

## PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, July 12, 2021

A Regular Session of the Piedmont Planning Commission was held July 12, 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 June 28, 2021.

### CALL TO ORDER

Chair Batra called the meeting to order at 5:28 p.m.

### ROLL CALL

Present: Commissioners Rani Batra, Yildiz Duransoy, Jonathan Levine, Tom Ramsey, Doug Strout and Alternate Commissioner Justin Zucker

Absent: None

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.

### REGULAR SESSION

The Commission considered the following items of regular business:

### APPROVAL OF MINUTES

#### **Resolution 15-PL-21**

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the June 14, 2021, regular hearing of the Planning Commission.

Moved by Zucker, Seconded by Strout

Ayes: Duransoy, Ramsey, Strout, Zucker, Batra

Noes: None

Abstaining: Levine

Absent: None

### CONSENT CALENDAR

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

- 217 Greenbank Avenue (Design Review and Variance Permit).

Commissioner Ramsey recused himself from discussion and votes related to the application for 217 Greenbank Avenue as he has an ownership interest in real property located within 500 feet of the subject property.

#### **Resolution 16-PL-21**

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

Moved by Levine, Seconded by Zucker

Ayes: Duransoy, Levine, Strout, Zucker, Batra

Noes: None

Recused: Ramsey

Absent: None

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

**Variance and Design  
Review Permit  
217 Greenbank  
Avenue**

**Resolution 193-V/DR-21**

WHEREAS, the Property Owners are requesting permission to expand the existing second level totaling 250 square feet of new floor area as well as new roofing over the proposed expansion, new windows and exterior lighting, and other minor improvements related to the project at 217 Greenbank Avenue, which construction requires a design review permit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the 5-foot side yard setbacks; and,

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

WHEREAS, variances from the side yard setbacks are approved because they comply with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the lot is unusually small and narrow, and the existing home is located within side yard setbacks, so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare because neighboring properties have structures located within setbacks, and many neighboring properties, including immediate neighbors, have two-story homes.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the existing house is located within both side yard setbacks.

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the stucco wall and roof materials, the roof form, the window and door material, and the eave overhang dimension.
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, including the setback from the street, are appropriate, the view is not a significant view, and the topographical differences are appropriate to preserve privacy, views, and light.
3. The proposed design does not adversely affect pedestrian or vehicular safety because, as a top-story addition with no work proposed to the driveway or

garage, the project has no effect on pedestrian and vehicular safety, and the project maintains adequate visibility for entering and exiting the driveway.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03.01.1, 3.03.02.1, 3.12.01.1, 3.12.01.2, 3.12.02.1, 3.12.02.2, 3.12.02.3, 3.12.02.4 (Site Design), 4.01.01.1, 4.01.01.2, 4.01.01.3, 4.01.01.4, 4.02.01.6, 4.02.01.7, 4.02.01.8, 4.02.01.10, 4.03.03.1, 4.03.03.2, 4.03.03.3, 4.03.03.4, 4.03.03.5, 4.03.03.6, 4.03.04.1, 4.03.04.2, 4.03.04.3, 4.03.04.4, 4.03.04.5, 4.03.04.6, 4.03.04.7, 4.04.02.1, 4.04.02.2, 4.04.02.3, 4.04.02.4, 4.04.02.5, 4.04.02.6, 4.04.02.7, 4.05.03.1, 4.05.03.2, 4.04.03.3, 4.05.03.4 (Building Design: General), 5.01.01.1, 5.01.01.2, 5.01.02.1 (Building Design: Single-Family Residential).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for construction at 217 Greenbank 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 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. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be fiberglass and aluminum-clad wood.
4. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
5. **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.
6. **Pre-Construction Inspection.** Prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department to review the approved installation criteria, such as the window recess, window trim if any, and windowsill projection if any.
7. **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.

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

**9. 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.

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

a. 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.

