

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, March 8, 2021

A Regular Session of the Piedmont Planning Commission was held March 8, 2021, 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 February 22, 2021.

DESIGN AWARDS CEREMONY

Chair Alessio remarked that the Design Awards recognize Piedmont homeowners who have done an extraordinary job of planning and designing their residential construction and landscape projects. From a list of projects that completed construction in the previous calendar year, the Commission chooses a select number of superior designs that meet the City's design and planning guidelines and exemplify the highest level of design excellence in the community. This is also an opportunity to recognize the many professionals who lead and complete projects. The categories for this year's Design Awards are Excellence in Accessory Dwelling Unit Design, Excellence in Historic Restoration, Excellence in a Seamless Addition, Excellence in Outdoor Living Design and Landscaping, Excellence in Architecturally Consistent Design, and Excellence in Integrated Indoor/Outdoor Design.

Chair Alessio announced the **Excellence in Accessory Dwelling Unit Design** Award goes to 778 Kingston Avenue, homeowners David and Stacy Karol, architect Sunny Grewal, and contractor Shahzad Arani of Arani Construction.

David Karol, Property Owner, thanked Mr. Grewal and Mr. Arani for making the project possible. He indicated his mother now occupies the accessory unit.

Sunny Grewal, project architect, thanked the Planning Commission for their input into the design and for the award.

Commissioner Strout announced the **Excellence in Historic Restoration** Award goes to 55 Craig Avenue, homeowners John and Rebecca Heywood, architect KHAOS Design, and contractors Buestad Construction, Lowpensky Moulding, JA Painters, Lynne Rutter Studio, Julie A. Stonehouse, Banton Scaffold, Inc., Mad River Woodworks, WestCo Roofing Co., and Misano Cabinets and Woodworking.

Lynne Rutter, project contractor, commended the homeowners for assembling research and materials for the project and for returning decorative details to the home.

Rebecca Heywood, Property Owner, appreciated the award and the group of professionals who achieved the look.

Commissioner Duransoy announced the **Excellence in a Seamless Addition** Award goes to 457 Mountain Avenue, homeowners the Droessler family, architect Lisa Trujillo of Jarvis Architects, and contractor Frank Silver of FMS Projects.

Matt Droessler, Property Owner, thanked the Planning Commission for the award and appreciated the work of Ms. Trujillo and Mr. Silver.

Glen Jarvis, project architect, appreciated the Planning Commission recognizing the project.

Frank Silver, project contractor, thanked the architects for providing the excellent drawings and the homeowners for working with the design team.

Commissioner Batra announced the **Excellence in Outdoor Living Design and Landscaping** Award goes to 20 Greenbank Avenue, homeowners Nina and Dan Fendel, designer Judy Val Gelb of Sprig Landscape Design Studio, and contractor Andy Packer of Acorn Landscaping, Inc.

Nina Fendel, Property Owner, thanked the Planning Commission for the award. The curved wall was inspired by a parklet at Ramona and Ronada Avenues.

Dan Fendel, Property Owner, noted the new patio areas provide plenty of room for guests to socialize while maintaining physical distances for the pandemic.

Judy Gelb, project designer, reported the Fendels wanted a space for family gatherings and events and a place to walk without fear of tripping. Mr. Packer is an artist with stone.

Commissioner Ramsey announced the **Excellence in Architecturally Consistent Design** Award goes to 46 Nace Avenue, homeowners David and Kathy Yam.

Dave and Kathy Yam, Property Owners, thanked the Planning Commission for selecting their project for an award. The team of professionals made the project possible.

Commissioner Ramsey announced the **Outstanding Integrated Indoor / Outdoor Design** Award goes to 135 Requa Road, homeowners the Long family, designer Studio Bergtraun AIA Architects, and contractor John Meltzer of 20/20 Builders.

Aeneas Long, Property Owner, thanked the Planning Commission for the award and the architect and contractor for their work.

Alex Bergtraun, project designer, indicated the homeowners were a pleasure to work with. Integrating modern living with a classical structure is always a challenge and fun. He appreciated the Planning Commission's recognition of the project.

Chair Alessio thanked everyone for their hard work in achieving beautiful and successful projects.

CALL TO ORDER

Chair Alessio called the meeting to order at 6:15 p.m.

ROLL CALL

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

Absent: Commissioner Jonathan Levine

Staff: Planning & Building Director Kevin Jackson, Senior Planner Pierce Macdonald-Powell, Associate Planner Gopika Nair, Assistant Planner Steven Lizzarago, Planning Technician Suzanne Hartman, Administrative Assistant Mark Enea

PUBLIC FORUM

There were no speakers for the public forum.

ANNOUNCEMENTS

Planning & Building Director Kevin Jackson introduced Suzanne Hartman, who has joined staff as a planning technician.

Planning Technician Suzanne Hartman shared her work experience and thanked everyone for a warm welcome.

REGULAR SESSION

The Commission considered the following items of regular business:

APPROVAL OF MINUTES

Resolution 05-PL-21

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the February 8, 2021, regular hearing of the Planning Commission.

