovery.** Due to the commitment of the City Attorney's time required to review and determine the sufficiency of documents related to the disputed driveway easement as referenced in Condition of Approval No. 2, and to accommodate the scope and nature of the Project, the Applicant shall, at the time of the Building Permit Application submittal, make a cash deposit with the City in the amount of \$5,000 to be used to offset time and expenses of the City Attorney relating to the Project. If \$2,500.00 or less remains of the deposit at any time, the Director of Planning and Building may require the Applicant to deposit additional funds to cover any further estimated additional City Attorney time and expenses. Any unused amounts shall be refunded to the Applicant within 90 days after the Project has an approved Final Inspection by the Chief Building Official.
3. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be wood or aluminum-clad wood.
4. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
5. **Window Recess.** As specified in the approved window schedule, all new windows shall be recessed 2.25 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. 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.

7. Garage Door. To facilitate vehicular access, the garage door shall be motorized. If design modifications such as size or operation are required to comply with this condition, such modifications shall be subject to staff review and approval prior to the Applicant's implementation of such modification. In addition, 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 designed to operate when activated in the event of an electrical outage.

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

9. Skylight Flashing. The metal flashing around the new skylights shall be painted to match the adjacent roof color.

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 on the applicants' property at the setback dimension from the north, west and south property lines as shown on the approved plans.

11. Building Height and Floor Level Verification. Prior to foundation and/or frame inspection, the Applicant shall provide the Building Official written verification by a licensed land surveyor stating that the floor level and roof of the new detached garage structure is constructed at the approved heights above grade.

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

contractors, which is substantially equivalent to the contractor's requirement of this section, to the Planning and Building Director's satisfaction.

13. **BAAQMD Compliance.** The applicant shall comply with the Bay Area Air Quality Management District regulations related to any building demolition. The Demolition Notification form is available on their website at www.BAAQMD.gov/forms.

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

15. **Modifications to Conditions.** Any insurance or site security requirement may be modified with the approval of the Director of Planning and Building and the City Attorney.

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

17. **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.

18. **Stormwater Design.** The California Regional Water Quality Control Board requires all projects, or a combination of related projects, that create and/or replace 2,500 square feet or more of impervious surface to comply with Provision C.3.i of the Municipal Regional Stormwater NPDES Permit. As required by the Chief Building Official, the Applicant shall verify the total area of impervious surface to be created and/or replaced within the scope of this project, or this project combined with other related projects and/or permits, and incorporate the site design measure(s) required under Provision C.3.i into the

plans submitted for a building permit. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

19. **Roof Water Runoff.** Water runoff from the Project site shall not drain onto neighboring properties. If design modifications are required to comply with this requirement, any such modifications shall be subject to staff review and approval.

20. **Final Landscape Plan.** Before issuance of a building permit, the Applicant shall submit for staff review and approval a Final Landscape Plan. The final plan shall comply with City Code Division 17.34 and Section 17.32.30, 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.

21. **California's Water Efficient Landscape Ordinance:** Applicant shall comply with the requirements of California's Model Water Efficient Landscape Ordinance that went into effect December 1, 2015, by submitting the following required information to the Building Department:

- (a) Landscape Documentation Package that includes the following 6 items: i) Project Information; ii) Water Efficient Landscape Worksheet; iii) Soil Management Report; iv) Landscape Design Plan; v) Irrigation Design Plan; and vi) Grading Design Plan. The Landscape Documentation Package is subject to staff review and approval before the issuance of a building permit.
- (b) Once a building permit has been issued, the Applicant shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District. (c) After completion of work, the Applicant shall submit to the City and East Bay Municipal Utility District a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report. The City may approve or deny the Certificate of Completion.

22. **Construction Management Plan.** The Applicant shall develop a comprehensive Construction Management Plan, to the Planning and Building Director's satisfaction. 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. Renovation / New Construction. Pursuant to Section 17.32.6 of the Municipal Code, if for any reason more than 70% of the physical structure (as determined by the Building Official) is demolished or destroyed, the building shall conform to new building and planning Code requirements. If this occurs during demolition, all work must stop and a new hearing and public review by the Planning Commission is required.
- c. Neighboring Property Owner Permission. Should the execution of the Foundation/Shoring/Excavation Plan require excavation into a neighboring property or if access onto the neighboring property is necessary for construction, the applicant shall submit, prior to the issuance of Building Permit, a written statement from the neighboring property owner granting permission for access onto his/her property for the purpose of excavation and/or construction.

