

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, May 9, 2022

A Regular Session of the Piedmont Planning Commission was held on Monday, May 9, 2022, both in person and via ZOOM teleconference, in accordance with Government Code Section 54953. The agenda for this meeting was posted for public inspection on April 25, 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 7:00 p.m. – 7:24 p.m.

**ROLL CALL**

Present: Chair Rani Batra, Commissioners Yildiz Duransoy, Jonathan Levine, Douglas Strout, and Justin Zucker

Absent: Commissioner Tom Ramsey

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

**PUBLIC FORUM**

There was no **public testimony**.

**REGULAR SESSION**

The Commission considered the following items of regular business.

**APPROVAL OF MINUTES**

**Resolution 10-PL-22**

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the April 11, 2022, regular meeting of the Planning Commission.

Moved by Strout, Seconded by Zucker

Ayes: Duransoy, Levine, Ramsey, Strout, Zucker

Noes: None

Abstain: Batra

Absent: Ramsey

**CONSENT CALENDAR**

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

- **870 Huntleigh Road**, DRFW 2022-011 (Site Feature Design Review Permit)
- **46 Nace Avenue**, DRPC+V 2022-017, (Variance and Design Review Permit)

Moved by Levine, Seconded by Strout

Ayes: Batra, Duransoy Levine, Strout, Zucker

Noes: None

Abstain: None

Absent: Ramsey

**Resolution 10-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.

**Resolution 11-DRFW-22**

WHEREAS, The Property Owners, are requesting permission to install a water feature and two lanterns on brick plinths 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 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 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. The following building features are consistent with the original architecture and neighborhood development including, the location and material of the site features.
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 view is not a significant view. The topographical differences are appropriate to preserve privacy, views and light.
3. The proposed design does not adversely affect pedestrian or vehicular safety because project does not modify on-site safety conditions.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: Site Design 3.12 and 3.13.
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element policy including: 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 87 Huntleigh Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Defense of Legal Challenges.** The 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. **Exterior Lighting.** Prior to issuance of a building permit, the plans shall show that the approved exterior lighting shall be shielded and directed downward subject to staff review and approval.

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

**Resolution 017- V/DRPC-22**

WHEREAS, the Property Owners are requesting permission to replace the existing flat garage roof with a new low pitched gable roof, which construction requires a design review permit; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct within the 20-foot street yard setback 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, and the project is consistent with General Plan policies and programs; and

WHEREAS, the variance from the 20-foot side yard setback is approved because the project complies 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 the lot is unusually narrow, the existing garage is located within the 20-foot street yard setback. 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 property is compatible with the immediately surrounding neighborhood and the public welfare because the majority of neighboring properties have garages located close to the street.
3. Accomplishing the improvements without a variance would cause unreasonable hardship in planning, design or construction because a portion of the house and exiting garage would need to be demolished in order to supply a conforming garage.

WHEREAS, regarding the design review permit, the Planning Commission finds that that the project is consistent with General Plan policies and programs, and the proposal does conform 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 roof form and the roof 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 the development is within the existing building envelope.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project maintains adequate visibility for entering and exiting the driveway.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: Building Design Single-Family Residential 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 28.5 (Garage, Decks, and Porches) 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 variance and design review permit application for the construction at 46 Nace Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Garage Roof.** As stated in the approved plans, the proposed garage roofing materials, color, and style shall be consistent with the existing roof of the main residence.
2. **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.
3. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security emergency access, and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the

construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.

4. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Applicant shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage of the project as a whole for each phase.
  - a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
  - b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the Approved Construction Completion Schedule and be binding on the Applicant. The City may, at the Applicant's sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
  - c. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Applicant fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Applicant shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Public Works. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.
  - d. The failure of the Applicant to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code ("City Code"). The failure of the Applicant to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Applicant fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

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

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

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

**2022 Deign and Sustainability Awards**

Chair Batra announced the recipients of the 2022 Design and Sustainability awards.

1. A design award for an outstanding comprehensive remodel goes to the property owners of a residence on Crest Road.
2. A design award for an outstanding prefabricated accessory dwelling unit goes to the property owners of 1546 Oakland Avenue.
3. A design award for an outstanding detached accessory unit goes to the property owners of 1661 Grand Avenue.
4. A design award for an outstanding residential remodel goes to the property owners of 630 Blair Avenue.
5. A sustainability award for green infrastructure goes to the property owners of a residence on Crest Road.
6. A sustainability award for an outstanding sustainable design on solar roofing goes to the property owners of 3 Nace Avenue.

An award gala will be held on May 18, 2022, at 5:30 p.m. in the Piedmont Community Hall.

There was no **public testimony**.

**Design Review Permit, 777 Magnolia Avenue (Piedmont Community Pool), DRPC 2022-026**

The Property Owners are requesting permission to demolish existing locker rooms, carriage house, basketball courts, three swimming pools and all associated structures; and construct two new swimming pools and an approximately 6,750 square-foot one-story structure and associated storage structures. The application also proposes to construct retaining walls and fencing of varying heights throughout the property; add exterior lighting including pole-mounted fixtures; install gates, guardrails, and handrails throughout the site; modify and add landscaping throughout; and make several other associated site modifications

In response to commissioner's questions, Clarence Mamuyac, President/CEO of ELS Architecture and Urban Design (ELS), stated that the utility room doors along Bonita Avenue are hidden from view because they are below the street level and

there is also a planting strip. The architectural site plan shows the location of the four pole lights. They are LED fixtures with multiple lamps on top of the poles. The fence heights are noted on drawings. In order to lower the retaining walls along Magnolia, the pool deck would have to be lowered and another set of steps would have to be added. The score board is intended to be located at the property line. The swim sign is intended to be graphics on glass and some ideas are still being considered.

**Public testimony** was received from:

Alyssa Welch stated she lives near the new pool site and is also a tennis player. She is concerned about the story poles that are so close to the tennis courts. She is concerned about noise, depth perception, ventilation, safety, loss of the bleachers, and the future of the tennis program.

Mr. Mamuyac responded that the tennis court are a big part of the project. This project is a community, wellness hub, and there are tennis courts, aquatic center, rec building, and future hillside park, that collectively make it an urban center. The proximity of the building in relation to the tennis courts, should be relatively quiet. Mesh could also be put up along the fence. A lot of considerations were made that contributed to the tennis program.

Commissioners agreed that this project has been modified multiple times and it's a great design, it's beautiful, and it will be great for the community.