Moved by Batra, Seconded by Ramsey

Ayes: Batra, Duransoy, Ramsey, Strout, Allessio

Noes: None

Abstaining: None

Absent: Levine

CONSENT CALENDAR

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

- 530 Boulevard Way (Fence Design Review Permit).

Resolution 06-PL-21

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

Moved by Ramsey, Seconded by Duransoy

Ayes: Batra, Duransoy, Ramsey, Strout, Allessio

Noes: None

Abstaining: None

Absent: Levine

At the end of the meeting, the following Resolution was approved adopting the Consent Calendar:

**Fence Design Review
Permit
530 Boulevard Way**

Resolution 14-FDR-21

WHEREAS, the Property Owners are requesting permission to demolish an existing rear fence and to construct a new fence above an existing retaining wall within the 20-foot street yard setback along Sylvan Way, located at 530 Boulevard Way, 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, 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 height and location and the fence design, which matches neighboring fencing.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the view is not a significant view; there is sufficient vegetative screening; the topographical differences are appropriate to preserve privacy, views, and light; and the fence replaces an existing fence at the same location.

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

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.09.01.1, 3.09.01.2, 3.09.02.1, 3.09.02.3, 3.09.02.4, 3.09.03.1, 3.09.03.2, 3.09.03.3, 3.09.03.4 (Site Design).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 29.5 (Fence and Wall Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the fence design review permit application for the improvements at 530 Boulevard Way, 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 Property Owner 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 Property Owner's project ("Challenge"). City may, but is not obligated to, defend such Challenge as City, in its sole discretion, determines appropriate, all at Property Owner'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 Property Owner, City, and/or parties initiating or bringing such Proceeding. If the Property Owner 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 Property Owner of any Proceeding and shall cooperate fully in the defense.

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

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

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

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

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

if the Applicant fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

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

4. **Retaining Wall.** Prior to the scheduling of final inspection, maintenance shall be performed on the existing retaining wall along Sylvan Way. Maintenance may include refinishing, painting, or other repairs to make the wall match the existing retaining wall along the east property line.

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

REGULAR CALENDAR

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

**Variance and Design
Review Permit
134 Ricardo Avenue**

The Property Owners are requesting permission to construct new windows on the south and west sides of the home and make various interior modifications. A variance is required to construct a fourth bedroom without providing a Code-compliant conforming parking space.

Public testimony was received from:

Sharon Shoshani, Property Owner, reported the family wishes to add a bathroom to the basement because there is not a bathroom on that level of the house.

Yuly Wang, project architect, advised that the lot is 40 feet wide, and the existing home's facade is 29 feet wide. There is an existing one-car garage. The driveway is used as a second parking space, but it does not count toward off-street parking requirements because it is located within the front setback. Without a variance, the property owners will not be able to enjoy the property to the same extent as neighbors enjoy their properties. Ms. Wang indicated she has provided a list of homes along the street with either four bedrooms or four bathrooms and nonconforming parking spaces as shown on Zillow and Google Earth. The interior remodel includes a new window in the proposed bathroom. No changes are proposed to the exterior form and finishes or the footprint. The project will not affect neighboring properties' views, privacy, or access to light. Extending the garage toward the rear to provide a second off-street parking space would require extensive remodeling and excavation, including relocating all utilities. The footings would be in the way of extending the parking area as well. The homeowner wishes to add a full bath rather than a half bath.

David Goldstein, Property Owner, related that he and his wife considered converting the space to an accessory dwelling unit, but they do not intend to rent the space. Also, design and construction costs would be higher. A bathroom is needed on the basement level for guests' use.

Director Jackson indicated there is not a requirement for property owners to rent an accessory unit, but that if an exception to the size limitations was granted the unit could only be occupied by a low or very-low-income occupant. An accessory unit needs to have direct access to the exterior of the home.

In general, Commissioners could support the project design but could not make the findings to support granting a variance. Commissioners Ramsey and Duransoy reported adding a half bath to the basement, creating tandem parking in the basement garage, or converting the basement to an accessory dwelling unit would not require a variance. Commissioners noted the homeowners' personal desires, the cost of construction, and existing conditions on neighboring properties are not factors the Commission may consider in granting a variance.

Resolution 01-V/DR-21

WHEREAS, the Property Owners are requesting permission to construct new windows on the south and west sides of the home and make various interior modifications at 134 Ricardo Avenue, which construction requires a design review permit; and,

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

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

WHEREAS, the variance from the parking requirement is not approved because it does not comply with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements do not present unusual physical circumstances of the property, including the lot is typical of other lots in the area, and a variance would not be required if the proposed basement bathroom was only a half bathroom or parking in the basement garage supplied two tandem spaces, so that strictly applying the terms of this chapter would not prevent the property from being used in the same manner as other conforming properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare because many neighboring properties have four bedrooms with a single-car garage and the proposed application does not expand the structure of the residence.
3. Accomplishing the improvements without a variance would not cause unreasonable hardship in planning, design, or construction because the basement

shower could be removed or two tandem parking spaces in the basement garage could be provided, both of which would not require a variance.