23. 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.

24. Location of Addition. The location of the addition shall be modified so that it is shifted 2 feet northward of the proposed location (i.e., setback 11 feet 10 inches measured from the south property line to the southwest corner of the addition).

25. Bay Window Design. The bay on the west façade of the addition shall be modified so that the sills of the north and south windows on the bay are raised to the same height above floor level as the sill of the guest suite window on the south façade. Alternatively, the north and south windows on the bay may be eliminated. Design modifications necessary to meet this condition shall be subject to staff review and approval.

26. Vegetative Screening. The vegetation on the Applicants’ property along the south property line that provides visual screening between properties shall be maintained during construction and for at least 10 years after the date of final inspection.

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

**Design Review Permit
19 La Salle Avenue**

The Property Owners are requesting permission to construct a 310-square-foot single-story addition at the front of the residence, replace the garage door, and make various other exterior and interior changes.

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

Public testimony was received from:

Shreyas Doshi, Property Owner, reported the project is a modest addition that will increase the number of bedrooms to four and the number of bathrooms to three. The single-story addition should not cause privacy concerns as it will be viewed by the neighbor at 15 La Salle Avenue only. The neighbors at 15 La Salle Avenue have provided a letter in support of the project.

Sunny Grewal, project architect, clarified that the addition contains 320 square feet. The majority of the project involves remodeling the interior of the existing house. He advised that the homeowners have decided a single-story addition will provide sufficient room for their current and future needs and to forego the additional expense of an elaborate second-story addition. The garage door and windows will be modified, and new materials for the addition will match the existing house. The patio in the front yard will provide outdoor space accessible from the much-used living room; whereas, the large backyard is disconnected from the living room. The project includes several skylights to bring natural light into the house. The driveway easement constrains the size of the addition. The retaining wall, which is located on the property line, will be approximately 3 feet from a proposed transom window in bedroom 4. The entry door will be moved forward 18-24 inches to create a courtyard that is accessed via a gate. He indicated he considered enclosing the courtyard such that the gate is the entry door, but it created a long and narrow foyer. Also, when he attempted to add a roof to provide protection from the weather, it looked like a mistake. The gate is intended to lead visitors to the entry. Exterior lighting is planned for the garage, entry door, gate, and the addition. A 3-4-foot-tall fence will be installed along the driveway near the proposed addition. The fence is not shown in the plans because it will not require approval.

In general, the Commission supported approval of the application and suggested emphasizing the gate as the entryway to the home.

Resolution 268-DR-20

WHEREAS, the Property Owners are requesting permission to construct a 310-square-foot single-story addition at the front of the residence, replace the garage door, and make various other exterior and interior changes, located at 19 La Salle 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 addition's size and location, the roof form and material, the wood siding wall material, and the window and door material and fenestration pattern.

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

project and neighboring homes are appropriate; there is no significant view; the topographical differences are appropriate to preserve privacy, views, and light; and the home is not visible from the public right-of-way.

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

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03.01.1, 3.03.02.1, 3.03.02.2, 3.03.02.3, 3.03.02.4, 3.08.01.1, 3.08.01.2, 3.08.02.1, 3.08.02.2, 3.08.03.1, 3.11.01.1, 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 (Site Design), 4.01.01.3, 4.02.01.1, 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, 5.02.02.6 (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), and Design and Preservation Element Policy 29.2 ((Landscape 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 19 La Salle Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

3. **Window Recess.** All new windows shall be recessed 1 inch 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. **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.

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. **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 vegetation to be placed in the front of the residence, adjacent to the addition. 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.

10. **Arborist's Report and Certified Tree Preservation Plan.** Before the issuance of a building permit, the Applicant shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures to preserve the existing large tree at the east side (front) of the property, in the area of the proposed patio. The tree preservation measures shall appear on the appropriate sheets of the construction plans. The Applicant shall ensure that the arborist is 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 Applicant shall require the arborist to document in writing and

with photographs the tree protection measures used during these critical construction phases, which documentation shall be submitted to the City. In the event the arborist determines that the tree has 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 tree is removed, an in-lieu replacement tree shall be planted elsewhere on the property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Applicant shall file a report with the City from the project arborist 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.