**Resolution 026-DRP-22**

WHEREAS, in 2015, City of Piedmont launched a study to analyze possibilities for a new pool facility that would meet community aquatic needs; and

WHEREAS, that work, involving robust community involvement, culminated with adoption of the Aquatics Master Plan Conceptual Design in November 2016; and

WHEREAS, with the passage of Measure UU, in November 2020, the City is moving forward with refinement of the conceptual design and construction of a complete replacement of the Piedmont Community Pool; and

WHEREAS, in March 2021, the City Council established a temporary Community Pool Advisory Committee (PAC) to offer advice throughout the design process and to serve as a conduit for the community's voice in the design refinement and construction of the Piedmont Community Pool; and

WHEREAS, in October 2021, the City Council entered an agreement with ELS Architecture & Urban Design (ELS) for Architecture and Engineering Design Services for the Piedmont Community Pool project; and

WHEREAS, in December 2021, the City of Piedmont entered an agreement with Rincon Consultants, Inc. in connection with the preparation and filing of documents necessary to meet the requirements of the California Environmental Quality Act (CEQA) for the Piedmont Community Pool project; and

WHEREAS, on April 8, 2022, the City of Piedmont submitted design review permit application DRPC2022-026 to demolish existing locker rooms, carriage house, basketball courts, three swimming pools and all associated structures; and construct

two new swimming pools and an approximately 6,750 square-foot one-story structure and associated storage structures. The application also proposes to construct retaining walls and fencing of varying heights throughout the property; add exterior lighting including pole-mounted fixtures; install gates, guardrails and handrails throughout the site; modify and add landscaping throughout; and make several other associated site 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:

1. That based upon a detailed California Environmental Quality Act (CEQA) Class 32 Categorical Exemption (CE) report, prepared by Rincon Consultants, Inc., the project is categorically exempt under the California Environmental Quality Act Guidelines Section 15332, Class 32: In-fill development projects because: the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; the project site has no value as habitat for endangered, rare, or threatened species; approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality, and the site can be adequately served by all required utilities and public services.

2. That the project seeking approval under design review permit application DRPC2022-026 is consistent with General Plan policies and programs, and the proposal does conform to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

- A. The proposed design of the Community Pool project is consistent with the City's General Plan and Piedmont Design Guidelines because;
  - 1. The new facility is an attractive and functional design that provides important services to the community both recreationally and socially. The contemporary architectural style is an attractive addition to the rich mix of architecture found in the Civic Center area.
  - 2. The building materials (composite wood siding, slate wall shingles, metal railings and trellis, cement plaster walls, and metal and glass windows and doors) combine to make an aesthetically pleasing aquatics facility.
  - 3. The project seeks to employ alternative energy sources, meet LEED Silver certification and institute Bay-Friendly landscaping practices.
- B. The project has little to no effect on neighboring properties' existing views, privacy, and access to direct sunlight because;
  - 1. The site design employs terracing so that the facility follows existing topography to the greatest extent possible.
  - 2. The exterior lighting is appropriate for a recreational facility in the civic center adjacent to residential properties.
  - 3. Through the arrangement of the building, landscaping and fencing, the design provides sufficient screening between the project site and neighboring residential development so that there is no adverse impact on views, privacy or access to direct and indirect light.
- C. The project does not adversely affect pedestrian or vehicular safety because;
  - 1. The project improves on-site pedestrian access and circulation pattern.



2. The project provides bike parking and does not alter the existing vehicular circulation pattern in the public right-of-way; and
- D. The application complies with the following Design Guidelines: Chapters 3 (Site Design) 3.03, 3.08, 3.09, and Chapter 4 (Building Design) 4.05; and
- E. The project is consistent with General Plan policies and programs, including the Land Use Element Policies 3.1, 3.2, 4.1, 6.1, 6.2, 6.3, 6.4, and 6.5; Natural Resources and Sustainability Policies 14.5, 16.2, and 17.3; Design and Preservation Policy 27.9; Parks, Recreation and Open Space Policies 25.1 and 25.3; and Community Services and Facilities Policies 37.1, 37.2, 37.4, 27.5.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Piedmont does hereby resolve, declare, determine, and order as follows:

**SECTION 1.** The above recitals are correct and are incorporated into this Resolution as findings of the Planning Commission. This Resolution incorporates the contents of the staff report, attachments, and analysis included therein.

**SECTION 2.** The Piedmont Planning Commission approves the design review permit application for the construction at 777 Magnolia Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **C&D Compliance.** Applicant shall demonstrate compliance with Section 9.04 of the Municipal Code pertaining to the handling of construction and demolition debris.
2. **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). The applicant shall provide documentation that they have complied with the applicable regulations prior to the issuance of the Building Permit.
3. **Sound.** The proposed mechanical equipment shall meet the sound requirements of a maximum 50 decibels at the nearest property line as proscribed in Building Code Section 8.02.020.JJ. Any modifications in order to meet the sound requirements are subject to staff review and approval.
4. **Signage.** Any new or modified exterior signage is subject to the requirements of Division 17.36 of the City Code shall be subject to staff review and approval.
5. **Foundation/Shoring/Excavation Plan.** The Applicant 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 the property owner's 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.

6. **Final Landscape Plan.** Before issuance of a building permit, the Applicant shall submit for staff review and approval a Final Landscape Plan that shows trees proposed for retention as well as in-lieu trees required by a Certified Tree Preservation Plan. The final plan shall comply with City Code Division 17.34 and Section 17.32.30 and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. Upon the determination of the Director, minor differences in the number, size and/or species of vegetation between those shown on the approved landscape plan and those installed at the time of final inspection that do not involve an increase in hardscape or structure coverage may be subject to staff review and approval. Significant differences between the vegetation installed at the time of final inspection and vegetation shown on the approved landscape plan are subject to a design review permit.

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

8. **California's Water Efficient Landscape Ordinance (WELO):** Applicant shall comply with the requirements of California's Model Water Efficient Landscape Ordinance that went into effect December 1, 2015. All projects that disturb 2,500 sq. ft. of landscaping shall submit the following required information to the Building Department for review and approval:

(a) Landscape Documentation Package that includes the following six items: i) Project Information; ii) Water Efficient Landscape Worksheet; iii) Soil Management Report; iv) Landscape Design Plan; v) Irrigation Design Plan; and vi) Grading Design Plan. The Landscape Documentation Package is subject to staff review and approval before the issuance of a building permit.

(b) Once a building permit has been issued, the Applicant shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District.

(c) After completion of work, the Applicant shall submit to the City and East Bay Municipal Utility District a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report.