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 window 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 window locations and replacement are appropriate to preserve privacy, views, and light, and the development is within the existing building envelope.
3. The proposed design does not adversely affect pedestrian or vehicular safety because there are no modifications to pedestrian or vehicular access.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 4.03.03.1, 4.03.03.2, 4.03.03.3, 4.03.03.4, 4.03.03.5, 4.03.03.6 (Building Design: General).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.6 (Exterior Materials) and Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the variance application and approves the design review permit application for the construction at 134 Ricardo Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window Material.** As specified in the plans, the building material for the new windows shall be fiberglass clad wood.
2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Window Recess.** All new windows shall be recessed at least 1.5 inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.
4. **Pre-Construction Inspection.** Prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department to review the approved installation criteria, such as the window recess, window trim if any, and windowsill projection if any.
5. **Defense of Legal Challenges.** The Property Owner 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 Property Owner’s project (“Challenge”). City may, but is not obligated to, defend such Challenge as City, in its sole discretion, determines appropriate, all at Property Owner’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 Property Owner, City, and/or parties initiating or bringing such Proceeding. If the Property Owner 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 Property Owner of any Proceeding and shall cooperate fully in the defense.

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

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

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

Schedule, or in the event the Applicant fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Applicant shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Public Works. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.

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

8. Project Modification. Because a variance from the parking requirements was not granted, the applicant shall do one of the following: a) remove the shower from the basement-level bathroom so that there is only a toilet and lavatory on this level of the house; b) expand the garage area on the basement level so that it supplies two parking spaces of City Code-conforming size; or c) modify the plans and seek approval for an accessory dwelling unit permit for the living area on the basement level.

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

**Fence Design Review
Permit
8 Cavendish Lane**

The Property Owner is requesting permission to install a new 6-foot-tall wire fence on the east property line within the 20-foot street yard setback along Trestle Glen Road.

Public testimony was received from:

Sally Baack, Property Owner, reported there have been issues with identifying the property line, and the fence is intended to rectify the situation. The slope is quite steep at the location of the fence, and the proposed fencing materials and

design are appropriate for the terrain. The fence is located in a wooded area and will mark the property line between the subject and adjacent properties. If allowed, the fence will extend from Cavendish Lane to Trestle Glen Road. The fence will be constructed with the proposed wire fencing material or a similar material.

Nerine Gamez, neighbor at 1835 Trestle Glen Road, advised that the proposed location of the fence is far from Ms. Baack's home and from the construction site, both of which are located along Cavendish Lane. The fence will be visible from her home and will disrupt wildlife trails.

Commissioners, with the exception of Commissioner Ramsey, generally could not approve the application because the drawings are neither accurate nor complete, no other fences are located along the street within the 20-foot street setback, and the fence design is not conducive to an angled application. Commissioner Ramsey could approve the application with additional conditions of approval requiring the fence to start 5 feet from either the street or the corner of the property line and a survey that confirms the fence is located on the property line.

Resolution 09-FDR-21

WHEREAS, the Property Owner is requesting permission to install a new 6-foot-tall wire fence on the east property line within the 20-foot street yard setback along Trestle Glen Road, located at 8 Cavendish Lane, 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 not consistent with General Plan policies and programs, and the proposal does not conform to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. The proposed design is not consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are not consistent with the original architecture and neighborhood development: the form of the fence does not step down the slope, and no other fences are located on the same side of the street.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project proposes no changes to pedestrian and vehicular circulation patterns.
4. The application does not comply with the following Design Review Guidelines and General Plan policies and programs: 3.09.01.1, 3.09.01.2, 3.09.02.1, 3.09.02.2, 3.09.02.3, 3.09.02.4 (Site Design).
5. The project is not consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.4 (Maintaining

Privacy), and Design and Preservation Element Policy 29.5 (Fence and Wall Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the fence design review permit application for the improvements at 8 Cavendish Lane, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Duransoy, Seconded by Strout

Ayes: Batra, Duransoy, Strout, Allesio

Noes: Ramsey

Recused: None

Absent: Levine

**Wireless
Communication
Facility Permit
898 Red Rock Road**

Gulf South Towers/GST Capital Partners, LLC, proposes to construct a 95-foot-tall telecommunications tower and associated site improvements. The proposed tower and base station include space for up to four wireless service providers on land located in the City of Piedmont Public Works corporation yard. The proposed tower will replace an existing 31-foot-tall tower (T-Mobile) in generally the same location. The project includes an approximately 6-foot-tall retaining wall along the north edge of the installation, 8-foot-tall fencing surrounding the base station equipment, and an 8-foot-tall ice bridge conduit to conceal cabling running from the base station enclosures to the proposed tower.