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

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the Approved Construction Completion Schedule and be binding on the Applicant. The City may, at the Applicant's sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
- c. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Applicant fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Applicant shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Public Works. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.
- d. The failure of the Applicant to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code ("City Code"). The failure of the Applicant to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Applicant fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.
- e. At least two weeks prior to start of construction, the Applicant shall provide written notice to property owners and residents of all adjacent properties on forms provided by the Director of Building & Planning. This notification shall include information such as the start date and scope of construction, building

permit number, a copy of the Construction Completion Schedule, as well as the contact information of the property owner, designer/agent, and contractor(s). The Applicant shall sign an affidavit of said notice and provide a copy to City Building Official.

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

## REGULAR CALENDAR

### Housing Policy Development Activity Update

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

Planning & Building Director Kevin Jackson and Senior Planner Pierce Macdonald-Powell gave verbal reports.

Senior Planner Macdonald-Powell reported the June 15, 2021 Housing Advisory Committee (HAC) meeting focused on continued implementation of the current 2015 Housing Element, and HAC members received updates from consultant Lisa Wise Consulting regarding new accessory dwelling unit (ADU) programs and new objective design standards for apartment buildings. The HAC recommended Council approval of guiding principles for new ADU programs and objective design standards with language reiterating the City's commitment to social equity and fair housing and with language to highlight the desire to achieve consensus in the community regarding fair housing programs and to support development that enhances the area. On June 21, the Council considered and approved the guiding principles.

The guiding principles are:

- Support equitable distribution of affordable units across the City;
- Promote and enhance community design and neighborhoods;
- Remove barriers to development and access to housing through clear and objective standards;
- Facilitate the development of new housing units through strategic partnerships between the City and the broader community; and
- Social equity.

Over the summer, the consultant will prepare draft work products including pre-approved architectural plans and incentive programs for ADUs and junior ADUs, and feasibility studies and objective design standards for multi-family development. The work products will be released prior to community events scheduled to begin in October.

The public is invited to meetings and workshops, may obtain information at <http://www.PiedmontisHome.org>, and is encouraged to provide written comments to [Piedmontishome@piedmont.ca.gov](mailto:Piedmontishome@piedmont.ca.gov).

Chair Batra appreciated staff's and the consultant's work and the public's feedback and creative ideas. She encouraged the public to participate in meetings or watch meeting videos to learn about housing and the planning process.

Director Jackson advised that staff and the consultant team have discussed data collection and research for the Housing Element Update. During the week, the

Measure A1 Bond Subcommittee will discuss new information in order to prepare a recommendation regarding a conceptual project for the Planning Commission's August meeting.

**Public testimony** was received from:

Frances F. indicated a variety of housing stock will ensure Piedmont is welcoming to everyone.

Irene Cheng, Randy Wu, and Beth Hughes encouraged the Measure A1 Bond Subcommittee to utilize funds for multi-family affordable housing.

Chair Batra reiterated that the community will have ample opportunities to participate in meetings, share ideas, learn, and react to proposals before decisions are made.

**Variance and Design  
Review Permit  
75 Hazel Lane**

The Property Owners are requesting permission to construct an approximately 378-square-foot, one-car detached garage on the rear (northwest) side of the house, install exterior lighting on the garage, install a gate in the rear (west) yard, and make several other associated hardscape and landscape changes. A variance is required to construct an accessory structure within the side yard setback, greater than 35 feet from the rear property line.

**Public testimony** was received from:

Emi Sherman, project architect, reported the roof form has been changed to have less impact on the neighbors, and different locations for the garage have been considered to avoid a variance. Locating the garage at the rear of the property would result in a very long driveway, and the existing gate is not wide enough to accommodate a vehicle. The proposed garage has an interior height of 7 feet 6 inches and a finished height of 9 feet. Architectural details of the proposed garage will mimic details of the residence. The proposed garage will be built on an existing concrete pad so that the amount of impervious surface will not increase. She related that tests with several different vehicles indicate the vehicles can exit the existing and proposed garages with four-point maneuvers. A new trellis above the garage doors will extend to the existing trellis. She indicated the letter from the neighbors at 79 Hazel Lane is a surprise because they previously seemed to support the project.