9. **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 in conjunction with the development of the Project.

10. **Storm Water Runoff.** Mechanically collected storm water from the Project site shall not drain onto neighboring properties. If design modifications are required to comply with this requirement, any such modifications shall be subject to staff review and approval.

11. **Environmental Hazards.** Prior to the issuance of a building permit, the Applicant shall provide a plan, including necessary testing, to verify compliance with

all local, state and federal regulations regarding the disturbance and removal of hazardous materials (if any) on residential properties including lead-based paint and asbestos, to the Chief Building Official's satisfaction. Said plan for the proper removal and handling of hazardous materials shall be provided on the appropriate sheets of the construction plan sets and included in the Construction Management Plan.

**12. Geotechnical Report and Review.** Prior to issuance of the Building Permit, The Applicant shall submit a report prepared by a geotechnical engineer that assesses 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 relevant information involving the Project.

**13. Construction Management Plan.** Prior the issuance of the Building Permit, the Applicant shall develop a comprehensive Construction Management Plan and submit for review and approval to the Director of Planning and Building. 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 Building Official has the authority to require the Construction Management Plan to be updated to reflect changes to conditions that may occur during the course of the Project up to the time of the Final Inspection.

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

**14. Construction Completion Schedule.** Work on the Project, once begun, shall be promptly and diligently 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 Planning and Building.

b. Before the commencement of any construction activities, the Director of Planning and Building 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 Planning and Building 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 Planning and Building. 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 Planning and Building shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.

d. At least two weeks prior to start of construction, the Applicant shall provide written notice to property owners and residents of all adjacent properties. Forms for this purpose are available on the City of Piedmont Planning and Building Department website. Alternatively, the Applicant can use their own notification material. This notification shall include the start date of the project, the scope of construction, the 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 noticing and provide a copy to City Building Official. The affidavit is available on the City of Piedmont Planning and Building Department website.

**15. Flexibility in Design Modification.** Any modification to the proposed design, including but not exclusive to: heights and location of retaining walls and fencing, exterior lighting, signage, exterior materials, egress/ingress points, and mechanical equipment location; shall be subject to staff review and approval.

**SECTION 3.** The Planning and Building Director is the custodian of documents and other materials that were considered by the Planning Commission and constitute the record of proceedings on which this decision was based. The records are located at the Planning & Building Department, 120 Vista Avenue, Piedmont, CA 94611.

**SECTION 4.** All portions of this resolution are severable. If an individual component of this Resolution is adjudged by a court to be invalid and unenforceable, then the remaining portions will continue in effect.

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

**Fence Design Review  
Permit,  
19 LaSalle Avenue,  
DRFW 2022-007**

The Property Owners are requesting permission to construct a wood fence along the street curb adjacent to the front property line. The fence is proposed to be located within the public right-of-way.

**Public testimony** was received from:

Sundeeep Grewal, designer, stated that the property owner wants to add a four-foot-high fence along the street level for security. The applications has been submitted to the Department of Public Works and they are in agreeance with the height and location of the fence. They will approve the application once the Planning Commission approves it.

Shreyas Doshi, Property Owner, stated that cars travel at high speeds on LaSalle Avenue. This is a safety concern, and the fence will significantly mitigate the risk for them and the structure of their home.

The Commissioners suggested that since the fence's main purpose is to prevent cars from crashing into their home, installing bollards behind the fence may provide preventive measures that would stop a car. Other suggestions were to install a fence completely on the owner's property and not on city property, or possibly to install a taller fence on the setback. A traffic safety engineer should be consulted.

Commissioner's Duransoy, Strout, and Batra agreed that there is a safety concern, the fence is a nice design and functionable. Commissioner's Zucker stated his concerns including that it does not have the intended result, drivers could go more towards the center than the curb, the location on city property is inappropriate when there is ample room on the owner's property. Commissioner Levine stated its inconsistent with the design guidelines, its only a partial fence, it would be the only fence on the street, and the safety function.

**Resolution 007-DRFW-22**

WHEREAS, the Property Owners are requesting permission to construct a wood fence along the street curb adjacent to the front property line within the public right-of-way, 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 15303, Class 3 (e) New Construction or Conversion of Small Structures, 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. The following building features are consistent with the original architecture and neighborhood development including, the fence design and location, and fence 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. The view is not a significant view.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project does not change the property's existing conditions regarding to pedestrian and vehicular safety.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: Site Design 3.09 (Fence and Walls).

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

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 19 LaSalle 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. **Building Permit.** The applicant must obtain a building permit prior to the expiration of this design review approval.
3. **Revocable Encroachment Permit.** Before the issuance of a building permit, the Property Owner shall apply for a revocable encroachment permit to allow for the construction within the public right-of-way.
4. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security emergency access, and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.
  - a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management

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

Moved by Duransoy, Seconded by Strout

Ayes: Batra, Duransoy, Strout

Noes: Levine, Zucker

Abstain: None

Absent: Ramsey

**Fence Design Review  
Permit,  
220 Scenic Avenue,  
DRFW 2022-008**

The Property Owner seeks retroactive approval to remove existing wood retaining walls and site stairs and constructing stepped concrete retaining walls up to 6 feet tall and concrete site stairs within the 20-foot-street setback. The application also proposes to install a handrail, add exterior lighting, and make other associated exterior modifications.

**Public testimony** was received from:

Yulia Costello, Property Owner, stated the planter is to improve the safety when exiting the driveway. It's a narrow street with parking on one side.

The Commissioners expressed some concerns regarding the proposed landscape lighting fixture and stated that all the glass on the lights needed to be the same. The Commissioners further added that the new concrete blocks need to be painted to match existing concrete blocks and have the same finish; and that the middle-terraced wall appears to be taller than existing, however the drawings call out that wall as not being modified. The width of the new site stairs was questioned and to which Associate Planner Gopika Nair responded that the Building Department's requirement was to add a guardrail. The quality of work as shown in the application materials is not what would normally be approved. Better information is needed, including drawings.

**Resolution 008-DRFW-22**

WHEREAS, The Property Owner seeks retroactive approval to remove existing wood retaining walls and site stairs and constructing stepped concrete retaining walls up to 6 feet tall and concrete site stairs within the 20-foot-street setback. The application also proposes to install a handrail, add exterior lighting, and make other associated 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 having visited the subject property, the Piedmont Planning Commission finds that that the project is inconsistent with General Plan policies and programs; and,

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. The following building features are not consistent with the

original architecture and neighborhood development including, the retaining wall material, the retaining wall height and location, and the handrail material.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because there is sufficient vegetative and solid screening.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project improves on-site pedestrian and vehicular patterns.

