

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, February 14, 2022

A Regular Session of the Piedmont Planning Commission was held on Monday, February 14, 2022, via ZOOM teleconference, in accordance with Government Code Section 54953. The agenda for this meeting was posted for public inspection on January 31, 2022, in accordance with the General Code Section 54954.2 (a).

**CALL TO ORDER** Chair Rani Batra called the meeting to order at 5:30 p.m. Dinner break was taken from 7:15 p.m. – 7:31 p.m.

**ROLL CALL** Present: Commissioners Rani Batra, Yildiz Duransoy, Tom Ramsey, Douglas Strout, and Justin Zucker

Absent: Commissioner Jonathan Levine

Staff: Planning & Building Director Kevin Jackson, Senior Planner Pierce Macdonald, 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.

**EX PARTE COMMUNICATIONS & CONFLICTS OF INTEREST** Commissioner Ramsey had a conflict of interest with 116 Fairview Avenue. Commissioner Strout had a conflict of interest with 138 Sunnyside Avenue. Chairman Batra had a conflict of interest with 33 Sotelo Avenue. They all had ownership interest in a property within 500 feet of the project location and were recused from the discussion. Commissioner Zucker mentioned that for properties 138 Sunnyside Avenue and 406-418 Linda Avenue, he has ownership interest property within 1000 feet of those properties but can be impartial, as the decisions will not affect his home. Regarding 406-418 Linda Avenue, he has worked in the past with design consultant, but can be impartial.

**REGULAR SESSION** The Commission considered the following items of regular business.

**APPROVAL OF MINUTES** **Resolution 01-PL-22**  
RESOLVED, that the Planning Commission approves as presented its meeting minutes of the November 8, 2021, regular hearing of the Planning Commission.  
Moved by Duransoy, Seconded by Strout  
Ayes: Duransoy, Strout, Zucker, Batra  
Noes: None  
Abstain: Ramsey  
Absent: Levine

**CONSENT CALENDAR** By procedural motion, the Commission placed the following applications on the Consent Calendar as noted:

- **43 Farragut Avenue**, DRP #21-0333 (Design Review Permit)
- **101 Lexford Road**, DRPC 2022-002 (Design Review Permit)
- **85 Cambrian Avenue**, DRFW 2022-001 (Fence Design Review Permit)
- **406-418 Linda Avenue**, DRPC 2022-005 (Design Review Permit)
- **84 King Avenue**, DRPC 2022-007 (Design Review Permit)

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

- **138 Sunnyside Avenue**, DRFW 2022-003 (Design Review Permit)

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

- **33 Sotelo Avenue**, DRPC 2022-004 (Design Review Permit)

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

**Resolution 02-PL-22**

RESOLVED, that the Planning Commission placed the following applications on the Consent Calendar as noted.

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

**Design Review Permit,  
43 Farragut Avenue,  
DRP #21-0333**

**Resolution 333-DRP-21**

WHEREAS, The Property Owners are requesting various exterior modifications, including new fencing and gates, windows, garage doors, heat pumps, new wood and stucco siding, decking, and planting areas located at 43 Farragut 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 visiting the subject property, the Piedmont Planning Commission find that the project was categorically exempt under the California Environmental Quality Act, CEQA, pursuant to CEQA Guidelines Section 15301, Class 1 Existing Facilities, the project was consistent with General Plan policies and programs, and the proposal, as conditioned, conformed 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. The following building features are consistent with the original architecture and neighborhood development including, window and door material and pattern, the site feature design (including built-in planters and water feature), and the air conditioner location.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because the distance between the project and neighboring properties is appropriate, there is sufficient vegetative and fence screening, and much of the proposed work is in interior facing courtyards and within the existing building envelope.
3. The proposed design does not adversely affect pedestrian or vehicular safety as it does not impact pedestrian or vehicular safety.
4. As conditioned, the application complies with the following Design Review Guidelines: 3.03, 3.09, 3.11, 3.12 (Site Design), 4.01, 4.02, 4.03, and 4.04 (Building Design: General).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.2 (Style Compatibility), 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 29.2 (Landscape Design), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.8 (Exterior Lighting), and Design and Preservation Element Policy 31.3 (Context-Sensitive Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 43 Farragut 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, steel, or aluminum.

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

3. **Window Recess.** All new windows shall be recessed 2 ¼ inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.

4. **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. **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.

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

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 43 Farragut Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Design Review Permit,  
101 Lexford Road,  
DRPC 2022-002**

**Resolution 002-DRPC-22**

WHEREAS, the Property Owner proposes to demolish the existing attached one-car carport and multipurpose room above and construct an approximately 590-square-foot two-story addition with a two-car garage on the main level and a bedroom on the upper level on the side (west) of the main house; and construct an approximately 37-square foot-one story addition in the rear (north) of the new garage. The construction includes window and door modifications, retaining walls, installation of a new 5-foottall wood gate and fence in the side (west) yard, modification of an existing shed in the side (west) yard, and several other associated interior and exterior changes 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 visiting the subject property, the Piedmont Planning Commission finds that the project was categorically exempt under the California Environmental Quality Act, CEQA, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, the project was consistent with General Plan policies and programs, and the proposal, as conditioned, conformed 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. The following building features are consistent with the original architecture and neighborhood development including, the wall material, which construction requires a design review permit; and the roof form, the window and door material, and the retaining wall material and height.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate and has no impact on views, privacy and access to light.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no impact on pedestrian safety and improves on-site parking conditions,
4. As conditioned, the application complies with the following Design Review Guidelines: 3.03, 3.05, 3.08, 3.12 (Site Design), 4.01, 4.02, 4.03, (Building Design: General), 5.01, and 5.02 (Building Design: Single-Family Residential).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.5 (Garage, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.6 (Retaining Walls), and Design and Preservation Element Policy 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 43 Farragut Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
2. **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.
3. **Window and Door Material.** As specified in the plans and application material, the building material for the new windows shall be fiberglass-clad wood and the door shall be wood. The garage door shall be of wood.
4. **Window Trim.** The new exterior window trim shall be consistent with the design of the original exterior window trim.
5. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
6. **Window Recess.** All new windows shall be recessed 1 inch from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.
7. **Pre-construction Inspection.** After the issuance of a building permit and prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department. The inspection will review the approved installation criteria, noted on the approved building permit drawings

and specifications, such as the window recess, window trim if any, and windowsill projection if any, with the existing conditions.

**8. 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 addition and garage are constructed at the approved height(s) above grade. **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 shall have a battery backup function that is design to operate when activated in the event of an electrical outage.

**10. Roof Color.** The new roofing shall match the roofing color and material of the existing residence.

**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. 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.

**13. Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner shall submit for approval a Construction Completion Schedule, which will specify, in detail, the

duration and percentage of the project as a whole for each phase a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further Page 5 of 11 construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.

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

c. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Property Owner fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Property Owner shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Public Works. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.

d. The failure of the Property Owner to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code ("City Code"). The failure of the Property Owner to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Property Owner fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

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

**14. 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.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 101 Lexford Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Fence Design Review,  
Permit, 85 Cambrian,  
Avenue, DRFW 2022-001**

**Resolution 001-DRFW-22**

WHEREAS, The Property Owners, are seeking retroactive approval for the installation of a mesh fence located within the 20-foot street yard setback, 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 visiting the subject property, the Piedmont Planning Commission finds that the project was categorically exempt under the California Environmental Quality Act, CEQA, pursuant to CEQA Guidelines Section 15303, Class 3(e) New Construction or Conversion of Small Structures, the project was consistent with General Plan policies and programs, and the proposal, as conditioned, conformed 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. The following building features are consistent with the original architecture and neighborhood development including, the fence material and height, gate material and height, fence location, and gate location.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because there is no impact on the privacy and access to light and the distance between the project and neighboring homes is appropriate.
3. The proposed design does not adversely affect pedestrian or vehicular safety because it has no effect on pedestrian and vehicular safety.