Public testimony was received from:

Richard Hirsch, Applicant representative, reported the project is a 95-foot-tall monopole telecommunications tower located in the City of Piedmont corporation yard. The tower can be painted in a color that minimizes its visibility. The location is fairly ideal for a new telecommunications tower facility. There are no residential properties immediately adjacent to the site. Also proposed is a 76-foot-wide by 20-foot-deep equipment enclosure at the base of the tower. The facility will accommodate the four major carriers and provide sufficient capacity and coverage for the northern half of Piedmont. Without this facility, the four carriers are likely to submit individual applications for multiple smaller or similar facilities. Designing the facility as a realistic-looking water tower would reduce the height to 30-40 feet, which would not provide sufficient coverage. GST has no opinion as to whether 5G technology is incompatible with stealth tower design. A shroud is a cover that hides the appearance of antennas or equipment. A shroud is not a component of the proposed facility. The fencing around the equipment could be chain-link with green vinyl slats or an 8-foot-tall wood privacy fence. A good number of coaxial and cables will run up the center of the monopole and attach to the antennas, which will extend no more than 12 inches from the pole and will hide the cable connections. According to best practices and standards, the number of visible cables will be reduced as much as possible. The four sets of antennas will be mounted 5 feet apart as measured top to bottom. Each carrier will have its own equipment area, and each area will have a pad for a temporary backup generator to supply power in the event of an outage. Generators will be brought to the site as needed but will not be stored onsite. The noise study found that noise levels will comply with the City's noise ordinance when equipment for all four carriers is operating and when all equipment and emergency generators are operating.

Jack Vosney, Applicant consultant, shared simulated ground and aerial views of the project.

Matt Huffty, Gulf South Towers representative, provided coverage maps prepared by T-Mobile and AT&T. The tower will provide additional telephone and data capabilities, allow carriers to deploy 5G equipment, and improve 911 emergency services. The existing installation cannot accommodate additional carriers or new equipment. Planning Department staff recommended that GST use a monopole rather than a stealth installation such as an artificial tree. Coaxial cables have been painted to match the pole in other installations. The equipment cabinets will have interior lighting, but there will be no exterior lighting at the facility.

Planning Director Jackson clarified that the Code sets preferences that new facilities be available for collocation of multiple carriers so as to limit the number of wireless facilities in the City. An artificial tree installation would have more bulk and be harder to maintain than a monopole installation. The favored location for facilities is City property because the City, as the landlord, has more authority to control the construction and design of facilities. Residents notify staff frequently regarding inadequate coverage around Moraga Canyon. Staff believes additional coverage from a facility in the area will benefit residents.

Senior Planner Pierce Macdonald-Powell explained that the Wireless Communications Facility (WCF) permit contains conditions of approval for all future building permit submittals. A condition of approval will require a cabling plan that shows how cabling will be concealed and controlled and will reiterate the restrictions against exposed cables and spooling. The applicant has removed the large area labeled as reserved for backup generators from the site plans and replaced it with a smaller area in each carrier's space.

Deepti Sethi, Vincent Fisher, Eric Eric Eisemon, Daphney Albert, and Richard Saykally expressed concerns about the height of the pole and its impact on property values, views, and quality of life; requested installation of a story pole, more detailed plans, and a coverage map for Piedmont alone; and inquired about insurance coverage for the equipment causing a brushfire, radio frequency (RF) emissions, and additional technical matters.

Mr. Hirsch and Mr. Huffty responded to questions from the public with the following statements. The Section B cross section shows the tower will be approximately 20 feet below and approximately 300 feet away from the homes along Abbot Way. The RF emissions report indicates that the maximum public exposure would be 15.3% of the maximum exposure limit. The pole height could be reduced, but it would not accommodate collocation for the four carriers.

Director Jackson responded to questions from the public with the following statements. The City is sufficiently covered by the insurance requirements contained in the lease agreement. Installing a 95-foot story pole would be dangerous.

Mark Wessell, Applicant consultant, explained the methodology he used in preparing the RF emissions report.

Generally, the Commission appreciated the slim and compact design of the tower, the location at the corporation yard, the omission of stealth design that would add to the bulk of the facility, and compliance with the City's noise ordinance. Commissioners suggested the tower and cabling be painted a neutral matte color to reduce its visibility. Commissioner Ramsey recommended staff require additional detail regarding cable management, remove the reference to a shroud in the report, and require cable management and antenna mounting to be consistent across carriers.

Resolution 07-PL-21

RESOLVED, that the Planning Commission recommends that the City Council determine the wireless communications facility (WCF) permit application to be categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15303 of the CEQA Guidelines because the proposed wireless communication facility is a small utility structure located in a developed setting which replaces an existing telecommunications tower. No exceptions to the exemption have been identified that would make the proposal ineligible for the categorical exemption because the project's setting is not environmentally sensitive, the surrounding area is developed and urbanized, existing utilities are located at or near the proposed telecommunications tower installation, there are no unusual circumstances relating to the proposed installation, and no scenic highways, hazardous waste sites, or historical resources could be affected by the project.

FURTHER RESOLVED, that the Planning Commission recommends the City Council approve the WCF permit, as conditioned, based on the findings and associated conditions of approval as presented in the revised draft resolution attached to the March 8, 2021 staff report as Attachment F and with the Planning Commission's recommended revisions to the conditions of approval to: 1) clarify that the structure, cabling and pole-mounted equipment be painted a neutral non-reflective color; and 2) help minimize the visual bulk of pole-mounted equipment through cable management, color, consistency among the four carriers, and the avoidance of shrouds if the antennas and other equipment can directly receive paint.

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

The Commission recessed at 8:57 p.m. and reconvened at 9:10 p.m.

**Fence Design Review
Permit
21 Alta Avenue**

The Property Owner is requesting permission to demolish the existing fence and construct a new fence and gate within the 20-foot street yard setback along Alta Avenue.

No **public testimony** was received.