Orin Kerr, Property Owner, added that the goal of the project is to construct a two-car garage at the end of the existing driveway so that additional paving is not necessary. The proposed garage is small due to the limited space and the desire not to extend it into the backyard. The project was delayed approximately a month so that he could discuss it with neighbors. The proposed garage will not provide two conforming parking spaces, but it will accommodate two vehicles. The proposed garage needs to be 2 feet wider to provide two conforming parking spaces. The width of the proposed garage is limited by the distance between the structure and the residence. The proposed garage will need to encroach into the 5-foot setback to provide the width for a second nonconforming parking space and to avoid extending the driveway and encroaching into the backyard.

Patricia Kerr, Property Owner, explained that the proposed garage will replace and have the same height as the existing gate and trellis. The view from the street will not change. The proposed garage will be 11 inches from the property

line and could be extended closer to the property line to provide a second conforming parking space. The shared driveway provides access to the two-car carport at 79 Hazel Lane and the existing lower-level garage at 75 Hazel Lane.

Generally, the Commission appreciated the design of the proposed garage but could not support a variance based on the ability to construct a conforming one-car garage without a variance.

**Resolution 35-V/DR-21**

WHEREAS, the Property Owners are requesting permission to construct an approximately 378-square-foot, one-car detached garage on the rear (northwest) side of the house, install exterior lighting on the garage, install a gate in the rear (west) yard, and make several other associated hardscape and landscape changes at 75 Hazel Lane, 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 an accessory structure within the side yard setback, greater than 35 feet from the rear property line; 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, the variance to construct within the 5-foot side yard setback 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 that would prevent the construction of an additional garage providing one conforming parking space without a variance 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 a garage with only one conforming parking space could be constructed without a variance and, in light of the existing parking space beneath the house, could provide the second of two required parking spaces.
3. Accomplishing the improvement without a variance would not cause unreasonable hardship in planning, design, or construction because a garage with one or two conforming parking spaces could be constructed without encroaching into the setback.

WHEREAS, regarding the design review permit, the Planning Commission finds that 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, specifically Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility) and Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), or with the Piedmont Design Guidelines, specifically sections 5.01 and 5.02 (Building Design: Single-Family Residential).



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.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the variance application and the design review permit application for the construction at 75 Hazel Lane, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Variance and Design  
Review Permit  
358 Magnolia Avenue**

The Property Owners are requesting permission to demolish the existing one-car garage in the front yard, construct an approximately 394-square-foot two-car attached garage with a roof deck at the front (north) of the property, expand the existing concrete driveway, modify existing retaining walls in the 20-foot street yard (north) setback, make window and door modifications on the basement level of the main house, and make several other associated interior, hardscape, and landscape changes. Variances are required to construct in the 20-foot street yard setback and to exceed the lot/structure coverage limit.

**Public testimony** was received from:

Chris Williams, Property Owner, reported the existing retaining wall is cracking and leaning, and the back wall of the garage is crumbling. The project will replace the retaining wall and expand the garage to provide two conforming parking spaces. The design of the proposed garage will be as similar as possible to the existing garage. The project does not include any changes to the adjoining garage.

In response to questions from the Commission, Associate Planner Gopika Nair advised that the proposed garage will provide two conforming parking spaces. The project includes railing for the garage roof deck.

Commissioners generally supported the variances but indicated the proposed two-car garage will form a wall along the street, be the primary visual element of the property, and not be compatible with the residence, the adjoining garage, or the neighborhood.

**Resolution 178-DR-21**

WHEREAS, the Property Owners are requesting permission to demolish the existing one-car garage in the front yard, construct an approximately 394-square-foot two-car attached garage with a roof deck at the front (north) of the property, expand the existing concrete driveway, modify existing retaining walls in the 20-foot street yard (north) setback, make window and door modifications on the basement level of the main house, and make several other associated interior, hardscape, and landscape changes at 358 Magnolia Avenue, which construction requires a design review permit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct in the 20-foot street yard setback and to exceed the lot/structure coverage limit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15303, Class 3(e), new construction or conversion of small structures, and the project is consistent with General Plan policies and procedures; and,