4. As conditioned, the application complies with the following Design Review Guidelines:3.09 (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 Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), and Design and Preservation Element Policy 29.5 (Fence and Wall Design),

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 85 Cambrian Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. The fence should be a wood picket or similar design, no taller than 4 feet in height, in the location shown in the plans. The final design shall be subject to staff review and approval.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 85 Cambrian Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Design Review Permit,  
406-418 Linda Avenue.  
DRPC 2022-005**

**Resolution 005-DRPC-22**

WHEREAS, the Property Owner, propose to construct an approximately 1,610-square-foot raised wood deck with connections to 5 units in the internal courtyard of the townhome complex; construct steel columns on ground level to support the new deck; make window and door modifications on the façades facing the internal courtyard; construct stairs and path leading from the new deck to the public pathway

on two sides (northwest and east); add exterior and path lighting; install guardrails, handrails, and raised planting beds; and make several other associated interior and exterior modifications, 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 visiting the subject property, the Piedmont Planning Commission finds that the project was categorically exempt under the California Environmental Quality Act, CEQA, pursuant to CEQA Guidelines Section 15303, Class 3(e), New Construction or Conversion of Small Structures, the project was consistent with General Plan policies and programs, and the proposal, as conditioned, conformed 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. The following building features are consistent with the original architecture and neighborhood development including, the material of the raised deck, the location and the design of the deck, the material of the guardrails and handrails, and the window and door material.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because the distance between the project and neighboring homes is appropriate, and there is no impact to views or access to light,
3. The proposed design does not adversely affect pedestrian or vehicular safety. There is no impact to pedestrian or vehicular safety, and the deck is in an interior courtyard that will not impact parking conditions.
4. As conditioned, the application complies with the following Design Review Guidelines: 3.03, 3.12 (Site Design), 4.02, 4.03 (Building Design: General), 5.01 and 5.02 (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 28.5 (Garage, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), and Design and Preservation Element Policy 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 406-418 Linda Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Exterior Lighting.** All new exterior wall-mounted or soffit-mounted light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
2. **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.
3. **Window and Door Material.** As specified in the plans and application material, the building material for the window and door shall be wood.

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

5. **Window Color Scheme.** All the windows on the townhouse complex shall have a consistent color scheme.

6. **Window Recess.** All new windows shall be recessed 2.5 inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy.

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

8. **Fire Code Compliance.** Per Fire Codes, the new deck shall be of non-combustible material with a sprinkler system underneath that is reviewed and approved by the Fire Department. Any modifications to the deck design to accommodate Fire codes may be subject to design review.

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

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

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

**11. 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

12. The railings on the proposed deck and stairs shall match existing railings at the site. The final design is subject to staff review and approval.

13. Prior to issuance of a building permit, the applicant shall revise the west elevation door transom windows (Tag B) to be similar to the Tag C transom windows so that the divided lites align with the divided lites on the door. The final design is subject to staff review and approval.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 406-418 Linda Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Fence Design Review,  
Permit, 138 Sunnyside,  
Avenue, DRFW 2022-003**

**Resolution 003-DRFW-22**

WHEREAS, The Property Owners, seek retroactive approval for the installation of an iron fence located within the 20-foot street yard setback, which construction requires a fence design review permit; and.

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application and after visiting the subject property, the Piedmont Planning Commission find that the project was categorically exempt under the California Environmental Quality Act, CEQA, pursuant to CEQA Guidelines Section 15303, Class 3(e), New Construction or Conversion of Small Structures, the project was consistent with General Plan policies and programs, and the proposal, as conditioned, conformed 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. The following building features are consistent with the original architecture and neighborhood development including, the fence height, 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 distance between homes is appropriate, there is sufficient screening and there is no impact on views, privacy and light.

3. The proposed fence design does not adversely affect pedestrian or vehicular safety.
4. As conditioned, the application complies with the following Design Review Guidelines: 3.09, 3.09.01, 3.09.02, and 3.09.03 (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 Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), and Design and Preservation Element Policy 29.5 (Fence and Wall Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 138 Sunnyside Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 138 Sunnyside Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Fence Design Review  
Permit, 33 Sotelo Avenue,  
DRPC 2022-004**

**Resolution 004-DRPC-22**

WHEREAS, The Property Owners seeks retroactive approval for the installation of two 5-foot tall powder-coated aluminum gates, and proposes to install new powder-coated aluminum fencing; along the front property line and within the 20-foot street yard setback, 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 visiting the

subject property, the Piedmont Planning Commission find that the project was categorically exempt under the California Environmental Quality Act, CEQA, pursuant to CEQA Guidelines Section 15303, Class 3(e), New Construction or Conversion of Small Structures, the project was consistent with General Plan policies and programs, and the proposal, as conditioned, conformed 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. The following building features are consistent with the original architecture and neighborhood development including, the fence height, the gate height, the fence location, the gate location, and the fence and gate material.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate and there is no impact on views, privacy and access to light.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no effect on pedestrian and vehicular safety and the height of the fence provides sufficient visibility for vehicles exiting the driveway. The gate marks the two pedestrian entrances on the property and there are other properties in the surrounding neighborhood with similar fencing and gates,
4. As conditioned, the application complies with the following Design Review Guidelines: 3.09 (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 Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), Design and Preservation Element Policy 29.4 (Maintaining Privacy), and Design and Preservation Element Policy 29.5 (Fence and Wall Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 33 Sotelo Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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



shall defend the City. Per Government Code Section 66474.9, the City shall promptly notify Property Owner of any Proceeding and shall cooperate fully in the defense.

**2. Setback from Property Line Verification.** Prior to final inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the fence construction is located entirely on the applicant's property. If the approved construction falls within the public right-of-way, an encroachment permit from the Department of Public Works is required.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 33 Sotelo Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Design Review Permit  
84 King Avenue  
DRPC 2022-007**

**Resolution 007-DRPC-22**

WHEREAS, The Property Owners are requesting permission to construct a 20-foot expansion at the front of the home; reduce the size of a family room and construct a new gabled roof and trellis at the rear of the home; demolish a mechanical room on the north (left) side of the house; make window and door changes throughout the residence; and make other various interior and exterior modifications 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 visiting the subject property, the Piedmont Planning Commission finds that the project was categorically exempt under the California Environmental Quality Act, CEQA, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, the project was consistent with General Plan policies and programs, and the proposal, as conditioned, conformed 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. The following building features are consistent with the original architecture and neighborhood development including, the brick, stucco, and wood paneling wall materials, roof form and roof slating, the window and door material and pattern, and the expanding front bay window is consistent with the existing bay window.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light. The distance between the project and neighboring homes is appropriate and the proposed new rooflines are lower than the existing rooflines on the house.
3. The proposed design does not adversely affect pedestrian or vehicular safety. There is no impact to pedestrian or vehicular safety.

4. As conditioned, the application complies with the following Design Review Guidelines: 3.03, 3.05 (Site Design), 4.01, 4.02, 4.03 (Building Design: General), and 5.01 (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 Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Design and Preservation Element Policy 28.3 (Additions), Design and Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.8 (Exterior Lighting), Design and Preservation Element Policy 31.3 (Context-Sensitive Design), and Design and Preservation Element Policy 31.4 (Restoration).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 84 King Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

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 ½ inch from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.

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

5. **Skylight Flashing.** The metal flashing around the new skylight(s) shall be painted to match the adjacent roof color.

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

such proceeding whether incurred by the Property Owner, City, and/or parties initiating or bringing such Proceeding. If the Property Owner is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City. Per Government Code Section 66474.9, the City shall promptly notify Property Owner of any Proceeding and shall cooperate fully in the defense.

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

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

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

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

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

d. The failure of the Applicant to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code ("City Code"). The failure of the Applicant to comply with the Approved Construction Completion Schedule may result in the City pursuing

administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Applicant fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 84 King Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**REGULAR CALENDAR**

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

**Design Review Permit,  
116 Fairview Avenue,  
DRP #21-0323**

The Property Owners are requesting to construct a stylistic change to the exterior of the house, to make interior modifications on the main level and several other modifications to hardscape and landscape throughout the property, including: altering the profile of the front (west) facade and roof, removing the existing chimney, making window and door modifications throughout, constructing a wood deck and trellis in the front (west) and rear (east) of the house, constructing retaining walls and on-grade site stairs, adding skylights, installing guardrails and adding exterior lighting.