Commissioners in general commended the applicant for reducing the height of the fencing and proposing an open design at the top. Commissioners indicated the proposed design is attractive and will improve views and the aesthetics of the house; however, Commissioners preferred a consistent fence height at the corners.

Resolution 27-FDR-21

WHEREAS, the Property Owner is requesting permission to demolish the existing fence and construct a new fence and gate within the 20-foot street yard setback along Alta Avenue, located at 21 Alta Avenue, which construction requires a fence design review permit; and,

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the fence height, the fence and gate design, and removal of an existing nonconforming deck in the street side setback
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the fence is lower than the existing fence; there is an existing fence in the same location; the view is not a significant view; and the topographical differences are appropriate for views and light.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no adverse effect on pedestrian and vehicular safety.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.09.01.1, 3.09.01.2, 3.09.02.1, 3.09.02.2, 3.09.02.3, 3.09.02.4, 3.09.03.1, 3.09.03.2, 3.09.03.3, 3.09.03.4 (Site Design).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 29.3 (Front Yard Enclosures) and Design and Preservation Element Policy 29.5 (Fence and Wall Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the fence design review permit application for the improvements at 21 Alta Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Defense of Legal Challenges.** The Property Owner 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 Property Owner's project ("Challenge"). City may, but is not obligated to, defend such Challenge as City, in its sole discretion, determines appropriate, all at Property Owner'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 Property Owner, City, and/or parties initiating or bringing such Proceeding. If the Property Owner 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 Property Owner of any Proceeding and shall cooperate fully in the defense.

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

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

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

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

b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the Approved Construction Completion Schedule and be binding on the Applicant. The City may, at the Applicant's sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.

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

4. Fence Height. The top rail of the sections of the fencing along the north (right side) property line and along the north side of the driveway that adjoin the fencing adjacent to the sidewalk shall be as high but no higher than the top rail of the fencing adjacent to the sidewalk, the maximum height of which shall be 4 feet 6 inches measured from sidewalk grade. Design modifications shall be subject to staff review and approval.

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

**Design Review Permit
2071 Oakland Avenue**

The Property Owners are requesting permission to demolish the existing one-car garage and trash enclosure at the southwest (front left) corner of the property and construct a 12-foot-wide asphalt driveway along the side (west) yard leading to a new two-car carport at the northwest (rear left) corner of the property; construct concrete retaining walls on either side of the proposed driveway; construct on-grade stairs and railing along the new driveway; make other modifications in the backyard (north) including extending the existing wood deck, constructing new retaining walls, relocating existing on-grade

stairs, constructing a metal fence and gate; and make several other associated site and landscape changes.

Public testimony was received from:

Chi Rogers, Property Owner, reported the steps to the front entryway are steep and uneven. She is planning to add an accessory dwelling unit in the basement but needs an accessible driveway and path for the accessory unit. Ms. Rogers advised that she has notified the neighbors about the project and spoken with both adjacent neighbors, who expressed their support to her. Eight homes within a two-block radius have long driveways to the rear of the lots.

Carolyn Van Lang, project architect, related that the proposed carport has to be located as far into the northwest corner of the property as possible for the car turnaround area to function. Only the upper half of the carport structure will be visible from the street. On the west side of the lot, the existing 6-foot fence slopes to a height of 4 feet that will hide all but the roof of the carport. The carport roof is flat to provide the least mass, and matching the carport roof to the steep roof of the main house is not appropriate. Because only the carport roof is visible from the street, a curvy gesture reminiscent of the front porch as proposed will be attractive. The side of the carport has an open transom so that it looks like a porch. The four posts will be clad with wood for a traditional look. A nice overhang will suit the carport. The fascia will be trimmed to look like the front porch roof. She wants to retain the original stairs from the sidewalk to the first landing. Reducing the adjacent grade will reduce the front mass, and removing the unsightly garage will improve the appearance. The retaining walls will be painted concrete with a smooth texture, and the plans are to add trailing plants to soften the retaining walls. The proposed driveway slope complies with the maximum slope allowed. Therefore, increasing the driveway slope to reduce the height of the retaining wall is not possible. Planters will be located between the retaining wall and handrails. Because concrete cracks over time, the best material for the driveway is asphalt. Ms. Van Lang stated two concrete contractors have told her that the length of the driveway will cause the concrete to crack even if it has contraction joints every 10 feet. She agreed to incorporate bands of pavers into the driveway. There is no room for a planting strip between the driveway and retaining wall. The base of the retaining wall along the proposed driveway can be modified to include planting pockets at the front. Continuing the handrail to the rear of the house will not be attractive, but a tree at the transition from handrail to guardrail could look nice. The handrail and guardrail will be made of the same materials. The planting strip along the front stairway is the minimum width allowed so that a handrail rather than a guardrail can be installed at the stairway.

Henry Fairbairn, project engineer, indicated he has analyzed the driveway design to ensure all structures are supported by retaining walls, the grade of the driveway is correct, and cars can maneuver through the turnaround.

Generally, Commissioners indicated the design of the carport is nice and details of the carport match the house. Commissioner Ramsey noted the design guidelines discourage the use of asphalt and long, unbroken walls. With additional conditions of approval requiring the integration of different materials or finishes for the driveway, plantings between the driveway and retaining wall, and the use of a cementitious color coating on the retaining wall, Commissioners could support the project.