4. As conditioned, the application does not comply with the following Design Review Guidelines and General Plan policies and programs: Site Design 3.08 (Retaining Walls), and 3.12 (Exterior Lighting).

5. The project is not consistent is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.6 (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 denies the design review permit application for the improvements at 220 Scenic Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Fence Design Review  
Permit,  
228 St. James Drive,  
DRFW 2022-010**

The Property Owners request a fence design review permit to seek retroactive approval for constructing an arbor structure and replacing the front yard fence. Portions of the fence and arbor are located within the 20-foot-street yard setback.

**Public testimony** was received from:

David Shamanik, designer, stated that the project replaced the existing wood fence with a new wood fence with metal posts and metal frames, and an addition of an arbor structure at the pedestrian gate. Portions of the arbor and fence are within the setback. The new fence and gates are the same height as what was existing. There will be a vine on the arbor. The lawn was taken out of the middle and replaced with plants. The fence is a flat, black color.

The Commissioner' agreed that the fence color should be more aligned with the color of the home and the arbor needs to be scaled down in size and bulk.

**Resolution 010-DRFW-22**

WHEREAS, The Property Owners are requesting retroactive approval for constructing an arbor structure and replacing the front yard fence partially 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 is



categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15303, Class 3 (e), New Construction or Conversion of Small Structures because as a fence it is a small accessory, and the project is consistent with General Plan policies and programs; and,

WHEREAS, regarding the design review permit, the Planning Commission finds that that the project is consistent with General Plan policies and programs, and the proposal 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, the fence material, the fence location and height, and the arbor 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 the view is not a significant view.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project does not change the property's existing conditions regarding to pedestrian and vehicular safety. The project maintains adequate visibility for entering and exiting the driveway.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: Site Design 3.09 (Fences and Walls, and 3.13 (Location of Site Features).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 29.3 (Front Yard Enclosures), and Design and Preservation Element Policy 29.5 (Fence and Wall Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 288 St. James Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

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. **Arbor Design.** The arbor shall be redesigned to reduce its scale and bulk so that it is an extension of the gate. The final design is subject to staff review and approval.

3. **Fence and Gate Wood Finish.** The fence and gates shall be painted or stained to match the existing building trim of the main residence. The final design is subject to staff review and approval.

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

**Variance and Design  
Review Permit,  
341 Olive Avenue,  
DRPC+V 2022-018**

The Property Owners are requesting construct a new garage roof deck at the front of the property and to make other various exterior modifications, including change the roofing material on the main residence; new windows, doors and exterior lighting; a new flat lens sun tunnel; a new side yard gate, retaining walls, rail walls, and decorative vents and guardrails. Two variances are needed in order to construct the garage roof deck within the 20-foot street yard setback and the 5-foot left side yard setback

**Public testimony** was received from:

Stanley Wong, Property Owner/designer, stated they'd like to expand the home through the basement. This project is to beautify their home and were encouraged by their neighbors.

The Commissioners stated their support the project under Option 1 with the roof deck.

**Resolution 018- V/DRPC-22**

WHEREAS, the Property Owners are requesting to construct a new garage roof deck at the front of the property and to make other various exterior modifications, including: change the roofing material on the main residence; new windows, doors and exterior lighting; a new flat lens sun tunnel; a new side yard gate, retaining walls, rail walls, and decorative vents and guardrails; which construction requires a design review permit; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct the garage roof deck within the 20-foot street yard setback and the 5-foot left side yard setback and;

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application and after 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, and the project was consistent with General Plan policies and programs; and

WHEREAS, the variances from the 20-foot street yard setback and the 5-foot side yard setback is approved because the project complies 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 the lot is unusually narrow, and the lot has unusually steep topography. 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 property is compatible with the immediately surrounding neighborhood and the public welfare because a majority of neighboring properties have garages located close to the street. There are other properties in the surrounding neighborhood that have existing roof decks.
3. Accomplishing the improvements without a variance would cause unreasonable hardship in planning, design or construction because the house would need to be demolished in order to supply a conforming garage.

WHEREAS, regarding the design review permit, the Planning Commission finds that the project is consistent with General Plan policies and programs, and the proposal does conform 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 roof deck form, the roof deck material, the window and door material and fenestration pattern, and the guardrail material.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the view is not a significant view, the topographical differences are appropriate to preserve privacy, views and light, the development is within the existing building envelope, and the guardrails have openings to allow light to pass through.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project does not modify on-site parking conditions, and the project maintains adequate visibility for entering and exiting the driveway.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: Site Design 3.11 (Landscape and Hardscape Design), 3.12 (Exterior Lighting), Building Design General 4.02 (Building Elements), 4.03 (New Replacement and New Windows), and Single Family Residential 5.02 (Detached and Attached Garages).
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), 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 variances and design review permit application for the construction at 341 Olive Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

2. **Window Trim.** The trim of the new windows and doors shall be consistent with those of original windows and doors, throughout.
3. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
4. **Window Recess.** All new windows shall be recessed at least one 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. **Patch Wall.** The walls where windows and doors are removed shall be patched and painted to match the adjacent wall.
7. **Garage Door.** To facilitate vehicular access, the new garage doors 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 doors shall have a battery backup function that is design to operate when activated in the event of an electrical outage.
8. **Setback from Property Line Verification.** Prior to foundation inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the new garage is located at the setback dimension from the south and east property lines as shown on the approved plans. The intent is to verify that the approved structure is constructed at the approved dimension from the property line and entirely on applicant's property.
9. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
10. **Sun Tunnel Flashing.** The metal flashing around the new flat lens sun tunnel shall be painted to match the adjacent roof color.
11. **Final Landscape Plan.** Before issuance of a building permit, the Applicant shall submit for staff review and approval a Final Landscape Plan that proposed landscaping for all areas disturbed by construction. The final plan shall comply with City Code Division 17.34 and Section 17.32.30, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. Upon the determination of the Director, minor differences in the number, size and/or species of vegetation between those shown on the approved landscape plan and those installed at the time of final inspection that do not involve an increase in hardscape or structure coverage may be subject to staff review and approval. Significant differences between the vegetation installed at the time of final inspection and vegetation shown on the approved landscape plan are subject to a design review permit.
12. **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.

**13. Contractor’s General Liability Insurance.** As required by the Building Official, 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. The Property Owner’s failure to provide such notice shall constitute grounds for revocation of the City’s design review approval and/or permit. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor’s requirement of this section.