**Public testimony** was received from:

Dinesh Perera, Designer, presented the three main goals that included, to add more visibility from the street from the living spaces, secondly adding daylighting, and thirdly create a clean contemporary building with connection to the yard. The previous designer incorporated Spanish colonial elements in the front of the home, but The Designer stated that there was no predominant architectural style in the neighborhood and the internal space determined the exterior design. The trellis will be made of natura cedar and be connected to the wall. The visual cue for the front door is a tall opening in the low wall, creating a direct path to the front doorway.

Frances Fisher, Property Owner, proposed to bring more light into the home and redesign of space. The new design brings more flow through building and also creates a more welcoming home to the neighborhood.

The Commissioners stated the need for more information on where the architectural context was drawn from, how the wood trellis engages the house, what the finish of the trellis is, window treatments, and visual cues for the front door.

Commissioner Duransoy was not in favor of the stylistic changes due to the inconsistency with neighborhood context and because the interior changes could be accomplished without any changes to the exterior. The other Commissioners found merit in the design but thought it needed more finesse so that all exterior features relate to each other and clearly articulate a contemporary style.

**Resolution 323-FDR-21**

WHEREAS, The Property Owner is requesting a stylistic change to the exterior of the house, to make interior modifications on the main level and several other modifications to hardscape and landscape throughout the property, including: altering the profile of the front (west) facade and roof, removing the existing chimney, making window and door modifications throughout, constructing a wood deck and trellis in the front (west) and rear (east) of the house, constructing retaining walls and on-grade site stairs, adding skylights, installing guardrails and adding exterior lighting, located at 65 Oakmont 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 that the project is inconsistent with General Plan policies and programs, and the proposal does not conform to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. The proposed design is not consistent with the City's General Plan and Piedmont Design Guidelines due to the roof form and the trellis design needs clarification.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because the distance between neighboring properties is appropriate, there is no impact on views, and no impact on access to light.
3. The proposed design does not adversely affect pedestrian or vehicular safety, as there is no effect on pedestrian or vehicular safety.
4. The application does not comply with the following Design Review Guidelines: 3.05 (Compatibility with the Street Right-of-Way), 4.01 (Building Styles), 4.02 (Building Elements)
5. The project is not consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the design review permit application for the construction at 116 Fairview Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City

Moved by Strout, Seconded by Duransoy  
Ayes: Duransoy, Strout, Zucker, Batra  
Noes: None

Recused: Ramsey  
Absent: Levine

**Fence-Design Review  
Permit,  
1 Crocker Avenue,  
DRFW #21-0328**

The Property Owners are seeking retroactive approval for the construction of a 6-foot-tall fence within the 20-foot street-yard setback along Lincoln Avenue.

**Public testimony** was received from:

Derry MacBride, Property Owner, stated the primary purpose of the fence was to rid the community of the eyesore of the Thuja trees and replace them with a healthy, attractive hedge, consistent with their garden. The fence would also shield the view of the necessary but unsightly electrical equipment, on the side of the house on Lincoln Avenue.

Generally, the Planning Commission supported the project and stated that the fence would obscure the equipment, was appropriate for the neighborhood and the corner lot side yard

**Resolution 328-FDR-21**

WHEREAS, The Property Owners are requesting retroactive approval for the construction of a 6-foot-tall fence within the 20-foot street-yard setback along Lincoln Avenue. located at 1 Crocker Avenue, which construction requires a fence design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application and after visiting the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, CEQA, pursuant to CEQA Guidelines Section 15303, Class 3(e), New Construction or Conversion of Small Structures, the project was consistent with General Plan policies and programs, and the proposal, as conditioned, conformed 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 fence height and design is consistent with the architecture of the home and neighborhood, the corner lot location, the fence integration with hedging and landscaping, and blocking mechanical equipment from the public right-of-way.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because the distance from the project to neighboring homes is appropriate, the application proposes sufficient vegetative screening, and improves privacy from the public right away.
3. The proposed design does not adversely affect pedestrian or vehicular safety, because there is no effect on pedestrian or vehicular safety.
4. As conditioned, the application complies with the following Design Review Guidelines: 3.09 (Site Design) and 4.04 (Building Design:: General).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), and Design and Preservation Element Policy 29.5 (Fence and Wall Design).

WHEREAS, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 1 Crocker Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

**2. Landscaping.** The Star Jasmine on the fence should be irrigated and in good health for a period of ten years or the fence shall be removed.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 1 Crocker Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Variance and Design  
Review Permit,  
65 Oakmont Avenue,  
DRP+V #21-0331**

The Property Owners request to remodel and enlarge the residence by constructing an approximately 183-square-foot two-story addition on the rear (north) of the house, demolish the existing garage in the rear (north) of the property and construct an approximately 358- square-foot one-car garage, add site features and make several site modifications throughout the property. The construction includes window and door modifications, retaining wall construction, new on-grade site stairs, installation of handrails and guardrails, new exterior lighting throughout the main house and garage, new 6-foot-tall wood fencing and gates, a new fire pit and outdoor barbeque area, and several other associated interior and exterior changes. A variance is required in order to construct in the 5-foot side (east) yard setback

**Public testimony** was received from:

Cecilia Chen, Property Owner, stated they want to renovate the home because the house has been in the family for over 30 years and they want to bring it back to life and call it home. They want to create a design that fits with their growing family and stays true to the personality of the house and neighborhood.

Edward Buchanan, project architect, stated this is a minor addition to rear of house and an enlargement of the garage to fit a car. The proposed basement development includes a space to exercise, to work from home, and allows for a laundry room and a half bathroom. No improvements should affect neighboring properties. There will be no new windows proposed that face any side neighbors.

Max Roman, neighbor at 61 Oakmont Avenue, stated the main concern is this is an irrevocable change between his house and the house next door reducing the privacy. He called out the windows, flat roof of the garage, the need for additional parking, and the fire pit as particular concerns.

Crosby Freeman, neighbor at 67 Oakmont Avenue, stated his concern is that the garage expansion might damage the root structure and kill his tree. He would like there to be assurances to preserve existing tree for privacy and for urban canopy. He also was concerned about a consistent fence design.

With additional conditions for an arborist report and tree protection plan, the Commissioners supported the remodel and stated this is a nice transformation project, with a small footprint and no resulting unusual noise.

**Resolution 331-V/DRP-21**

WHEREAS, The Property Owners are requesting permission to remodel and enlarge the residence by constructing an approximately 183-square-foot two-story addition on the rear (north) of the house, demolish the existing garage in the rear (north) of the property and construct an approximately 358- square-foot one-car garage, add site features and make several site modifications throughout the property. The construction includes window and door modifications, retaining wall construction, new on-grade site stairs, installation of handrails and guardrails, new exterior lighting throughout the main house and garage, new 6-foot-tall wood fencing and gates, a new fire pit and outdoor barbeque area, and several other associated interior and exterior changes, which construction requires a variance and design review permit; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct within the 5-foot side (east) yard setback; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application and after visiting the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, CEQA, pursuant to CEQA Guidelines Section 15303, Class 3(e), New Construction or Conversion of Small Structures, the project was consistent with General Plan policies and programs; and

WHEREAS, the variance from the side yard setbacks 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 flag shaped lot and the existing garage is on the flag-pole portion of the lot. The existing garage is currently located within the 5-foot side yard setback and the lot has a steep topography. Strictly implying the terms of this



chapter would keep 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 there are other homes in the neighborhood with garage access from Prospect Drive. The other homes in the neighborhood with accessory structures in the side and rear yard setbacks.

3. Accomplishing the improvements without a variance would cause unreasonable hardship in planning, design or construction because relocating the garage outside of the side yard setback would take out much more of the backyard space which may lead to reduce landscape coverage and hardship in vehicular entry and exit.