WHEREAS, variances to construct within the 20-foot street yard setback and to exceed structure coverage are approved because they comply with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the rear yard is not conducive to the siting of a garage and is inaccessible to the street, the lot is small and narrow facing the public way, the existing carport is located within the 20-foot front yard setback and the 5-foot side yard setback, and vehicle access from the street is approximately 8 feet lower than the elevation at the front entry, so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone.
2. As conditioned, the project is compatible with the immediately surrounding neighborhood and the public welfare because other homes in the area have garages located within the front yard setback, the existing garage is located within the front yard setback, the existing garage is buried in the hillside, and a variance is required to provide conforming parking.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because relocating the garage beyond the 20-foot setback would require large-scale demolition and excavation and create other nonconforming conditions such as a large retaining wall in the front yard setback.

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

1. The proposed design as conditioned is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the stucco wall material, the flat roof form of the garage, and the stucco parapet corners and clay tile roof cap.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distances between the project and neighboring homes are appropriate, the topographical differences are appropriate, the existing garage is buried in the hillside, and there is no significant view.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project improves the onsite parking conditions by creating one conforming parking space and does not change the vehicle access location.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03.01.1, 3.05.01.1, 3.12.01.2, 3.12.02.1, 3.12.02.2, 3.12.02.3, 3.12.02.4 (Site Design), 4.01.01.1, 4.01.01.2, 4.01.01.3, 4.01.01.4, 4.01.02.1, 4.02.01.1, 4.02.01.3, 4.02.01.6, 4.02.01.7, 4.02.01.9, 4.02.01.11 (Building Design: General), 5.01.01.1, 5.01.01.2, 5.01.02.1, 5.02.01.1, 5.02.01.2, 5.02.02.1, 5.02.02.2, 5.02.02.4, 5.02.02.5, 5.02.02.6, 5.02.03.1, 5.02.03.2 (Building Design: Single-Family Residential).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Design and Preservation Element Policy 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for construction at 358 Magnolia Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Plan Set.** The approved plans are those submitted electronically on July 1, 2021.

2. **Scope of Approved Construction.** No modifications proposed on the adjacent neighbor's (354 Magnolia Avenue) side of the garage including roof deck changes are approved within the scope of this application. Such modifications require a separate design review application submitted by the owner of that property.

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

4. **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.

5. **Setback from Property Line Verification.** Prior to foundation inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the new garage is located at the setback dimension from the north property line as shown on the approved plans and to verify the location of east side property line (shared with 354 Magnolia Avenue neighbor). The intent is to verify that the approved features are constructed at the approved dimension from the property lines and entirely on applicant's property.

**6. Garage Design, Location and Size.** The garage location and horizontal dimensions shall be revised so that the garage provides interior clearance dimensions for only one conforming parking space in compliance with size requirements provided in City Code Section 17.30.50. The applicant shall redesign the garage to incorporate an extended stucco parapet, clay tile cap on the parapet and, if needed, other elements to match the architectural style of the existing garage. The roof deck and its associated guardrails are not approved as part of this application. The final design and dimensions are subject to staff review and approval.

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

**8. Garage Door.** To facilitate vehicular access, the garage door shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review. In addition and in compliance with California Health and Safety Code Section 19892, an automatic garage door opener for the garage door(s) shall have a battery backup function that is design to operate when activated in the event of an electrical outage.

**9. Door Material.** As specified in the plans and application material, the building material for the garage door shall be aluminum.

**10. Driveway and Curb Cut.** Prior to issuance of building permit, the property owner shall contact Director of Public Works for the driveway expansion, modification of existing curb cut and any other work in the public right-of-way, and submit necessary permits.

**11. 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](http://www.BAAQMD.gov/forms).

**12. 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.

**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. 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.

**15. 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.

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

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

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

**17. 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.

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.

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

**19. 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 front yard (north). 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.

20. **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.

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

**Variance and Design  
Review Permit  
1601 Oakland Avenue**

The Property Owners are requesting permission to demolish the existing single-car garage along Oakland Avenue, construct a new single-car garage in its place, construct a new wood trellis, install exterior lighting, door and window, and make other associated changes to the site. A variance is required to construct within the 20-foot street yard setback.