**14. 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 of the Project (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 Applicant shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage of the project as a whole for each phase.

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

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

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

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

**Variance and Design  
Review Permit,  
360 Wildwood Avenue,  
DRPC+V 2022-019**

The Property Owners are requesting permission to construct exterior stair structure in the right side (west) yard; convert basement crawl space into an approximately 1,771 square-foot two-story habitable area; expand the rear terrace by approximately 330 square feet and construct a wood trellis structure atop; construct retaining walls of varying heights in the rear and side yards; make window and door modifications on the side and rear façades; install site features in the rear including outdoor fire pit, hot tub, stonewall with water feature and outdoor grill; add exterior lighting; install wood guardrails and handrails where necessary; install two air conditioning units in the rear; make hardscape and landscape modifications in the front and rear yard; and make several other associated interior and exterior modifications. Variances are required in order to construct in the 5-foot side (west) yard setback and to create a fourth bedroom without providing the parking spaces required for single-family residences.

**Public testimony** was received from:

Claire Amo, Property Owner, stated they would like to add a fourth bedroom back into the home and also a living area with a kitchenette, in the garden area.

Glen Jarvis, architect, stated this house is on a south sloping site. Developing this space will connect the house to the yard. Two aspects of the project that require variances are the height of the stairs in the side yard and the width of the existing 2-stall garage. The house was conforming until recently and currently the garage width is 1 foot less than required.

The Commissioners stated their appreciation of the design and their support for the project.

**Resolution 019-V/DRPC-22**

WHEREAS, the Property Owners are requesting permission to construct exterior stair structure in the right side (west) yard; convert basement crawl space into an approximately 1,771 square-foot two-story habitable area; expand the rear terrace by approximately 330 square feet and construct a wood trellis structure atop; construct retaining walls of varying heights in the rear and side yards; make window and door modifications on the side and rear façades; install site features in the rear including outdoor fire pit, hot tub, stonewall with water feature and outdoor grill; add exterior lighting; install wood guardrails and handrails where necessary; install two air conditioning units in the rear; make hardscape and landscape modifications in the front and rear yard; and make several other associated interior and exterior modifications, which construction requires a design review permit; and

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct in the 5-foot side (west) yard setback and to create a fourth bedroom without providing the parking spaces required for single-family residences; 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, and the project is consistent with General Plan policies and programs; and

WHEREAS, the variances from the 5-foot side yard setback and the parking requirements are approved because the project complies 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 the lot has unusually steep topography, and the existing on-site stair on the east side has a steep decline and can present challenging on-site pedestrian circulation. 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 compatible with the immediately surrounding neighborhood and the public welfare because there are other homes in the neighborhood with structure in the side yard setbacks.
3. Accomplishing the improvements without a variance would cause unreasonable hardship in planning, design or construction because widening the garage by 1 foot could push the house in the 5-foot side yard setback. For constructing on-grade stairs closer to the house and within 3 feet from the house footprint could necessitate the west side chimney removal. Due to steep topography, constructing on-grade stairs can be challenging for building and fire access safety reasons.

WHEREAS, regarding the design review permit, the Planning Commission finds that that the project is consistent with General Plan policies and programs, and the proposal does conform 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, the window and door material and fenestration pattern, the design of the two-story addition in the



rear, the location of site features- fire pit, hot tub, wall with water feature and outdoor grill, and the design and material of trellis, planter and guardrails.

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 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 proposes no change to the existing vehicular circulation and the project improves the on-site pedestrian circulation.

4. The application complies with the following Design Review Guidelines and General Plan policies and programs: Site Design 3.03, 3.08, 3.09, 3.11, 3.12, 3.13, Building Design General 4.01, 4.02, 4.03, 4.04 and Single Family Residential 5.01.

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.7 (Hillside Home Design), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.6 (Retaining Walls), and Design Preservation Element Policy 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variances and design review permit application for the construction at 341 Olive 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. **Setback from Property Line Verification.** Prior to foundation inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the new stair structure in the side (west) yard is located at the setback dimension from the west property line as shown on the approved plans. The intent is to verify that the approved structure is constructed at the approved dimension from the property line and entirely on applicant's property.

4. **Window and Door Material.** As specified in the plans and application material, the building material for the door shall be wood and windows shall be aluminum-clad wood.

5. **Window Trim.** The new exterior window trims shall be consistent with original trim throughout.

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

7. **Window Recess.** As specified in the plans and application material, all new windows shall be recessed 2 inches from the exterior wall plane 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.

8. **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.

9. **Sound.** The proposed AC units and hot tub shall meet the sound requirements of a maximum 50 decibels (dBA) at the nearest property line as proscribed in Building Code Section 8.02.020.JJ. Any modifications in order to meet the sound requirements are subject to staff review and approval.

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

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

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

12. **Sound and Vibration Mitigation Plan and Review.** At the option of the Building Official, the property owner shall submit a plan prepared by a licensed engineer that fully assesses the existing site conditions for the mitigation and monitoring of vibration and decibel levels at the Project site during construction, to the satisfaction of the Director of Planning and Building. Applicant shall also provide for a licensed engineer to be periodically present at the construction site during excavation and foundation work in order to monitor sound and vibration levels. In the event such monitoring indicates that the sound or vibration levels exceed those anticipated in the Applicant's Construction Management Plan and/or the Sound and Vibration Mitigation Plan, Applicant shall cease all work on the Project and notify the Director

of Planning and Building. Work on the project may not resume until Applicant provides a plan to ensure that the sound and vibration transmissions generated by work on the Project can be maintained at or below a reasonable level and duration in accordance with the Construction Management Plan and/or Sound and Vibration Mitigation Plan.

Peer Review. The Applicant shall provide City full payment for the retention of an independent engineering consultant to perform a peer-review of the Applicant's Sound and Vibration Mitigation Plan. Applicant shall provide a deposit of \$5,000 at the time of the Building Permit application submittal.

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

**14. Consultant Cost Recovery.** In order to accommodate the scope and nature of the Project proposed by the Applicant, in the event the Director of Planning and Building deems it necessary to retain independent consultants with specialized expertise, including the City Engineer, the Applicant shall make a cash deposit with the City at the time of the Building Permit Application submittal 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. Any such independent consult shall be retained at the Applicant's sole cost. In the event the cash deposit is \$2,500 or less at any time, the Director of Planning and Building may require the Applicant to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained in conjunction with the Applicant's Project. Any unexpended amounts shall be refunded to the Applicant within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

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

**16. Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security emergency access, and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official

has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.