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. The following building features are consistent with the original architecture and neighborhood development, including wall material, timbers, roof form material, administration pattern, design of 2-story addition in rear, garage design, location of site features (fire pit and outdoor barbecue grill), design and material of guardrails, and landscape modifications.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate. 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 the on-site parking conditions with expansion of the garage.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: Site Design 3.03, 3.08, 3.11, 3.12, Building Design General 4.01, 4.02, 4.03, 4.05, Building Design Single-Family Residence 5.01 and 5.02.

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.6 (Retaining Wall), and 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 65 Oakmont Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **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.

3. **Building Height 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 addition and garage are constructed at the approved height(s) above grade.

4. **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.

5. **Window and Door Material.** As specified in the plans and application material, the building material for the window and door shall be wood and clad wood and the garage door shall be wood.

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

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

8. **Window Recess.** All new windows shall be recessed 1 ¼ inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.

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

10. **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)

11. **Roof Color.** The proposed roofing shall match the roofing color, material and details of the existing roof of residence to the greatest extent possible.

12. **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.

**13. 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.

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

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

**15. Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since

timely completion of this Project is of the essence, the 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.

**16. Final Landscape Plan.** Before issuance of a building permit, the Applicant shall submit for staff review and approval of a Final Landscape Plan for the front, side and rear yards. 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.

**17. 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.

**18. Approved Plan Set.** The approved plans are those submitted electronically on February 10, 2022.

**19. Arborist's Report and Certified Tree Preservation Plan.** Before the issuance of a building permit, the Applicant shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures to preserve the one existing tree adjacent to the southeast corner of the proposed garage and on neighbor's property (67 Oakmont Avenue) near the east property line, as well as any nearby off-site trees near the proposed garage that are not being removed. The tree preservation measures shall appear on the appropriate sheets of the construction plans. The Applicant shall ensure that the arborist is on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The Applicant shall require the arborist to document in writing and with photographs the tree protection measures used during these critical construction phases, which documentation shall be submitted to the City. In the event the arborist determines that one or more trees have been compromised, the Applicant shall submit to the City remediation and mitigation measures in writing and certified by the project Arborist, to the Planning and Building Director's satisfaction. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review, and shall

be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Applicant shall file a report with the City from the project arborist certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

20. Prior to the issuance of a building permit, the landscape plan shall be updated to include the proposed chamfered corner at the garage.

21. Prior to the issuance of a building permit, the applicant shall make revisions, only if necessary, to the new lower level floor plan so that the new studio room does not meet the definition of a bedroom as provided in City Code division 17.90.

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application and after visiting the subject property, the Piedmont Planning Commission found that for the project was categorically exempt under the California Environmental Quality Act, CEQA, pursuant to CEQA Guidelines Section 15303, Class 3(e), New Construction or Conversion of Small Structures, the project was consistent with General Plan policies and programs, and the proposal, as conditioned, conformed to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 65 Oakmont Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Design Review Permit  
and Fence Design  
Review,  
43 Bellevue Avenue  
DRP #21-0037, and  
Design Review Permit  
and Fence Design  
Review,  
47 Bellevue Avenue,  
DRP #21-0338**

The Property Owners are requesting a comprehensive landscape remodel across both properties, including the following new features: 363-square-foot building with 297-square-foot covered terrace; second driveway and gate; fencing in the 20-foot street yard setback; grading and retaining walls; planting plan and tree removals; terraces, paths, and steps; exterior lighting; and associated site improvements. Plans include modifications to the residence approved by the Planning Commission on November 12, 2019. Modifications include changes to windows and doors, exterior materials, and fencing, as well as associated building changes.

**Public testimony** was received from:

Philip Dreyfuss, Property Owner, stated that this is Phase 2 of the project, the home was approved in August 2018 and these applications represent the landscaping and terracing project. The home is nearly complete, and they want to finish the rest of the property to minimize disruption to the rest of the neighborhood.

Jeff George, project landscape architect, stated that the three main goals of the project are to: 1) create some usable level lawn areas on a quite steep site; 2) restore and stabilize the very steep slope throughout the property; and 3) establish vegetative screening and open up views.

August Moretti, neighbor at 324 Pacific Avenue, stated this is a large project and many mature trees have been cut down and has disturbed the urban forest and reduced privacy. The new plans call for removing most of the remaining trees and reducing even more privacy. He refers to Piedmonts General Plan with Goal 14 and Policy 14.4, requesting that all the mature trees remain.

Andrea Barberi, neighbor at 50 Bellevue Avenue, stated concerns about the scale, the height, the bulk of project. noting views from her home are impaired. She added that no other house on the street is like this in the neighborhood, and the tranquility and privacy of the neighborhood are affected.

In reply to Commissioner's questions, the project landscape architect stated the stone veneer is to remain and that there is a 4 to 1 ratio for the larger tree replacements. Commissioners noted the correspondence received for the item from members of the public

In general, the Planning Commission stated its support for the landscape plan and modifications.

**Resolution 337/338-DRP-21**

WHEREAS, The Property Owners are requesting permission to construct a comprehensive landscape remodel across both properties, including the following new features: 363-square-foot building with 297-square-foot covered terrace; second driveway and gate; fencing in the 20-foot street yard setback; grading and retaining walls; planting plan and tree removals; terraces, paths, and steps; exterior lighting; associated site improvements; and modifications to the design for the house previously approved on November 12, 2019; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application and after visiting the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, CEQA, pursuant to CEQA Guidelines Section 15301, Class 1(c), Existing Facilities, and 15332, Infill Development Project., and does not present any unusual circumstances, based on the information presented above and as outlined in the staff reports, and that no exception to the Class 1 and Class 32 categorical exemptions applies to this project based on the information outlined in the staff report, the project is consistent with General Plan policies and programs, and the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines because the design of the windows and walls of the residence and the new habitable building; the varying heights and materials of the retaining walls; the planting plan, new trees and shrubs, and replacement ratio of trees; the paths, steps, and terraces; and the exterior lighting plan are consistent with General Plan and Piedmont Design Guideline requirements.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance of the previously approved project and modifications to neighboring homes are appropriate; based on the proposed landscape planting plan there is sufficient vegetation; and the site affords space that can accommodate new buildings and outdoor living areas that do not create new vantage points looking out into neighboring properties because of the sloping site..

3. The proposed design does not adversely affect pedestrian or vehicular safety because the opening in the fence for the access roadway protects sightlines for pedestrians and vehicles; and the site at the new habitable building includes space for a vehicle to maneuver and exit onto the roadway in a forward-facing direction and access is for maintenance only and not daily access.

4. As conditioned, the application complies with the following Design Review Guidelines: 3.03.01, 3.03.01.1, 3.03.02, 3.03.02.1, 3.03.02.2, 3.03.02.3, 3.03.02.4, 3.12.01, 3.12.01.1, 3.12.01.2, 3.12.02, 3.12.02.1, 3.12.02.2, 3.12.02.3, 3.12.02.4 (Site Design), 4.02.01, 4.02.01.1, 4.02.01.2, 4.02.01.3, 4.02.01.5, 4.02.01.6, 4.02.1.7, 4.02.01.8, 4.02.01.11, 4.05.03, 4.05.03.1, 4.05.03.2, 4.05.03.3, 4.05.03.4 (Building Design: General), 5.01.01, 5.01.01.1, 5.01.01.2, and 5.01.02, 5.01.02.1 (Building Design: Single-Family Residential).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.5 (Garage, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.1 (Landscape Design), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.6 (Retaining Walls), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Design and Preservation Element Policy 29.8 (Exterior Lighting), and Design and Preservation Element Policy 29.9 (Sight Obstruction).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 43 & 47 Bellevue Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Plan Set.** The approved plans are those submitted on January 31, 2022, unless modified in these conditions of approval below.

2. **Tree Preservation Plan.** Prior to issuance of a building permit, the engineering drawings and calculations shall be amended to reflect the preservation of the 16-inch-diameter and 18-inch-diameter oak trees to the east of the new habitable building. Grading shall not occur within 10 feet of the trunks of these trees. All recommendation of the tree preservation plan, dated January 31, 2022, are requirements of this permit.

