

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Tuesday, December 9, 2019

A Regular Session of the Piedmont Planning Commission was held December 9, 2019, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a), the agenda for this meeting was posted for public inspection on November 25, 2019.

CALL TO ORDER

Chairman Levine called the meeting to order at 5:00 p.m.

ROLL CALL

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

Absent: None

Staff: Planning & Building Director Kevin Jackson, Associate Planner Dana Peak, and Planning Technician Steven Lizzarago

PUBLIC FORUM

There were no speakers for the public forum.

REGULAR SESSION

The Commission considered the following items of regular business:

APPROVAL OF MINUTES

Resolution 26-PL-19

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the October 29, 2019, special hearing of the Planning Commission.

Moved by Batra, Seconded by Ramsey

Ayes: Alessio, Batra, Levine, Ramsey, Strout

Noes: None

Abstaining: Duransoy

Absent: None

Resolution 27-PL-19

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the November 12, 2019, regular hearing of the Planning Commission.

Moved by Alessio, Seconded by Duransoy

Ayes: Alessio, Batra, Duransoy, Levine, Ramsey

Noes: None

Abstaining: None

Absent: None

REGULAR CALENDAR

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

Variance and Design Review Permit 32 Bellevue Avenue

The Property Owners are requesting permission to add 291 square feet of habitable area in the basement level; to make window and door modifications on all facades of the housing including adding two window wells on the front facade and to add an awning on the rear facade; and to make landscape and hardscape modifications to the rear yard including the construction of new retaining walls and outdoor lighting. A variance is required to exceed the maximum allowable floor area ratio of 50% for a parcel greater than 5,001 square feet but less than 10,000 square feet.

Public testimony was received from:

Brad Sloan, Property Owner, reported he attempted to be consistent in restoring the home to its original design. However, modifications are needed. At the rear of the house, the original French door has been retained. One window on the rear has been replaced with a door into the mudroom. The applicant proposes to remove the pinwheel window above the door.

Brian Hebert, project contractor, explained that the light wells on the south side of the house were the planned route to move equipment into the basement. Because bedrock had to be removed from the basement, the south wall was demolished to allow heavy equipment into the basement. During the work, dry rot damage was repaired, and drainage improvements were made. The applicant proposes to replace the light wells with window wells. In the sunroom, the original windows have been preserved, but the glass has been replaced with tempered glass. The size of the original window units did not work in the mudroom, and a door that fits the space was installed. The original alignment of the stained-glass window with the French doors has been preserved. He advised that the architect did not tell him the increased habitable space in the basement would increase the floor area ratio. The list of improvements stated in the staff report has been started but not completed.

Emi Sherman, project architect, advised that when she became aware that making the space habitable would exceed the floor area ratio, she informed the contractor to stop work and obtain a variance. With the previously approved application, she reported she and the homeowners discussed making the space habitable and decided not to proceed with it because it would exceed the floor area ratio. The original light wells on the south facade are small and matched and are proposed to be replaced with window wells. The 2018 application contemplated replacing the light wells on the left side with deeper windows but not changing the light wells on the right side of the basement.

Director Jackson clarified that the original light wells on each side of the basement were small and did not provide sufficient light, ventilation, or egress for the rooms to be considered habitable space. The plans submitted in 2018 and approved in 2019 included new window wells on the left side of the basement and retention of the original light wells on the right side of the basement. The new window wells created habitable space in the basement that along with other improvements met the definition of a bedroom per the Code. Because the right front wall of the basement had to be demolished, the homeowners want to replace the original light wells with new window wells which, like the left side, will create additional habitable space in the basement. With the additional habitable space on the right side of the basement, the floor area will exceed the maximum allowed. The Planning Commission is under no obligation to approve a project solely because construction began prior to approval of the project; the project has to comply with the standards of approval. If the Planning Commission denies the application, the applicant would have the right to construct the previously approved project.

Generally, the Planning Commission felt the proposed design improves the aesthetics of the front facade but expressed concerns about the rear facade, specifically the different styles of doors and windows and replacing the pinwheel window above the mudroom door. Commissioner Batra preferred to retain the pinwheel window while Commissioners Ramsey and Duransoy suggested replacing the pinwheel window with trim, a light, or a recessed element. Commissioner Alessio believed a window above the door would call attention to the door as an entryway, but a light above the door would be good.