**Public testimony** was received from:

Dan Hano, project designer, reported the existing garage is located within both the side and front setbacks. The proposed garage will be slightly larger than the existing garage and located outside the side setback. The existing path along the north side of the property will be rebuilt and include steps. The style of the proposed garage will be consistent with the residence. If the garage door opens to the interior, a landing outside the doorway is not necessary.

Charlotte Moco, project designer, advised that the homeowners want to enter and exit a vehicle parked inside the garage rather than near the street.

Commissioners with the exception of Commissioner Levine generally supported the proposed design and the variance, noting that the proposed garage will be located in the same area as the existing garage and the bump out will improve safety by allowing people to enter and exit a vehicle parked in the garage. Commissioner Levine did not support the variance because a garage with one conforming parking space could be constructed without increasing the nonconformity of the setback.



**Resolution 190-V-21**

WHEREAS, the Property Owners are requesting permission to demolish the existing single-car garage along Oakland Avenue, construct a new single-car garage in its place, construct a new wood trellis, install exterior lighting, door and window, and make other associated changes to the site at 1601 Oakland Avenue, which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct within the 20-foot street yard setback along Oakland Avenue; and,

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

WHEREAS, the variance from the 20-foot street yard setback requirement is approved because it complies with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the residence and garage are located on a corner lot with two sides within the 20-foot setback, the existing garage is located within the setback, and the property has a steep drop-off from the garage at the street to the rear yard, so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare because many neighboring properties have garages located close to the street and many neighboring properties have no more than a one-car garage.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because relocating the garage outside the setback would be a hardship due to the terrain in the rear yard, and expanding or relocating the garage to the Carmel side of the property to supply conforming parking space may also 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 garage wall material, roof pitch, and window and door design, the retaining wall design, the trellis size, design, and location, and the window and door design on the main house.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the reconstructed garage is proposed to have the same height as the existing garage, all new windows and

doors face the interior of the property or adjacent fencing, the view is not a significant view, and the topographical differences are appropriate to preserve privacy, views, and light.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no adverse effect on pedestrian and vehicular safety, and the code-compliant handrails and guardrails should improve pedestrian safety.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03.01.1, 3.05.01.1, 3.12.02.1, 3.12.02.3 (Site Design), 4.02.01.1, 4.02.01.5, 4.02.01.6, 4.02.01.7, 4.03.03.1, 4.03.03.2, 4.03.03.3, 4.03.03.4, 4.03.03.5, 4.03.03.6 (Building Design: General), 5.01.01.1, 5.01.01.2, 5.01.02.1, 5.02.01.1, 5.02.01.2, 5.02.02.1, 5.02.02.2, 5.02.02.3, 5.02.02.4, 5.02.02.5, 5.02.02.6, 5.02.03.1, 5.02.03.2 (Building Design: Single-Family Residential).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for construction at 1601 Oakland Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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

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

6. **Garage Door.** To facilitate vehicular access, the garage door shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review. In addition and in compliance with California Health and Safety Code Section 19892, an automatic garage

door opener for the garage door(s) shall have a battery backup function that is design to operate when activated in the event of an electrical outage.

7. **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](http://www.BAAQMD.gov/forms).

8. **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.

9. **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.

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

11. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows trees proposed for retention in proximity to the proposed garage construction. The final plan shall comply with City Code Division 17.34 and Section 17.33.30, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. Upon the determination of the Director, minor differences in the number, size and/or species of vegetation between those shown on the approved landscape plan and those installed at the time of final inspection that do not involve an increase in hardscape or structure coverage may be subject to staff review and approval. Significant differences between the vegetation installed at the time of final inspection and vegetation shown on the approved landscape plan are subject to a design review permit. If trees proposed

for retention are damaged or removed, the applicant shall plant in-lieu replacement trees.

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

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

13. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the 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.
- f. Prior to issuance of the building permit, applicant to submit report from licensed professional with inventory of any hazardous materials contained in the garage. Submit plan for removal of any hazardous materials.