3. **Prior Conditions of Approval.** The prior conditions of approval, placed on the project at 47 Bellevue Avenue in 2018, 2019, and 2020, remain in force and in full effect.

4. **Driveway Gate.** Prior to issuance of a building permit, the applicant shall revise the design of the driveway gate to provide a minimum 16-foot-long area for vehicles to move out of the flow of traffic on Bellevue Avenue, while the driveway gate opens. The gate shall not be designed to open onto public right-of-way.

5. **Potholing Municipal Sewer.** Prior to issuance of a building permit, the project applicant and project engineer shall 'pothole' at the site to determine the physical



locations of the municipal sewer lines located at 43 and 47 Bellevue Avenue in coordination with the City Engineer, and the applicant shall revise the project plans as necessary to reflect the actual location of the lines, subject to review and approval of the Public Works Director. If the actual location of the sewer lines is found to be outside of the existing easements, the property owner shall provide revised easements centered over the pipe allowing operation and maintenance of the sewer line to the City. If revised easement deeds are needed, the applicant shall work with the City Engineer's office for easement widths and final wording to be included in the easement.

**6. New Storage Area.** Prior to issuance of a building permit for the expanded scope of work, the applicant shall revise plans for the new storage area near the south property line of 43 Bellevue Avenue to either lower the height of the structure to 6 feet or less, move the location of the structure to a distance of a minimum of 20 feet from the nearest property line, design the storage area to be un-roofed, or remove the structure from the plans.

**7. Exterior Lighting.** Prior to issuance of a building permit, all new exterior light fixtures shall be downward directed with recessed can light style or an opaque or translucent shade that completely covers the light bulb, subject to staff's review and approval.

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

**9. Property Insurance.** The Applicant shall purchase and maintain property insurance on an "all risk" policy form, including builder's risk, in the amount of the initial total expected costs to complete the Project, plus the value of subsequent modifications and revisions, comprising total value for the entire Project on a replacement cost basis without optional deductibles. Such property insurance shall include interests of the Applicant, its contractor, subcontractors and subcontractors in the Project, and shall be maintained until the entire Project has been completed and has an approved Final Inspection by the Chief Building Official.

**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. This includes the application of previously submitted security deposits and insurance requirements for construction at 47 Bellevue Avenue to the permits issued to the construction approved under these two design review permits.

**12. C&D Compliance.** Compliance with Chapter 5 Article I of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

**13. Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, the Applicant shall defend indemnify, and hold harmless the City against any and all liability, fees and costs arising out of the defense. Applicant shall pay for all costs of City's own selected legal counsel(s). For this purpose, "City" includes the City and its elected and appointed officials, agents, officers, employees, consultants, and volunteers.

**14. Setback from Property Line Verification.** Prior to foundation inspection of the retaining walls, 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 all property lines as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property lines.

**15. Construction General Permit for Stormwater.** Prior to issuance of a building permit for the expanded scope of work, the applicant shall provide the Building Official with evidence of obtaining coverage under the Construction General Permit for stormwater. During construction, the total disturbed soil area on the project site would be greater than 1 acre, and therefore the proposed project is subject to the requirements of the State Water Board's NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ, NPDES No. CAS000002, as amended by Orders No. 2010-0014-DWQ and 2012-0006-DWQ) (Construction General Permit or CGP). For projects that are between 1 and 5 acres, a small construction rainfall erosivity waiver may apply. If the applicant determines a waiver applies, they shall demonstrate compliance with the CGP by providing documentation of a waiver submitted to the State Water Resources Control Board, prior to issuance of a building permit. If a rainfall erosivity waiver does not apply, the applicant shall prepare and implement a Stormwater Pollution Prevention Plan (SWPPP) during construction activities and submit this along with a Notice of Intent with the California State Water Resources Control Board (State Water Board) via the Stormwater Multiple Application and Report Tracking System (SMARTS). Construction cannot commence until coverage under the CGP is obtained.

**16. Stormwater Control, Operation, and 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).

17. **Foundation/Shoring/Excavation Plan.** The Property Owner shall submit 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). 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.** As required by the Building Official, the Property Owner shall submit a report prepared by a geotechnical engineer of the Property Owner's choice that fully assesses the existing site conditions, and addresses all issues regarding excavation and grading, foundations and their construction, drainage, retaining wall systems, periodic on-site observations, and other related items involving the Project.

- a. Peer Review. The City, at the Property Owner's sole expense, shall retain an independent geotechnical consultant to perform a peer-review of the Property Owner's geotechnical report and advise the City in connection with the Property Owner's proposals. The City Engineer shall select this independent geotechnical consultant, whose services shall be provided for the sole benefit of the City and whose reports and recommendations can be relied upon only by the City. The independent geotechnical consultant shall also review the building plans during the permit approval process and may provide periodic on-site observations during excavation and construction of the foundations as deemed necessary by the City Engineer. The Property Owner shall provide payment for this at the time of the Building Permit application submittal.
- b. All retaining walls shall be located a minimum of 10 feet from the existing sewer mains. Additionally, the applicant shall provide the Public Works Director with a report from a soils engineer depicting the risks and recommended additional setbacks of walls and foundations from existing sewer pipe(s) if it is discovered that loading from the retaining wall will compromise the integrity and safety of the trench wall, assuming the City must work on the sewer line and dig a trench at some point in the future.

19. **California's Water Efficient Landscape Ordinance.** Property Owner shall comply with the requirements of California's Model Water Efficient Landscape Ordinance that went into effect January 1, 2010, 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. (The form for the Landscape Document Package and a Frequently Asked Question

document on the CA-WELO requirements is available at the Public Works Counter and on the City website at [www.piedmont.ca.gov](http://www.piedmont.ca.gov)).

(The form for the Landscape Document Package and a Frequently Asked Question document on the CA-WELO requirements is available at the Public Works Counter and on the City website at [www.piedmont.ca.gov](http://www.piedmont.ca.gov)).

**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 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.

**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 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 approved herein 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 City of Piedmont. 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. Sound and Vibration Mitigation Plan and Review.** As required by the Director of Public Works, the Property Owner shall submit a plan prepared by a licensed engineer of the Property Owner's choice that fully assesses the existing site conditions for the mitigation and monitoring of vibration and decibel levels at the Project during construction (including being periodically present at the construction site during excavation and foundation work). If, in the City Engineer's sole discretion, such monitoring indicates that the sound or vibration levels exceed those anticipated in the Property Owner's Construction Management Plan and/or the Sound and Vibration Mitigation Plan, all work on the Project may be immediately stopped by the City and may not resume until the City Engineer is fully assured that the sound and vibration transmissions generated by work on the Project can be maintained at or below a reasonable level and duration.

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

**23. City Facilities Security.** The Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("City Facilities Security") in the amount of \$100,000 or as established by the Director of Public Works. This financial vehicle serves as an initial sum to cover the cost of any potential damage to City property or facilities in any way caused by Property Owner, Property Owner's contractors or subcontractors, or any of their agents, employees or assigns, and related in any way to the Project. The Property Owner is responsible for the full cost of repair as determined by the City Engineer prior to final inspections. The form and terms of such City Facilities Security shall be determined by the Director of Public Works after consultation with the Property Owner. The Director may take into account any of the following factors: the cost of construction; past experience and costs; the amount of excavation; the number of truck trips; the

physical size of the proposed project; the logistics of construction; the geotechnical circumstances at the site; and City right-of-way and repaving costs.

- a. To provide clear baseline information to assist in determining whether damage to the City's facilities has been caused by the Property Owner or others working for or on behalf of Property Owner, the City will document such facilities (including, without limitation, streets and facilities along the approved construction route as specified in the Construction Management Plan, to establish the baseline condition of the streets and facilities. The City shall further redocument the streets as deemed appropriate after the Project commences until the Director of Public Works determines that further documentation is no longer warranted. As part of the documentation, the City may water down the streets to better emphasize any cracks or damage in the surface. The Property Owner is responsible for the full cost of the documentation and repair work as determined by the City Engineer and shall reimburse the City for those costs prior to the scheduling of final inspection.
- b. When the City Facilities Security is in a form other than cash deposit with the City, the proceeds from the City Facilities Security shall be made payable to the City upon demand, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of the proceeds are due to the City.