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

b. **Renovation / New Construction.** Pursuant to Section 17.32.6 of the Municipal Code, if for any reason more than 70% of the physical structure (as determined by the Building Official) is demolished or destroyed, the building shall conform to new building and planning Code requirements. If this occurs during demolition, all work must stop and a new hearing and public review by the Planning Commission is required.

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

**17. 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.

**18.Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan for the front yard (north) 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.

**19.Arborist’s Report and Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall submit an Arborist’s Report and Certified Tree Preservation Plan that includes tree preservation measures to preserve the two existing trees near in the rear yard around the proposed deck expansion. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. 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 Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

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

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

**Design Review Permit,  
160 LaSalle Avenue,  
DRPC 2022-020**

The Property Owners are requesting permission to make the following modifications: construct a 543-square-foot accessory structure containing a guest studio and two-car garage; construct a pool and spa in the rear yard; construct an arbor, loggia, outdoor kitchen, and outdoor fireplace in the rear yard; construct a new wall within the 20-foot street yard setback; install new paths, patios, fencing, walls, and landscaping throughout the property; and make various interior and exterior modifications.

**Public testimony** was received from:

Robert Amen, Property Owner, stated they have made alterations to the previous design proposed to the Commission in February. The new design was created per the commission's suggestions, including stepping down the wall, reducing the size of the windows, reducing the size of the guest studio, moving the structure further away from the property line, and eliminating the need for a variance.

Bennett Christopherson, designer, stated the guest studio will be located above the double garage. The existing masonry wall, at the 20-foot setback, on Crocker, on the west side, will be replaced. Masonry walls will be built on the south and east property lines. All walls will be randomly installed brick and will match the home. The backyard will be level across LaSalle and then will step down about midway from the south elevation.

Jeff George, landscape architect, stated there is a new elevation that is viewed from the property to the south, showing the elevation of the wall. It shows the neighbor's existing grade and the owner's existing grade. It shows the maximum height from their side being 9 feet not 11 feet. The wall steps down with grade. The intent is to have a Mediterranean Spanish style courtyard feel to the property. The structure was moved back 7 feet, to add additional space.

Max Nassiri, neighbor at 1218 Ashmount Ave, stated he does not support the project. The large windows have direct view of their back yard, giving no privacy. The 7-foot setback is insufficient to accommodate mature trees. The 9-foot wall will give a prison-like feel. The foundation of the masonry wall would damage the root system of old cypress trees.

Aaron Salloway, neighbor 270 Crocker Avenue, stated his concerns with the new proposed wall, privacy, height of structure, window location on the accessory structure, and noise and light restrictions.

The Commissioners expressed they do not support the project. They felt that the design was beautiful but agreed that the scale of the structure is too bulky for the property, the structure is still too tall, the window location on the accessory structure affects neighbor privacy, and that the wall height "boxed in" adjacent neighbors. The Commissioners discussed leaving the addition's first floor set on the same plane, and the second floor should be set back to reduce the bulk of the wall, reducing the size or reconfiguring the garage level, redesigning the kitchen on the upper level, and the terrace of the addition is too close to the neighbor's outdoor space. The size and height of the accessory structure competes with the main house and needs to be scaled more appropriately. The Commissioners agreed that the applicants are close to proposing a successful design.

**Resolution 020-DRPC-22**

WHEREAS, The Property Owners, are requesting permission to make the following modifications: construct a 543-square-foot accessory structure containing a guest studio and two-car garage; construct a pool and spa in the rear yard; construct an arbor, loggia, outdoor kitchen, and outdoor fireplace in the rear yard; construct a new wall within the 20-foot street yard setback; install new paths, patios, fencing, walls, and landscaping throughout the property; and make 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 having visited the subject property, the Piedmont Planning Commission finds that that the project is inconsistent with General Plan policies and programs; and,

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. The following building features are not consistent with the original architecture and neighborhood development including, the accessory structure's size and location that competes with the main building, the accessory structure's roof height, the accessory structure's window placement specifically on the neighbor's side, and the terrace location.

2. The design does have an adverse impact on neighboring properties' existing views, privacy, and access to direct and indirect light because the wall proposed with the adjacent neighbor's yard is too tall and creates a negative impact on the quality of the neighbor's outdoor living area.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project improves the on-site parking conditions.
4. As conditioned, the application does not comply with the following Design Review Guidelines and General Plan policies and programs: Site Design 3.03, 3.09, and Single Family Residential 5.01.
5. The project is not consistent is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), and Design and Preservation Element Policy 29.6 (Retaining Walls).

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

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

**Variance and Design  
Review Permit,  
241 Sunnyside Avenue,  
DRPC+V 2022-021**

The Property Owners are requesting permission to construct a 511 square foot second-story addition at the southeastern corner of the residence, construct new windows and doors, reconstruct the side staircase, and make other exterior and interior modifications. Variances are required in order to 1) add a third bedroom without providing conforming parking and 2) exceed the maximum 55% floor area ratio

**Public testimony** was received from:

Marc Fletcher, Property Owner, stated his home is located on a corner lot and has no parking zones on the corner. It currently provides for 2.5 on-street parking spaces. Requiring to conforming parking would lead to the elimination of one less on-street parking spaces and the house currently provides off-street tandem spaces. Requiring conforming parking is not an adequate method to improve safety. He would like to add one bedroom, making it a three-bedroom home. The proposal's floor are ratio is consistent with the FAR in the surrounding neighborhood.

Steve Shirley, designer, stated the proposed design follows the city guidelines for bulk, roof lines, height, and placement of the addition on the property. To have conforming parking, a garage needs to be built towards the east in order to have side-by-side parking which would reduce space between the house and neighboring property. Neighboring properties are able to enjoy having more bedrooms, less conforming parking, and more floor area than 241 Sunnyside. The Mr. Shirley confirmed story poles are 10 feet tall.



Tony Chang, neighbor at 243 Sunnyside Avenue, stated he is against the project. It blocks the light to the west side of his property. He is against the parking variance because the street is already overcrowded with cars and is usually full of parked cars.

William Fitzsimmons, neighbor at 352 Olive Avenue, stated they are against the parking variance because there is already a shortage of parking. They also oppose the addition because it would also have a significant negative impact on the direct and indirect light, privacy, views, and the value of their home.

Monica Chase, neighbor at 352 Olive Avenue, relinquished her time to her husband William Fitzsimmons.

Helen Steers, neighbor at 340 Olive Avenue, stated she is against the parking variance because there is already a shortage of parking, traffic is congested, and traffic are not always aware of the children that use the crosswalks, making it unsafe.