Resolution 32-DR-21

WHEREAS, the Property Owners are requesting permission to demolish the existing one-car garage and trash enclosure at the southwest (front left) corner of the property and construct a 12-foot-wide asphalt driveway along the side (west) yard leading to a new two-car carport at the northwest (rear left) corner of the property; construct concrete retaining walls on either side of the proposed driveway; construct on-grade stairs and railing along the new driveway; make other modifications in the backyard (north) including extending the existing wood deck, constructing new retaining walls, relocating existing on-grade stairs, constructing a metal fence and gate; and make several other associated site and landscape changes, located at 2071 Oakland 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 15303, Class 3(e), new construction or conversion of small structures, 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 form, material, and siting of the carport; the guardrail material, the deck material, the pavement material as conditioned and width of the driveway; and the material of the retaining wall along both sides of the driveway, as conditioned.

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 project moves a garage from the front yard to the rear yard; the topographical differences are appropriate to preserve privacy, views, and light; and the height of the project has been kept as low as possible.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project improves the onsite parking conditions and allows vehicles to exit while moving forward; the project maintains adequate visibility for entering and exiting the driveway; and the new exterior staircase, on-grade stairs, gate, fence, and guardrail should improve pedestrian safety while on the site.

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, 3.07.03, 3.07.04, 3.07.05, 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, 3.11.01.1, 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, 3.11.03.3, 3.11.03.4, 3.11.03.5, 3.11.03.6, 3.11.03.7, 3.11.03.8, 3.11.03.9, 3.11.03.10, 3.11.03.11, 3.11.03.12, 3.11.03.13, 3.11.03.14, 3.12.01.1, 3.12.01.2, 3.12.02.1, 3.12.02.2, 3.12.02.3, 3.12.02.4 (Site Design), 4.02.01.1, 4.02.01.3, 4.02.01.4, 4.02.01.5, 4.02.01.8, 4.02.01.10 (Building Design: General), 5.01.01.1, 5.01.01.2, 5.01.02.1 (Building Design: Single-Family Residential).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Land Use Element Policy 1.3 (Harmonious Development), Housing Element Policy 6.7 (Water Conservation), Natural Resources and Sustainability Element Policy 16.4 (Permeable Pavement), Natural Resources and Sustainability Element Policy 16.5 (Hardscape Surface Standards), Environmental Hazards Policy 18.4 (Soil and Geologic Reports), Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.6 (Retaining Walls), Design and Preservation Element Policy 29.7 (Driveway and Parking Location).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 2071 Oakland Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Roof Color.** The proposed roofing shall match the roofing color, material and details of the existing front entry porch roof of residence to the greatest extent possible.
2. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
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. **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 new carport and the retaining wall construction (west side) for the driveway is located at the setback dimension from the west property line as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property lines.
5. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval of a Final Landscape Plan for the side yard (west). 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. If the landscape plan for the project shows 2500 sq. ft. of new or renovated landscaping or during the course of construction more than 2500 sq. ft. of landscaped area is disturbed, the project will be required to comply with the provisions of California Water Efficient Landscape Ordinance (WELO). 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.

6. 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.

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

8. Double Trailer Truck Prohibition. To reduce potential damage to the streets and to avoid traffic hazards on narrow curving city streets, no double trailers shall be used as part of the Project.

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

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

10. Sound and Vibration Mitigation Plan and Review. At the option of the Building Official, the Property Owner shall submit a plan prepared by a licensed engineer of the Property Owner's choice that fully assesses the existing site conditions for the mitigation and monitoring of vibration and decibel levels at the Project during construction (including being periodically present at the construction site during excavation and foundation work). Applicant's Sound and Vibration Mitigation Plan shall include sound muffling devices, buffers, solid construction fencing, and/or acoustical barriers during grading and excavation to reduce construction noise by 10 decibels and to limit the length of exposure of neighboring residents to noise levels greater than 70 decibels. If, in the Engineer's sole discretion, such monitoring indicates that the sound or vibration levels exceed those anticipated in the Property Owner's Construction Management Plan and/or the Sound and Vibration Mitigation Plan, all work on

the Project may be immediately stopped by the City and may not resume until the City Engineer is fully assured that the sound and vibration transmissions generated by work on the Project can be maintained at or below a reasonable level and duration.

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

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. 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.

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. 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.

14. 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.

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

16. Defense of Legal Challenges. The Property Owner 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 Property Owner's project ("Challenge"). City may, but is not obligated to, defend such Challenge as City, in its sole discretion, determines appropriate, all at Property Owner'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 Property Owner, City, and/or parties initiating or bringing such Proceeding. If the Property Owner 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 Property Owner of any Proceeding and shall cooperate fully in the defense.