With respect to the variance, Chairman Levine opposed granting a variance because the property has no unique physical circumstances. The remaining Commissioners could support granting a variance because other homes on the street exceed the maximum allowed floor area; all construction would occur within the structure's footprint; the only access to the basement was through the side wall, which caused the replacement of the windows and the creation of additional habitable space; the basement space existed prior to construction; and the symmetry of the architecture and the bedrock under the basement can be considered unreasonable hardships in design and construction.

Resolution 258-V/DR-19

WHEREAS, the Property Owners are requesting permission to add 291 square feet of habitable area in the basement level; to make window and door modifications on all facades of the housing including adding two window wells on the front facade and an awning on the rear facade; and to make landscape and hardscape modifications to the rear yard including the construction of new retaining walls and outdoor lighting at 32 Bellevue Avenue, which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code are necessary to exceed the maximum allowable floor area ratio of 50% for a parcel greater than 5,001 square feet but less than 10,000 square feet; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because it is a minor change to an existing private residence, which is less than 50 percent of the floor area of the structure before the addition, and the project is consistent with General Plan policies and procedures; and,

WHEREAS, the variance from the maximum allowable floor area ratio is approved because it complies with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including bedrock beneath the basement and the lot's steep topography and drainage issues so that strictly applying the terms of this chapter would prevent the property from being used in the same manner as other conforming properties in the zone.
2. The project is compatible with the immediately surrounding neighborhood and the public welfare because the increase in floor area ratio occurs in an existing space within the existing footprint of the home and similar to most homes in the neighborhood; the improvements increase the floor area ratio by a small percentage; and all the improvements will be made within the existing footprint of the house.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because construction would not be possible without removing and lowering the basement floor, and

floor area added outside the building envelope would have a greater impact on the character of the house.

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the window and door material and fenestration pattern and the awning material.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distances between the project and neighboring homes are appropriate; improvements will be made within the existing building footprint; there are no significant views; and the topographical differences are appropriate to preserve privacy, views, and light.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project does not propose any changes to pedestrian or vehicular access.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.11.01.1, 3.11.01.2, 3.11.03.2, 3.11.03.4, 3.11.03.6, 3.11.03.7, 3.11.03.8, 3.11.03.9, 3.11.03.10, 3.11.03.11, 3.11.03.12, 3.11.03.14, 3.12.01.1, 3.12.01.2, 3.12.02.1, 3.12.02.2, 3.12.02.3, 3.12.02.4, 3.13.02.3, 3.13.03.1, 3.13.03.2, 3.13.04.2 (Site Design), 4.02 (Building Design: General).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.2 (Style Compatibility); Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy); Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.8 (Exterior Lighting), Design and Preservation Element Policy 31.3 (Context Sensitive Design), Design and Preservation Element Policy 31.4 (Restoration).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for the addition at 32 Bellevue Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows shall be wood and the building material for the new doors shall be wood and aluminum clad.
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 a minimum of 2 inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design

Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.

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. Defense of Legal Challenges. If there is a third party administrative, legal or equitable action challenging the project approvals, the Applicant shall defend, indemnify, and hold harmless the City against any and all liability, fees and costs arising out of the defense, including without limitation, Applicant shall pay for all costs of City's own selected legal counsel(s). For this purpose, "City" includes the City and its elected and appointed officials, agents, officers, employees, consultants, and volunteers.

7. Prior Conditions. Prior conditions issued on January 23, 2019 under Design Review Permit #18-0335 shall remain in full force and effect.

8. Approved Plan Set. The approved plans are those submitted on December 5, 2019 after notices to neighbors were mailed and the application was available for public review.

9. Rear Mudroom Door. The design of the rear mudroom door shall be modified so that the trim and head are consistent with the other door trim and head conditions elsewhere on the house. The design shall be subject to staff review and approval.