The Commissioners agreed that they do not support the project. The significant FAR increase was not justifiable, and the lower floor suggests that there is room in the home to expand in the building envelope, without affecting the neighbors. The project could exacerbate parking issues in the neighborhood as well.

**Resolution 021- V/DRPC-22**

WHEREAS, the Property Owners are requesting permission to construct a 511 square foot second-story addition at the southeastern corner of the residence, construct new windows and doors, reconstruct the side staircase, and make other exterior and interior modifications, which construction requires a design review permit; and

WHEREAS, variances are required in order to 1) add a third bedroom without providing conforming parking and 2) exceed the maximum 55% floor area ratio; 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 not consistent with General Plan policies and programs; and

WHEREAS, the variance to exceed the 55% floor area ratio limit is denied, without prejudice because the project does not comply with the variance criteria under Section 17.70.040 as follows:

1. In regard to the Floor Area Ratio (FAR), the property and existing improvements do not present unusual physical circumstances of the property. Strictly applying the terms of this chapter does not keep the property from being used in the same manner as other conforming properties in the zone. The house is currently within the FAR requirements and there are ways to develop this property within the existing building envelope without increasing the structure size of the project.
2. The project is not compatible with the immediately surrounding neighborhood and the public welfare, in regard to the FAR because there are other houses in the neighborhood that have similar bedroom counts without exceeding the FAR.
3. Accomplishing the improvements without a variance would not cause unreasonable hardship in planning, design or construction because it is possible to develop floor area on the basement level and avoid building upwards.

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

1. The proposed design is not consistent with the City's General Plan and Piedmont Design Guidelines, in regard to the addition's location and height. The following building features are not consistent with the original architecture and neighborhood development including, the location of the proposed addition on the roof.
2. The design does have adverse effect on neighboring properties' existing views, privacy, and access to direct and indirect light, given its location with respect to the neighbors below and to the side.
3. The proposed design, which would increase the intensity of the use of the house, but without providing additional off-street parking, may have an adverse effect pedestrian or vehicular safety because of the testimony received about how busy this neighborhood is particularly during commercial hours.
4. The application does not comply with the following Design Review Guidelines and General Plan policies and programs: Site Design 3.03 (Site Development) and Building Design Single Family Residential 5.01 (Building, Scale and Massing).
5. The project is not consistent with General Plan policies and programs, including the location of site features including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), and Design and Preservation Element Policy 31.3 (Context-Sensitive Design).

WHEREAS, the variance from the parking requirements is not necessary because there is no approved design that necessitates such a variance.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the variance request from the floor area ratio limit and the design review permit application for construction at 241 Sunnyside Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City. The request for a parking variance is continued to a subsequent meeting at which the applicant seeks approval for a revised design in a new application.

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

**Design Review Permit,  
20 Bellevue Avenue,  
DRPC 2022-023**

The Property Owners, are requesting permission to modify previously approved plans and make the following modifications: construct an 841 square foot detached garage at the northeast corner of the property; convert the existing attached garage into habitable space; demolish and rebuild the family room wing, featuring a 589 square foot second-story addition; construct a pool and spa; install new windows and doors; and construct new retaining walls, an outdoor kitchen, patios, pathways, landscaping, and other changes throughout the property

**Public testimony** was received from:

Tyler Velten, architect, stated they have a few modifications to their original plan. The project proposes three main changes: 1) Leave the existing driveway intact, thus slightly raising the height of the previously approved detached garage; 2) expand the second-floor bedroom over the previously approved family room; 3) add a pool and spa to the rear yard. They have consulted with soil, structural and civil engineers to maintain and improve the stability of the hillside for the construction of the retaining walls. They will share their engineering analysis and designs with their neighbors who requires more information. In regard to the windows on the second floor, in regard to that specific elevation for window 217, the windows have been pulled forward on that elevation, and they are not increasing any windows, therefore not adding any views to the neighbors that are not already existing on the second-floor level. The big window in the garage provides light into the garage, with a vaulted ceiling, and the space will be used for storage.

Thomas Yee, neighbor at 449 Mountain Avenue, stated the addition is within 15-ft of their west property line and the addition is too massive and will affect views. Their main living spaces are directly opposite the addition and the construction of a new pool, spa, and deck areas, all within 10-ft of our property line. They are concerned about noise and about possible compromise of the stability and integrity of the soil and ground on our property.

Jeff Wong, speaking on behalf of Roy Wong, neighbor 453 Mountain Avenue, stated they concur with Thomas Yee. Mr. Wong also wanted the commission to know that the applicant's notice dated April 6, 2022, to be considered by planning commission on or after May 11, 2022, is wrong on the owner's design review permit application.

The commissioners expressed some concerns about the intensity of the project. The project does increase the bulk of the structure and the intensity of use at the back of the property, and that does impact the neighbors to the rear. The size and height of garage should be reduced and be constructed according to previous approval. The east-facing windows of the upper-level addition should be removed for privacy reasons. The second floor should be setback more to give more relief from bulk images to the adjacent neighbor.

**Resolution 023-DRPC-22**

WHEREAS, The Property Owners, are requesting permission to modify previously approved plans and make the following modifications: construct an 841 square foot detached garage at the northeast corner of the property; convert the existing attached garage into habitable space; demolish and rebuild the family room wing, featuring a 589 square foot second-story addition; construct a pool and spa; install new windows and doors; and construct new retaining walls, an outdoor kitchen, patios, pathways, landscaping, and other changes throughout the property, 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, and the project is consistent with General Plan policies and programs; and

WHEREAS, regarding the design review permit, the Planning Commission finds that that the project is consistent with General Plan policies and programs, and the proposal does conform 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 detached garage height and location, the roof form, roof material, and wall material of the garage, the second story addition's roof form and wall material, the window and door materials and fenestration pattern, the pool and spa location and design, and the height and design of the retaining walls.

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, there are no significant views, there is sufficient vegetative screening, and the topographical differences are appropriate to preserve privacy, views and light.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project does not modify on-site safety conditions, the project maintains adequate visibility for entering and exiting the driveway, and the driveway backup distance is within the Design Guidelines maximum of 75 feet.