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.
- 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.

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.

13. **Front Entrance.** The design for the pedestrian entrance to the front door shall be modified to enhance recognition of it as the main entry to the house. Design modifications necessary to meet this condition shall be subject to staff review and approval.

Moved by Ramsey, Seconded by Strout
Ayes: Alessio, Levine, Ramsey, Strout
Noes: None

Recused: Batra
Absent: Duransoy

**Fence/Site Feature
Design Review Permit
73 Wildwood Gardens**

The Property Owners are requesting permission to make modifications and additions including installation of a water fountain, fire pit and bench, replacement of the existing garage door, main door, and front entry gate without any change in location, replacement of the existing retaining wall with a new wall under 30 inches tall, replacement of existing pavers with new pavers, and various other landscape and associated exterior changes, all within the 20-foot street yard setback (front courtyard).

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

Public testimony was received from:

Tim Carter, project contractor, reported the house has been remodeled over the past few years. When PG&E performed trenching work on the property, the owners discovered the existing retaining wall was rotten. A new retaining wall and bench were poured, and pavers were installed. The amount of hardscape is less than prior to the trenching work but maintains the same general shape. A portion of the retaining wall has not been replaced and is covered with vegetation and plywood. That portion will be replaced as part of the project. The project includes installation of a fire table and a fountain near the garage and replacement of the garage door, the front door, and the entry gate. He indicated a neighbor has expressed concern regarding the taller entry gate. The front yard is the only outdoor space for the home as the lot slopes steeply downhill, and the gate is intended to provide privacy for the front yard. He noted the homeowner prefers the taller gate but will agree to a shorter one. A wood structure has been constructed atop the front fencing to provide support for the vegetation. The wooden posts for the existing front gate will support a taller, heavier gate. The new garage door will be similar to the existing garage door, and the garage door, gate, and entry door will be finished the same.

Commissioners generally supported approval of the application with a lower and more transparent entry gate. Commissioner Batra requested details of the support structure for the vegetation to ensure it is consistent with Piedmont Design Guidelines..

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WHEREAS, the Property Owners are requesting permission to make modifications and additions including installation of a water fountain, fire pit and bench, replacement of the existing garage door, main door, and front entry gate without any change in location, replacement of the existing retaining wall with a new wall under 30 inches tall, replacement of existing pavers with new pavers, and various other landscape and associated exterior changes, all within the 20-foot street yard setback (front courtyard), located at 73 Wildwood Gardens, 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, because it 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 gate design and height, the fire pit location, the fountain location, the bench location, the material and height of the retaining wall, the design of the pavers in the front courtyard, the lot's unusually steep topography towards the rear yard, and the material and design of the main door.
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 sufficient vegetative screening; and the topographical differences are appropriate to preserve privacy, views, and light.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project does not propose changes to existing pedestrian and vehicular circulation.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.08.02.2, 3.08.02.6, 3.11.01.1., 3.11.01.2, 3.11.02.1, 3.11.02.2, 3.11.02.3, 3.11.02.5, 3.11.03.1, 3.11.03.2, 3.11.03.4, 3.11.03.7, 3.11.03.8, 3.11.03.9, 3.11.03.10, 3.11.03.11, 3.11.03.12, 3.13.02.1, 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), 4.02.01.6 (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 29.2 (Landscape Design), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), Design and Preservation Element Policy 29.4 (Maintaining Privacy), Design and Preservation Element Policy 29.6 (Retaining Walls).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the fence design review permit application for the construction at 73 Wildwood Gardens, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Door Material.** As specified in the plans, the building material for the new door shall be wood.
2. **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.
3. **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.

4. 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 Planning and Building Department and on-line at cleanwaterprogram.org.

5. 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.

6. Gate Height. The height of the gate shall be a maximum of 4 feet above grade. Prior to the issuance of a building permit, design modifications necessary to meet this condition shall be subject to staff review and approval.

7. Front Fence Design. Prior to the issuance of a building permit, the applicant shall provide the design and details of the fencing along the front property line that supports the vegetation, subject to staff review and approval.

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

ADJOURNMENT

There being no further business, Chair Alessio adjourned the meeting at 9:01 p.m.