24. **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.

25. **City Attorney Cost Recovery.** If there is a substantial additional commitment of City Attorney's time required to accommodate the scope and nature of the Project, the Property Owner shall, at the time of the Building Permit Application, make a cash deposit with the City in the amount of \$5,000 to be used to offset time and expenses of the City Attorney relating to the Project. If such cash deposit has been reduced to \$2,500.00 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated additional City Attorney time and expenses. Any unused amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

26. **Site Safety Security.** The City and the public have an interest in not having an unfinished project blighting the neighborhood and undermining property values. These public interests are primarily safety and aesthetics, and diminishment of property values. Prior to the issuance of a Building Permit, the Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("Site Safety Security") in the amount of \$50,000 or as established by the Director of Public Works to ensure that the Project site is not left in a dangerous or unfinished state.

- a. The Site Safety Security shall be in an amount to include three components: (i) safety, which means the cost to make the site and structure safe if construction should cease midway through the Project; (ii) aesthetics, which means an amount to install and maintain landscaping all around the Project to protect the immediate local views from neighbors and public property; and (iii) staff and consultant time to evaluate and implement this condition. If, as the Project proceeds, the expected cost of these components increases beyond the original estimate in the opinion of the Director of Public Works, the City may require the Property Owner to increase the amount of the Site Safety Security by the additional amount. The Property Owner shall provide City with written evidence of compliance within 15 working days after receiving written notice of the additional required amount. The City shall retain, at the Property Owner's expense, an independent estimator to verify the total expected costs to complete the Project and any subsequent revisions.
  - b. The form and amount of the Site Safety Security is subject to the approval of the Director of Public Works. Payment to City under the Site Safety Security shall be made payable upon demand by the City and prior to the issuance of the Building Permit, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of such Performance Security is due to the City.
  - c. The Site Safety Security shall not be released until the Project has an approved Final Inspection by the Chief Building Official. However, if sufficient work has been completed according to the benchmarks and construction values as established under the Construction Completion Schedule, the Site Safety Security may be reduced to the extent the Director of Public Works in his sole discretion determines is appropriate.
27. **Subsidence.** The Property Owner acknowledges and agrees that all work on the Project may be immediately stopped by the City in the event of any unanticipated landslides, subsidence, creep, erosion or other geologic instability, and may not resume until the City Engineer is fully assured that no further subsidence or erosion will occur. If in the opinion of the City Engineer, the instability poses a danger to public or private property, and Property Owner is not responding in a diligent manner, the Director of Public Works may use proceeds from the Site Safety Security required above to address the instability.
28. **Structures over Easements.** No permanent structures (including fences, retaining walls, swimming pools, tennis courts, permanent planters, terraces, gazebos, etc.) or trees shall be allowed to be constructed or planted within the public sewer easements on the properties being developed.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit applications for the improvements at 43 and 47 Bellevue Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Variance and Design  
Review Permit,  
510 Magnolia Avenue,  
DRP+V #21-0354**

The Property Owners are requesting to convert 367 square feet of the existing garage and outdoor entryway area into additional living space, make various changes to the interior, make various window and door modifications, relocate the garage door and driveway, and make landscape and hardscape modifications throughout the property. A variance is required in order to construct a new outdoor patio area within the 20-foot street yard setback.

Public testimony was received from:

Yang Tang and Yuning Zhang, Property Owners, stated that they want to change the direction of their garage, moving the driveway away from the intersection with El Cerrito Avenue due to safety and visibility concerns. The bamboos are also quite invasive and present more of a maintenance problem due to the roots growing under the driveway. The front yard is overwhelmed by the driveway, and they want a low wall and landscaping around the property due to security concerns.

Carolyn Van Lang, project architect, stated that the property has an unusual shape and a large front set back. It also slopes two ways north to south and east to west. They want to fix and level the yard, driveway and remove the bamboo. They would like to put the 4-foot wall along the front property line.

In response to questions from the Planning Commissioners, the architect stated that it makes more sense to have the patio parallel to the street in order to have a level lawn and patio. By removing the driveway, they are creating more lawn. New aluminum sliding windows are proposed to match existing windows. The line of sight while backing out of the driveway will be improved.

Paul Lettieri, neighbor at 340 El Cerrito Avenue, state his support of the driveway change. His concern is that the public realm that has been omitted from the drawing, and he would like to see planting in front of the perimeter wall, the curb restored, and the curbside planting strip landscaped. Pedestrian safety is a concern,

The Commissioners supported the intent of the project, but that it needs a fully developed site plan in order to gain approval. The landscape and design of the front yard needs to be compatible with the topography. There needs to be a more comprehensive plan on windows, rather than just adding more low-quality windows. The sightline improves by moving the driveway uphill and providing a perpendicular point of entry and exit, but the walls and taller vegetation downhill from the driveway need to be relocated in order to improve visibility and safety on the downhill side.

**Resolution 354-V/DRP-21**

WHEREAS, The Property Owners are proposing to convert 367 square feet of the existing garage and outdoor entryway area into additional living space, make various changes to the interior, make various window and door modifications, relocate the garage door and driveway, and make landscape and hardscape modifications throughout the property which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct a new outdoor patio area within the 20-foot street yard setback; and

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



WHEREAS, a variance from the requirements of Section 17.34.040 of the Piedmont City Code is not approved because it do not comply with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements do not present unusual physical circumstances of the property, including sloping lots are typical in this area, and other properties do not require a variance for patios located in the front setback that are not connected to entry and exit. The property also has an existing private yard in rear of the house and a smaller patio could be constructed in the front of the house that is outside of the 20-foot street yard setback. Strictly applying the terms of this chapter would not keep the property from being used in the same manner as other conforming properties in the zone.
2. The property is not compatible with the immediately surrounding neighborhood and the public welfare because there could be a small front yard patio constructed without a variance or a front yard patio that follows the contours and the setback of the property without a variance. The front yard can also be landscaped without the need for a variance.
3. Accomplishing the improvements without a variance would not cause unreasonable hardship in planning, design or construction because the street facing outdoor space can be used through landscape or smaller patios as previously stated, similar to other properties.

WHEREAS, regarding the design review permit, the Planning Commission finds that that the project is inconsistent with General Plan policies and programs, and the proposal does not conform to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. The proposed design is not consistent with the City's General Plan and Piedmont Design Guidelines, as follows: the window and door material and pattern and the design of the retaining wall.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because there is no change proposed to the existing building footprint of the home, although the proposed alterations at the front property line are not clear.
3. It is unclear if the proposed design adversely affects pedestrian or vehicular safety. It has been stated to the Commissioners that moving the driveway further away from the intersection is a positive improvement. It was also stated that the view sight lines from the traffic coming up the hillside might improve, but it is still unclear on how the proposed alterations, including the proposed landscape, the view from pedestrians and the new retaining walls and plantings affect the sight lines.
4. The application does not comply with the following Design Review Guidelines and General Plan policies and programs: 3.08.02, 3.08.02.1, 3.08.02.3, 3.08.02.4, 3.09.01B, 3.11.02.5 (Site Design), 4.03 (Building Design: General); and City Code section 17.34.040.
5. The project is not consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy, 29.3 (Front Yard Enclosures), and Design and Preservation Element Policy 29.5 (Fence and Wall Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the variance and design review permit application for the construction at 510 Magnolia Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Variance and Design  
Review Permit,  
1460 Grand Avenue,  
DRP+V #21-0357**

The Property Owners are requesting permission to make the following modifications: increase the roof height and construct dormers on the upper level to create two habitable bedrooms; expand the driveway; create a 2-car tandem garage at the basement level; and make other various interior and exterior modifications. Two variances are required in order to: 1) construct within the 20-foot street yard setback along Grand Avenue, and 2) increase the bedroom count without providing conforming parking.