17. Consultant Cost Recovery. In order to accommodate the scope and nature of the Project proposed by the Property Owner, if the Director of Planning & Building deems it necessary to retain independent consultants with specialized expertise, including the City Engineer, the Property Owner shall make a cash deposit with the City at the time of the Building Permit Application in the amount of \$5,000 to be used to pay for the fees and expenses of such City consultants, or in any way otherwise required to be expended by the City for professional consultant assistance. If the cash deposit has been reduced to \$2,500 or less at any time, the Director of Planning and Building may require the Property Owner to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained by the City on a regular basis or specifically for the Property Owner's Project. Any unexpended amounts shall be refunded to the Property Owner upon request within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

18. Driveway from Oakland Avenue. The applicant shall modify the driveway by integrating an additional paving material and adding paving patterns or changing the paving material so that it is not an expanse of concrete and asphalt is eliminated as a paving material. The final selection of material and design shall be subject to staff review and approval.

19. Retaining walls along both sides of the driveway. The applicant shall add pockets of landscaping at the base of the concrete retaining walls along both sides of the proposed driveway. The landscaping pockets shall be irrigated and planted with vegetation that adheres to and grows on the walls in order to break up the massing of the walls. The retaining walls shall have a cementitious coating that either has an integral color or to which paint readily adheres. The final design shall be subject to staff review and approval.

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

**Design Review Permit
782 Kingston Avenue**

The Property Owners are requesting permission to make various modifications in the rear yard of the property including the construction of a pool, a spa, new decking, planter boxes, guardrails, and other exterior modifications.

Commissioner Strout 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:

Gabriel Kra, Property Owner, reported he and his wife have focused on implementing the project in a sustainable manner.

David Schwartz, project landscape architect, advised that the pool, spa, and deck have been sited to minimize grading and maximize green spaces. The height of the retaining wall is minimized over most of the yard; however, a drop in grade results in a 5-foot-tall wall. The recreation area will be mulched and accommodate raised-bed plantings. The ground cover is drought-tolerant and hardy. An existing 25-30-foot-tall hedge obscures views from the rear yard into the neighbor's yard. Alternatively, the guardrail could be a solid structure to obscure views into the neighbor's yard. The existing hedge has a robust root system, and protecting it during construction should be enough for it to survive. Typically, pool equipment is surrounded with a lattice screen and vegetation. If greater sound attenuation is needed, a solid enclosure can be constructed. Excavation would be needed to locate the pool equipment beneath the deck. The existing fencing between the garage and shed is failing, but repair of the fencing is not part of the application. The property owner will have to engage the neighbor regarding the fencing.

Commissioners generally were in favor of the project as proposed and suggested additional conditions of approval to replace the guardrail with solid screening and to surround the pool equipment with a solid enclosure. Chair Alessio commented that the solid screening should be harmonious with the house.

Resolution 34-DR-21

WHEREAS, the Property Owners are requesting permission to make various modifications in the rear yard of the property including the construction of a pool, a spa, new decking, planter boxes, guardrails, and other exterior modifications, located at 782 Kingston Avenue, which construction requires a design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, 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 pool and spa location and design, the deck and guardrail design, the planter box design, the mechanical equipment location as conditioned, and the modification of the accessory structure to a garage.
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; and the additional screen wall, as conditioned, will preserve privacy, views, and light.
3. The proposed design does not adversely affect pedestrian or vehicular safety because there is no change to vehicular or pedestrian access, and handrails and guardrails should improve pedestrian safety while onsite.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 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, 3.09.01.1, 3.09.01.2, 3.09.02.1, 3.09.03.1, 3.09.03.2, 3.09.03.3, 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, 3.12.01.2, 3.12.02.1, 3.12.02.3, 3.13.02.1, 3.13.02.2, 3.13.02.4, 3.13.03.1, 3.13.03.2, 3.13.04.1, 3.13.04.2 (Site Design), 4.01.01.1, 4.01.01.2, 4.04.02.4, 4.04.02.5 (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 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.6 (Retaining Walls), Design and Preservation Policy 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 782 Kingston Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade.

2. **Sound.** The proposed pool equipment shall meet the sound requirements of a maximum 50 decibels at the nearest property line as proscribed in Building Code Section AK103.2. Any modifications in order to meet the sound requirements are subject to staff review and approval.

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. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that

shows trees proposed for retention as well as in-lieu trees required by a Certified Tree Preservation Plan. The final plan shall comply with City Code Division 17.34 and Section 17.33.30, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. Upon the determination of the Director, minor differences in the number, size and/or species of vegetation between those shown on the approved landscape plan and those installed at the time of final inspection that do not involve an increase in hardscape or structure coverage may be subject to staff review and approval. Significant differences between the vegetation installed at the time of final inspection and vegetation shown on the approved landscape plan are subject to a design review permit.

5. Unpermitted Modifications to Garage. Unpermitted work to the garage shall be removed and the accessory structure shall be returned to use as a garage. If the applicants propose to make modifications to the accessory structure or seek approval for the unpermitted work, the modifications will be subject to a new design review permit.

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

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.

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

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

- any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the Approved Construction Completion Schedule and be binding on the Applicant. The City may, at the Applicant's sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
 - c. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Applicant fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Applicant shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Public Works. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.
 - d. The failure of the Applicant to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code ("City Code"). The failure of the Applicant to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Applicant fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.
 - e. At least two weeks prior to start of construction, the Applicant shall provide written notice to property owners and residents of all adjacent properties on forms provided by the Director of Building & Planning. This notification shall include information such as the start date and scope of construction, building permit number, a copy of the Construction Completion Schedule, as well as the contact information of the property owner, designer/agent, and contractor(s). The Applicant shall sign an affidavit of said notice and provide a copy to City Building Official.