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

**Design Review Permit  
204 Pala Avenue**

The Property Owner is requesting retroactive permission to install a 9-foot-6-inch-tall wood arbor and steel planters in the 20-foot street yard setback and a metal handrail, and make several other associated landscape and hardscape modifications.

**Public testimony** was received from:

Regina O'Connor, Property Owner, reported she purchased the property in August 2020 and subsequently became aware that work performed prior to her purchase was not properly permitted. There is no intention to make additional changes to any element of the front yard.

Sarah Abel, representative for the previous Property Owner, advised that the previous homeowner obtained approval and permits to landscape the yard in 2007. More recently, the previous homeowner decided to replace existing hardscape with similar hardscape and to build the arbor at the entrance to the

property without obtaining approval of the project. A number of properties in the neighborhood has arbors.

Generally, Commissioners supported the project, stating the arbor supports landscaping, emphasizes the entryway, is not a gate or fence in the front yard, and is consistent with the style of the house.

**Resolution 191-DR-21**

WHEREAS, the Property Owner is requesting permission to install a 9-foot-6-inch-tall wood arbor and steel planters in the 20-foot street yard setback and a metal handrail, and make several other associated landscape and hardscape modifications located at 204 Pala Avenue, which construction requires a design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), 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 arbor design, location, and height, the planter design, and the handrail material and location.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distances between the project and neighboring homes are appropriate, there is sufficient vegetative screening, and the topographical differences are appropriate to preserve privacy, views, and light.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project improves onsite pedestrian safety.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.11.01.1, 3.11.01.2, 3.11.02.1, 3.11.02.2, 3.11.02.3, 3.11.02.5, 3.11.03.1, 3.11.03.2, 3.11.03.4, 3.11.03.7, 3.11.03.8, 3.11.03.9, 3.11.03.10, 3.11.03.11, 3.11.03.12, 3.13.02.1, 3.13.02.2, 3.13.03.1, 3.13.03.2 (Site Design).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), Design and Preservation Element Policy 29.4 (Maintaining Privacy).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 204 Pala Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Plan Set.** The approved plans are those submitted electronically on July 1, 2021.

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

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

**Design Review Permit  
180 Oak Road**

The Property Owners are requesting permission to demolish an existing accessory structure and portions of the existing house in order to construct an approximately 1,527-square-foot two-story addition featuring a two-car garage on the lower level and habitable space above, construct a deck and balcony off the rear of the residence, install new windows and doors and exterior lighting, excavate the site in order to widen the driveway, modify the driveway and patio spaces, construct new retaining walls, make stylistic architectural changes, and make various associated exterior and interior modifications.

**Public testimony** was received from:

John Ware, project architect, reported the property's steep topography and limited access make building on the property difficult. The project includes a two-car garage, fourth bedroom, bathroom, and office. Since its construction in 1905, various owners have added to the house. The project seeks to retain the essence of the home's great room, kitchen, and original entry and to construct an addition that complements the eclectic nature of the existing structure. The addition's location limits the extent of newly developed land, reduces the impact of the second story on the existing structure, and improves the functionality of the home. The facade offsets and hipped roof pitches complement the existing home and reduce the apparent height and bulk of the addition. The size of the proposed deck has been reduced to address neighbors' concerns regarding screening and vegetation. The proposed addition is approximately 100 feet away from Oak Road and is screened by a significant grove of trees and vegetation.

Widening the existing driveway is a key component of the project. The proposed deck was reduced to preserve two existing 6-inch oak trees. The existing house has primarily horizontal siding on the first floor, which will be continued on the addition. Vertical siding on the addition's second floor will help reduce the perceived mass and bulk of the addition. The second story's floor elevation is driven by the finished floor above the garage. The height of the garage will accommodate a van. The proposed garage is larger than the minimum required size to provide storage space that is not available in the house.