**Public testimony** was received from:

Christopher Bennett, Property Owner, stated that the primary goals of the project were to expand the driveway, create a two-car tandem garage, and to convert attic space to functional bedrooms, closets and office space.

Kasia Ekstrand, project architect, stated her design makes the house livable for a family by making the upstairs spaces legal height and houses cars in the garage, with two full size stalls. The renovations will bring the home up to codes and the garage will take cars off the street.

The Commissioners all agreed this is a great project. This project is a very smart remodel. However, the Commissioners recommended modifying the dormers so that they are not aligned with the exterior wall of the first level, keeping the hipped gable, and removing the off-center dormer and its arched bathroom window.

**Resolution 357- V/DRP-21**

WHEREAS, the Property Owners are requesting permission to make the following modifications: increase the roof height and construct dormers on the upper level to create two habitable bedrooms; expand the driveway; create a 2-car tandem garage at the basement level; and make other various interior and exterior modifications, which construction requires a variance and design review permit; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to 1) construct within the 20-foot street yard setback along Grand Avenue, and to 2) increase the bedroom count without providing conforming parking;

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 20-foot street yard setback requirement along Grand Avenue and from the parking requirements of City Code division 17.30 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 but not limited to the lot is unusually small, property is on a corner lot, without demolishing the house to create a non-tandem garage, topography, and house is located within 20-foot setback) so that strictly applying the terms of this chapter would keep the property from being used in the same manner as other conforming properties in the zone.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare because the neighborhood consists of older homes located close to the street, bedroom count is similar to other homes in the neighborhood, and the proposed development is located within the existing building's footprint.
3. Accomplishing the improvements without a variance would cause unreasonable hardship in planning, design or construction, because the house would need to be demolished to provide a non-tandem garage, the house would need to be partially demolished to be located outside of the 20-foot street setback, the design of the upper floor would be sacrificed without the variance, and the relocation of the garage to Oakland Avenue would decrease safety and affect utilities and street trees..

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 and all building features are consistent with original architecture and neighborhood development, including the cement plaster material, as conditioned, roof form material and design, as conditioned, the dormers location and design, as conditioned, the window and door material and pattern, the eave overhang, and the garage design.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, the distance is appropriate, topographical differences are appropriate, the footprint is unchanged, height is kept as low as possible.
3. The proposed design does not adversely affect pedestrian or vehicular safety, because pedestrian and vehicular access points remain the same, the project improves onsite parking conditions, and maintains visibility in the widened driveway.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03, 3.05, and 3.08 (Site Design) 4.01 4.02 and 4.03 (Building Design: General), and 5.01 and 5.02 (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 28.45 (Garages, Decks, and Porches),Setback Consistency), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element

Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.6 (Retaining Wall), Design and Preservation Policy 29.7 (Driveway and Parking Location), and Design and Preservation Element Policy 29.8 (Exterior Lighting), Design and Preservation Policy 29.9 (Sight Obstructions), and Design and Preservation Policy 31.3 (Context-Sensitive Design).

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 1460 Grand 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 fiberglass.

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 approximately 3 inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.

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. **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.

6. **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.

7. **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.

**8. Setback from Property Line Verification.** Prior to the frame inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the west and south property lines as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property lines.

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

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

**11. 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.

**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.

14. **Façade Design.** The applicant shall work with staff to modify the following design components:

- a) Hipped Gables. The roofline shall incorporate hipped gables in both dormers, front- and side-gables as exemplified on the existing building;
- b) Central Dormer and Related Windows. The existing off-center roof dormer and its arched window on the west façade shall be removed, and new windows that are more architecturally consistent with the rest of the residence shall be provided on the west-facing saddle dormer;
- c) Wall to Window Proportion. The roof dormers shall be modified so that the window area occupies a greater proportion of the dormer wall; and
- d) Roof Dormers. The proposed west-facing dormers in bedrooms 3 and 4 shall be moved inward so that they are not aligned with the exterior wall of the main level below, but instead are set back and up into the roofline.

The design modifications are subject to staff review and approval.

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

**Variance and Design  
Review Permit,  
160 La Salle Avenue,  
DRPC 2022-004**

The Property Owners are requesting permission to make the following modifications on the property: construct an accessory structure featuring a bedroom and two-car garage underneath; construct a pool and spa in the rear yard; construct new windows and doors; construct site features including an outdoor kitchen, fireplace, and fountain; construct an arbor; construct new patios, paths, and walls; and make other various exterior changes. A variance is required to exceed the maximum allowable floor area ratio of 45 percent.

**Public testimony** was received from:

Robert Amen, Property Owner, stated that the yard is not great but has potential. They want to accomplish additional parking and the needs of the family are evolving and would like their parents to live in the guest studio they are proposing.

Bennett Christopherson, project architect, stated that this home is a unique work of art and that the owners seek a garage to fit 2 additional cars and featuring a guest studio above. This proposal provides for a vegetable garden, outdoor dining area, swimming pool, and a changing room at garage level. In regard to floor coverage, it's not worth building to keep the floor area coverage within limits. He responded to questions from the Commissioners by stating that the windows on the assessor structure were carefully chosen for its proportions. They did not want to consider to an accessory dwelling unit, ADU, because they did not want to conform to height limits that the City of Piedmont has established.

Jeff George, project landscape architect, stated the design encompasses a somewhat screened in entrance with a fountain in the front. This will give some privacy and

mitigate some sound from the busy corner. The back area will have beautiful fountain and circular staircase, dining terrace, the pool, and the perimeter screening.

Aaron Salloway, neighbor at 270 Crocker Avenue, stated that the scope and size would adversely impact his property. The accessory structure would be substantial, intrusive and unreasonable due to loss of privacy. It reduces the sky view and eliminates the visual distance to the owner's house, and the screening should not be bushes and evergreens, but should be tall, fast-growing Cyprus. He opposes the project.

The Planning Commission stated its great appreciation for the way the design was largely consistent with the original architecture of the main residence. However, they found the accessory building competes with the main structure and that the scale of is not proportional. They do appreciate the desire for added space, but this project is not there yet and needs to be reduced in size and scale. Creating conforming parking is absolutely encouraged and should be supported. The height should be reduced, as it should not be taller than the one-story living room of the main house and the accessory structure should be at least 10 feet from the rear property line.

**Resolution 004-DRPC-22**

WHEREAS, The Property Owners are asking permission to construct an accessory structure featuring a bedroom and two-car garage underneath; construct a pool and spa in the rear yard; construct new windows and doors; construct site features including an outdoor kitchen, fireplace, and fountain; construct an arbor; construct new patios, paths, and walls; and make other various exterior changes at 160 La Salle Avenue, which construction requires a variance and design review permit; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to exceed the 45 percent floor area ratio limit; and

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is inconsistent with General Plan policies and programs; and

WHEREAS, the variance from the maximum floor area ration requirement is not approved because it does not comply with the variance criteria under Section 17.70.040 as follows:

1. The property and existing improvements do not present unusual physical circumstances of the property (including but not limited that the property is larger than other properties on the block, so that strictly applying the terms of this chapter would keep the property from being used in the same manner as other conforming properties in the zone. The large lot size does not prevent the property from being used in the same manner as other properties in the zone.
2. The variance is not compatible with the immediately surrounding neighborhood and the public welfare because the proposed structure is out-of-scale and adds bulk and height close to the neighboring property, impacting the neighbors
- 3 Accomplishing the improvements without a variance would not cause unreasonable hardship in planning, design or construction, because the structure can be constructed in a reduced size and pushing it further from the property line to not have an impact and can be designed with fewer windows facing the neighbor. A more appropriately size structure would be considered by the Commission.