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, 3.13, Building Design General 4.01, 4.02, 4.03, 4.04, and Single-Family Residential 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: 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.5 (Garages, Decks and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.2 Landscape Design), Design and Preservation Element Policy 29.6 (Retaining Walls), Design and Preservation Element Policy 29.7 (Driveway and Parking Locations, Design Preservation Element Policy 29.8 (Exterior Lighting), Design and Preservation Element Policy 29.9 (Sights Obstructions), 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 variances and design review permit application for the construction at 341 Olive 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, metal-clad wood, and 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 approximately 4.75 inches from the exterior wall plane 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 staff 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. **Sound.** The proposed pool equipment, condenser, and any other mechanical equipment shall meet the sound requirements of a maximum 50 decibels (dBA) at the nearest property line as proscribed in Building Code Section AK103.2. Any modifications in order to meet the sound requirements are subject to staff review and approval.

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

8. **Driveway.** As shown on the plans, the driveway gate shall be motorized to facilitate vehicular access.

9. **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.

10. **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.

11. **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.

12. **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.

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

**14. 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 levels and roof of the new structure are constructed at the approved height above grade.

**15. Sewer Main Condition and Repair.** City records indicate that City storm and sewer mains and associated easements are located at the very rear of the adjacent property at 453 Mountain Avenue, a location that is near the rear of the proposed construction of the new garage and storage structure. Prior to the issuance of a building permit, the Property Owner shall submit a revised copy of the site plan or survey to show sewer manhole covers and any easements. Said easements and manhole covers shall also be shown on the building permit drawings. The applicant shall also work with City staff to verify the location and depth of the storm and sanitary sewer mains. In addition, the City shall videotape the existing sanitary and storm sewer mains to assess their pre-construction condition in order to make a determination as to whether any repairs to or replacement of the sewer main is required prior to the commencement of excavation and/or construction. (The City is responsible for the cost of the main line, and the property owner for costs of the lateral.) As part of the final inspection the same sanitary and storm sewer lines shall be inspected as required by the Director of Public Works, who shall also determine if the sewer lines were damaged as a result of the construction and therefore must be repaired at the applicant's expense. The applicant is responsible to locate their private sewer lateral and note such location on the building permit drawings.

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

measure(s) required under Provision C.3.i into the plans submitted for a building permit. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at [cleanwaterprogram.org](http://cleanwaterprogram.org).

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

**18. 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.

**19. Arborist's Report and Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures to preserve all trees proposed to be retained within proximity of construction. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. 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 Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

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

a. Peer Review. The City, at the Property Owner's sole expense, shall retain an independent geotechnical consultant to perform a peer-review of the Property

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

21. **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.

22. **Notice of Restricted Use.** The basement storage space 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 purposes.

23. **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).

24. **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.

**25. California's Water Efficient Landscape Ordinance:** If over 2,500 square feet of area is disturbed, the Property Owner shall comply with the requirements of California's Model Water Efficient Landscape Ordinance that went into effect December 1, 2015, by submitting the following required information to the Building Department:

(a) Landscape Documentation Package that includes the following 6 items: i) Project Information; ii) Water Efficient Landscape Worksheet; iii) Soil Management Report; iv) Landscape Design Plan; v) Irrigation Design Plan; and vi) Grading Design Plan. The Landscape Documentation Package is subject to staff review and approval before the issuance of a building permit.

(b) Once a building permit has been issued, the Property Owner shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District.

(c) After completion of work, the Property Owner shall submit to the City and East Bay Municipal Utility District a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report. The City may approve or deny the Certificate of Completion.

26. **Garage Design.** The proposed detached garage shall maintain the grade level and design approved at the June 14, 2021, Planning Commission meeting. The garage shall be built according to the previously approved height and dimensions.

27. **Second Story Windows.** The proposed addition's second level set of three east-facing windows, labeled as W217 on the window schedule, shall be removed. The revised design is subject to staff review and approval.

28. **Second Story Addition.** The eastern exterior wall of the second story addition at Call Line A shall be moved westward at least as far as the wall of the bay of window W216 at Call Line 5 as shown on plan sheet A2.07. The revised design is subject to staff review and approval.

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

**Design Review Permit,  
221 Bonita Avenue,  
DRPC 2022-024**

The Property Owners are requesting permission to construct an approximately 940-square-foot two-story addition in the northwest corner of the house and an approximately 535 square-foot wood deck and stairs addition with a wood trellis roof cover in the rear (west) side of the house; construct a wood fence and gates up to 7 feet tall in the side (north) yard; make window and door modifications on the sides (north and south) and rear; make interior modifications on all levels; make landscape and hardscape modifications in the side and rear yards; add exterior lighting and skylights; add outdoor grill; and make several other associated interior and exterior modifications.

**Public testimony** was received from:

Jennifer Siegel, Property Owner, stated they always had a plan to expand the home in the backyard. The proposed addition would create a larger kitchen, a true master bedroom, and a more useful deck off of the existing structure.

Tim Wooster, designer, stated improving natural light is a major driver in the design and our sensitive of the impact to our neighbors at 217 Bonita Avenue. We have submitted a light study site plan and light study sight sections.

Thomas McKay, neighbor at 217 Bonita Avenue, stated their concerns are with the proximity and height of the new addition. Their privacy and access to light will be diminished.

The Commissioners stated their concerns. The second floor should be set back at a greater distance from the north property line. The windows facing the adjacent neighbors should be minimized. There is a better design that will minimize the neighbor's concerns.

**Resolution 024-DRPC-22**

WHEREAS, The Property Owners, are requesting permission to construct an approximately 940-square-foot two-story addition in the northwest corner of the house and an approximately 535 square-foot wood deck and stairs addition with a wood trellis roof cover in the rear (west) side of the house; construct a wood fence and gates up to 7 feet tall in the side (north) yard; make window and door modifications on the sides (north and south) and rear; make interior modifications on all levels; make landscape and hardscape modifications in the side and rear yards; add exterior lighting and skylights; add outdoor grill; 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 having visited the subject property, the Piedmont Planning Commission finds that that the project is inconsistent with General Plan policies and programs; and,

WHEREAS, regarding the design review permit, the Planning Commission finds 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. The following building features are not consistent with the original architecture and neighborhood development: the addition's size and location, and the window design and placement.
2. The design has no adverse effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the upper level of the project and neighboring homes is insufficient, and there is room to construct towards the center of the lot.
3. The proposed design does not adversely affect pedestrian or vehicular safety.
4. As conditioned, the application does not comply with the following Design Review Guidelines and General Plan policies and programs: Site Design 3.03, and Single-Family Residential 5.01.
5. The project is not consistent 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), and Design and Preservation Element Policy 28.3 (Additions).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the design review permit application for the improvements at 221 Bonita, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**ADJOURNMENT**

There being no further business, Chair Batra adjourned the meeting at 10:35 p.m.