8. Stormwater Design. If the scope of the project increases the disturbed area to over 2,500 square feet, then 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.

9. California's Water Efficient Landscape Ordinance: If the scope of the project increases the disturbed area to over 2,500 square feet, the 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 Property Owner shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District.
- (c) After completion of work, the Property Owner shall submit to the City and East Bay Municipal Utility District a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report. The City may approve or deny the Certificate of Completion.

10. Guardrail Design. The proposed open guardrail along the eastern edge of the spa, pool and raised rear yard shall be replaced with solid screening that has a minimum height of six (6) feet measured from the top of the retaining wall. The final design shall be subject to staff review and approval.

11. Pool Equipment Enclosure. The enclosure around and atop the mechanical equipment for the pool and spa shall be solid with no unnecessary openings. The final design shall be subject to staff review and approval.

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

**Variance & Design
Review Permit
254 Saint James Drive**

The Property Owners are requesting permission to construct an approximately 11-square-foot addition on the north side of the home. Two variances are required to construct the addition within the 5-foot side yard setback and to exceed the 50% floor area ratio limit.

Public testimony was received from:

Stephanie Smith, Property Owner, reported the addition will be consistent with the existing architecture and will be constructed with stucco siding and tile roofing. The addition's roof will have the same pitch as the existing structure. The addition will not be visible from the street. She indicated neighbors have not expressed any objections to the project to her. The existing structures exceed the allowed floor area ratio, and the addition will increase the floor area by 0.2%. The existing structure encroaches 20 inches into the side yard setback. The addition will encroach 5 inches into the side yard setback. The lot is narrow and unusually steep. Nine neighboring homes have high lot coverages, and ten neighboring homes encroach into setbacks. The existing kitchen is very small. The walls between the nook and the kitchen will be removed. The interior walls

are different widths, and the addition is needed to create a rectangular room. The kitchen cannot be expanded in the opposite direction because of the two stairwells.

In general, Commissioners indicated the design is nice and the proposed addition would be well screened. Commissioners, however, could not make the findings to support the variances because the kitchen could be remodeled and fully functional without the addition and without variances.

Resolution 36-V/DR-21

WHEREAS, the Property Owners are requesting permission to construct an approximately 11-square-foot addition on the north side of the home at 254 Saint James Drive, which construction requires a design review permit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct the addition within the 5-foot side yard setback and to exceed the 50% floor area ratio limit; and,

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

WHEREAS, variances from the floor area ratio requirement and the side yard setback are not approved because they do not comply with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements do not present unusual physical circumstances of the property, including the existing house is relatively large compared to the lot size, topography is not relevant to the proposed addition, and the existing home encroaches into multiple setbacks, so that strictly applying the terms of this chapter would not prevent the property from being used in the same manner as other conforming properties in the zone.
2. The project is not compatible with the immediately surrounding neighborhood and the public welfare because neighboring properties do not exceed structure coverage limits by the same amount as the subject property, neighboring properties conform to floor area ratio requirements, and the addition, although small in size, increases the degree of noncompliance.
3. Accomplishing the improvement without a variance would not cause unreasonable hardship in planning, design, or construction because the house is already relatively large compared to lot size, is located within several setbacks, has a high floor area ratio, and the kitchen could be remodeled and fully functional without the addition.

WHEREAS, regarding the design review permit, the Planning Commission finds that the window component of 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 window 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: window design.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distances between the project and neighboring homes are appropriate, and the project and neighboring homes are separated by a public stairway.

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

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 4.03.03.1, 4.03.03.2, 4.03.03.3, 4.03.03.4, 4.03.03.5, 4.03.03.6 (Building Design: General).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the variance application and approves the design review permit application for the window at 254 Saint 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 February 26, 2021, after notices to neighbors were mailed and the application was available for public review, subject to Condition of Approval 10 below.

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

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

4. **Window Recess.** The new window shall be recessed 2.5 inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.

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

6. **Defense of Legal Challenges.** The Property Owner 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 Property Owner's project ("Challenge"). City may, but is not obligated to, defend such Challenge as City, in its sole discretion, determines appropriate, all at Property Owner'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 Property Owner, City, and/or parties initiating or bringing such Proceeding. If the Property Owner 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 Property Owner of any Proceeding and shall cooperate fully in the defense.

7. Setback from Property Line Verification. Prior to foundation inspection and only upon the request of the Building Official, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the north property line as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line.

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

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

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

- c. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Applicant fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Applicant shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Public Works. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.
- d. The failure of the Applicant to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code (“City Code”). The failure of the Applicant to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Applicant fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may make a claim against the Property Owner’s Site Security, if one is required, in order to complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.
- e. At least two weeks prior to start of construction, the Applicant shall provide written notice to property owners and residents of all adjacent properties on forms provided by the 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. **No Expansion Approved.** An expansion of the building envelope is not approved as part of the scope of this application.

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

ADJOURNMENT

There being no further business, Chair Alessio adjourned the meeting at 10:50 p.m.