:



WHEREAS, regarding the design review permit, the Planning Commission finds that that the project is inconsistent with General Plan policies and programs, and the proposal does not conform to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. The proposed design is not consistent with the City's General Plan and Piedmont Design Guidelines, as follows window and door material and pattern and design of retaining wall. The structure's size, location and window fenestration pattern are not consistent with the design guidelines. However, the materials are appropriate with the architecture of the property
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light. The mass of the structure impacts privacy and light to the neighboring property.
3. The proposed design does not adversely affect pedestrian or vehicular safety. The application improves onsite parking conditions.
4. The application does not comply with the following Design Review Guidelines and General Plan policies and programs: 4.02 (Building Design: General) and 5.01 (Building Design: Single-Family Residential).
5. The project is not consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the variance application and the design review permit application for construction at 160 La Salle Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Variance and Design  
Review Permit,  
151 Hazel Avenue,  
DRPC 2022-006**

The Property Owners are requesting permission to construct an approximately 95-square-foot, one-story addition in the rear (north) of the main house and make several other associated interior and exterior modifications, including: making window and door modifications, removing an exterior chimney and adding four (4) skylights. A variance is required in order to exceed the 50 percent floor area ratio limit.

Public testimony was received from:

Christiaan Vorkink, Property Owner, stated that the goal of the project is to have more sunlight in the kitchen. He and his wife would love a bright light kitchen space. The updates will be invisible from the street view.

Tim Wooster, project designer, addressed the request for a FAR variance. The project seeks to add a 4-foot addition with skylights to allow for more light in the kitchen and a large walk-in pantry. The 95 square foot addition increases the FAR to 50.5% which is 0.5% greater than what is allowed. In response to Commissioner

questions, he stated that light studies were not conducted because the homeowners want indirect ambient light, instead of direct light.

The Planning Commission could not find justification for a hardship to exceed the FAR limit. The kitchen space is large, and the chimney could be removed to introduce more windows without the need to expand the residence and to exceed the FAR limit.

**Resolution 006-V-22**

WHEREAS, The Property Owners are requesting permission to construct an approximately 95-square-foot, one-story addition in the rear (north) of the main house and make several other associated interior and exterior modifications, including: making window and door modifications, removing an exterior chimney and adding four (4) skylights at 151 Hazel Avenue, which construction requires a variance, from the requirements of Chapter 17 of the Piedmont City Code to exceed the 50 percent floor area ration 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 that the project is inconsistent with General Plan policies and programs; and

WHEREAS, the variance from the floor area ration requirement is not approved because it does not comply with the variance criteria under Section 17.70.040 as follows:

1. The property and existing improvements present unusual physical circumstances of the property (including but not limited to the home is laid out to provide the light sought by this application), so that strictly applying the terms of this chapter would not keep the property from being used in the same manner as other conforming properties in the zone. The home has ample room to provide light inside the residence.
2. The variance is not compatible with the immediately surrounding neighborhood and the public welfare, as other homes in the neighborhood are within the FAR requirements.
3. Accomplishing the improvements without a variance would not cause unreasonable hardship in planning, design or construction, because of the existing home's layout is not a hardship.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the variance application to exceed the floor area ration limit at 151 Hazel Lane, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Resolution 006-DRPC-22**

WHEREAS, The Property Owners are requesting permission to construct an approximately 95-square-foot, one-story addition in the rear (north) of the main house and make several other associated interior and exterior modifications,

including: making window and door modifications, removing an exterior chimney and adding four (4) skylights at 151 Hazel 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 visiting the subject property, the Piedmont Planning Commission found that the project was categorically exempt under the California Environmental Quality Act, CEQA, pursuant to CEQA Guidelines Section 15301, Class 1, Existing Facilities, the project was consistent with General Plan policies and programs, and the proposal, as conditioned, conformed 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. The following building and site features are consistent with the original architecture and neighborhood development, including the location and the window material.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light, because the distance is appropriate, and the topographical differences are appropriate.
3. The proposed design does not adversely affect pedestrian or vehicular safety, because there is no impact on safety.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03 (Site Design), 4.01 and 4.02 (Building Design: General).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), and Design and Preservation Element Policy 28.6 (Exterior Materials).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 151 Hazel Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **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.
2. **Window Material and Size.** As specified in the plans and application material, the building material for the new windows shall be aluminum-clad wood. Minor changes to proposed window sizes are subject to staff review and approval.
3. **Window Trim.** The new exterior window trim shall be consistent with the design of the original exterior window trim.
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 2 inches from the exterior wall to the face of window sash in order to maintain consistency with the original

architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.

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

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

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).

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

**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. **Approved Plan Set.** The approved plans are those submitted electronically on January 27, 2022, and revised sheet A3 submitted on February 10, 2022.

11. **No Footprint Expansion.** No expansion of the building footprint is approved under the scope of this design review permit.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the design review permit application for the construction at 151 Hazel Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Design Review Permit,  
12 Crest Road,  
DRPC 2022-009**

The Property Owners are requesting permission to add 229 square feet of new living area through the construction of a lower-level addition at the southwest corner of the house; make various door, window and exterior lighting modifications; make various changes to the interior; and make other landscape and hardscape modifications.

**Public testimony** was received from:

Mahya Salehi, project architect, stated that this house lacks character, definition and the exterior is bleak and boring. The interior space lacks light on both sides. They would like to beautify the home, add an addition, add windows, and add skylights. In regard to the freestanding wall atop the retaining wall at the driveway, it is intended as a fall protection device. The intention is to have it remain concrete and not add another material element, to be uniform. In response to Commissioner questions, she stated that they will check on the visibility triangle to see if there are any obstructions for vehicles exiting the driveway.

The Commissioners agreed that this is a smart and thoughtful design, and that the retaining wall should remain concrete to match the house design. To improve line-of-sight, the retaining wall should step down as you get closer to the front and should maintain the guardrail up to 30 inches high

**Resolution 009-DRPC-22**

WHEREAS, The Property Owners are requesting permission to add 229 square feet of new living area through the construction of a lower-level addition at the southwest corner of the house; make various door, window and exterior lighting modifications; make various changes to the interior; and make other landscape and hardscape modifications located at 12 Crest 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 visiting the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, CEQA, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, the project was consistent with General Plan policies and programs, and the proposal, as

conditioned, conformed 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. The following building features are consistent with the original architecture and neighborhood development, including the wall material, window and door material, the eave overhang dimension, the guardrail material, the freestanding wall material, and the trellis height and material.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between project and neighboring homes is appropriate, there is sufficient vegetative screening and there is no impact on views, privacy and access to light
3. The proposed design does not adversely affect pedestrian or vehicular safety, provided that the redesign of the extended concrete wall maximizes the view for backing out vehicles, and the property maintains adequate visibility for entering and exiting the driveway.
4. As conditioned, the application complies with the following Design Review Guidelines: 3.09, 3.12 (Site Design), 4.01, 4.02, and 4.03 (Building Design: General).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including:

Design and Preservation Element Policy 28.3 (Additions), Design and Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.5 (Fence and Wall Design), and Design and Preservation Element Policy 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 12 Crest Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be aluminum and steel.
2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Window Trim.** The new exterior window trim shall be consistent with the design of the existing window trims on the house.
4. **Window Recess.** All new windows shall be recessed 1 inch from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.
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. **Skylights.** All new skylights shall not project more than 12 inches from the roof surface. The metal flashing around the new skylights shall be painted to match the adjacent roof color.

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

9. **Defense of Legal Challenges.** The 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. **Notice of Restricted Use.** The lower-level storage room does not meet habitation or safety requirements of the Piedmont Municipal Code. A notice of restricted use shall be recorded with the Alameda County Recorder's office advising current and future owners that the space does not meet the safety codes for habitation/sleeping purposes.

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 and removal. The final plan shall comply with Municipal Code Section 17.17.3 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.

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 phaseappropriate, 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.

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

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

the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.

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

**14. Front Parapet Wall.** In order to provide adequate sightlines for vehicles exiting the driveway the proposed 42-inch-high concrete parapet wall at the existing retaining wall in the front setback shall be modified so that it steps downward as it approaches the sidewalk and provides a fall barrier only where the drop is 30 inches or greater. The final design shall be subject to staff review and approval.

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

**ANNOUNCEMENTS**

There is a special meeting on Tuesday, March 1, 2022, for a Community Pool design update, a scoping session for the EIR for the Housing Element, and a Housing Policy update.

**ADJOURNMENT**

There being no further business, Chair Batra adjourned the meeting at 10:00 p.m.