Commissioners in general appreciated the design, its compatibility with the existing house and the topography of the lot, proposed improvements to the driveway, changes made in response to neighbors' concerns, and the addition's location at the rear of the house. Commissioner Levine suggested the addition's location at the rear of the house and the relative isolation of the lot will mitigate the bulk and mass of the addition. Commissioner Duransoy suggested the applicant visually mitigate the second floor appearing proportionally taller than the first floor.

**Resolution 192-DR-21**

WHEREAS, the Property Owners are requesting permission to demolish an existing accessory structure and portions of the existing house in order to construct an approximately 1,527-square-foot two-story addition featuring a two-car garage on the lower level and habitable space above, construct a deck and balcony off the rear of the residence, install new windows and doors and exterior lighting, excavate the site in order to widen the driveway, modify the driveway and patio spaces, construct new retaining walls, make stylistic architectural changes, and make various associated exterior and interior modifications located at 180 Oak Road, which construction requires a design review permit; and,

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development, including the addition's size, wall material, and roof form, the window and door material and fenestration pattern, the eave overhang dimension, the deck design and material, and the overall stylistic changes to the residence including height, bulk, openings, breaks in the facade, and the arrangement of structures on the parcel.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the proposed construction is not visible from neighboring properties due to the hilltop location and thick vegetation, and the proposed construction is located outside required setbacks.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the widened driveway will increase vehicular safety and provide access for emergency vehicles, and there is no adverse effect on pedestrian safety.



4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03.01.1, 3.03.02.1, 3.03.02.2, 3.03.02.3, 3.03.02.4, 3.08.01.1, 3.08.01.2, 3.08.02.1, 3.08.02.2, 3.08.02.3, 3.08.02.6, 3.08.03.1, 3.11.01.1, 3.11.03.1, 3.11.03.2, 3.11.03.3, 3.11.03.4, 3.11.03.14, 3.12.01.1, 3.12.01.2, 3.12.02.1, 3.12.02.2, 3.12.02.3 (Site Design), 4.01.01.3, 4.01.02.1, 4.02.01.1, 4.02.01.3, 4.02.01.6, 4.02.01.7, 4.02.01.8, 4.02.01.10, 4.03.03.1, 4.03.03.2, 4.03.03.3, 4.03.03.4, 4.03.03.5, 4.03.03.6 (Building Design: General), 5.01.01.1, 5.01.01.2, 5.01.02.1, 5.02.01.1, 5.02.01.2, 5.02.02.1, 5.02.02.2, 5.02.02.3, 5.02.02.4, 5.02.02.5, 5.02.02.6, 5.02.03.1, 5.02.03.2 (Building Design: Single-Family Residential).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 29.6 (Retaining Walls), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Design and Preservation Element Policy 31.3 (Context-Sensitive Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 180 Oak Road, 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 that were submitted on July 9, 2021, which show modifications to the proposed deck and the preservation of existing trees, after notices to neighbors were mailed and the application was available for public review.
2. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be wood, aluminum, or aluminum-clad-wood.
3. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
4. **Window Recess.** All new windows shall be recessed 1 to 3 ¼ inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.
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. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.

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

8. **Deck Slats and Bracing.** Any changes to the design of the deck slats or bracing are subject to staff review and approval.

9. **Garage Door.** To facilitate vehicular access, the garage door shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review. In addition and in compliance with California Health and Safety Code Section 19892, an automatic garage door opener for the garage door(s) shall have a battery backup function that is design to operate when activated in the event of an electrical outage.

10. **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.

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

12. **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.

13. **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.

14. **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.

**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](http://cleanwaterprogram.org).

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

**17. Foundation/Shoring/Excavation Plan.** 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.

**18. Geotechnical Report and Review.** The Property Owner shall at the option of the Building Official, 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.

**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.

**19. Consultant Cost Recovery.** In order to accommodate the scope and nature of the Project proposed by the Property Owner, if the Director of Public Works 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 Public Works 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 within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

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

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

**21. 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.

22. **California's Water Efficient Landscape Ordinance:** If over 2,500 square feet of landscaped area is disturbed, the property owner 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.

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

**ADJOURNMENT**

There being no further business, Chair Batra adjourned the meeting at 7:34 p.m.