Moved by Ramsey

Ayes: Alessio, Batra, Duransoy, Ramsey

Noes: Levine

Recused: None

Absent: None

**Design Review Permit
123 Monte Avenue**

The Property Owners are requesting permission to demolish the rear stairs; to construct a new 488-square-foot deck with stairs to the ground level; to make window and door modifications primarily on the northwest and southwest facades; to replace and extend in height an existing fence enclosing the carport; to make landscape and hardscape modifications to the rear yard including the construction of a new retaining wall and stairs; and to make various changes to the interior of the residence.

Public testimony was received from:

Rudabeh Pakravan, project architect, reported the project is largely an interior renovation, but there is an exterior component. The backyard can be accessed from the front of the house via a small stairway and from the basement level of the house. The homeowners want to access the backyard from the main level of the home. The proposed deck contains slightly less than 500 square feet, does not encroach into the setbacks, and includes a stairway to the backyard. The project includes improvements to gutters and downspouts and relocation of plumbing pipes to inside the walls. The proposed deck reflects the natural wood

and elements of the existing home. The vertical slats on the deck do not have a cap because the slats on the carport do not extend to the roof. The trellis does not extend the length of the deck because the homeowner wants to see the sky from the interior of the home, and it evokes the exterior sleeping porches that many brown-shingle homes have. The structure for the deck will be constructed of wood largely with two steel columns. She advised that she considered a number of different placements for the stairs and settled on the proposed location because of the flow from the kitchen. The plans depict a potential location for a barbecue.

The Commissioners generally supported approval of the project, stating the proposed deck matches the vertical elements above the front entry and the spirit of the landscape; complies with the General Plan policy for creativity and innovation; breaks up the vertical rear facade of the house; incorporates the modern style of the garage and references the house; and is transparent enough that it does not feel bulky.

Resolution 282-DR-19

WHEREAS, the Property Owners are requesting permission to demolish the rear stairs; to construct a new 488-square-foot deck with stairs to the ground level; to make window and door modifications primarily on the northwest and southwest facades; to replace and extend in height an existing fence enclosing the carport; to make landscape and hardscape modifications to the rear yard including the construction of a new retaining wall and stairs; and to make various changes to the interior of the residence, located at 123 Monte Avenue, which construction requires a design review permit; and,

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development, including the wall material, the window and door material and fenestration pattern, and the trellis material.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distances between the project and neighboring homes are appropriate; the view is not a significant view; and the height of the project has been kept as low as possible.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no effect on pedestrian and vehicular safety, the project maintains adequate visibility for entering and existing the driveway, and the new handrails and steps should improve the pedestrian safety.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03.02.1, 3.09.01.1, 3.09.01.2, 3.09.02.1, 3.09.02.2, 3.09.02.3, 3.09.02.4, 3.09.03.1, 3.09.03.2,

3.09.03.3, 3.09.03.4, 3.11.01.1, 3.11.01.2, 3.11.03.1, 3.11.03.2, 3.11.03.3, 3.11.03.4, 3.11.03.5, 3.11.03.6, 3.11.03.7, 3.11.03.8, 3.11.03.9, 3.11.03.10, 3.11.03.11, 3.11.03.12, 3.11.03.14, 3.12.01.1, 3.12.01.2, 3.12.02.1, 3.12.02.2, 3.12.02.3, 3.12.02.4 (Side Design), 4.02.01.3, 4.02.01.4, 4.02.01.5, 4.02.01.6, 4.02.01.7, 4.02.01.8 (Building Design: General).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 28.12 (Creativity and Innovation), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.4 (Maintaining Privacy), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.8 (Exterior Lighting), Design and Preservation Element Policy 31.2 (Preserving Historic Resources), Design and Preservation Element Policy 31.3 (Context Sensitive Design), Design and Preservation Element Policy 31.4 (Restoration).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 123 Monte Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be wood.
2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Window Recess.** All new windows shall be recessed 2 ½ inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.
4. **Pre-construction Inspection.** Prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department to review the approved installation criteria, such as the window recess, window trim if any, and windowsill projection if any.
5. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
6. **Environmental Hazards.** Prior to the issuance of a building permit as required by the Chief Building Official, the applicant shall provide a plan, including necessary testing, to verify compliance with all local, state and federal regulations regarding the disturbance and removal of hazardous materials (if any) on residential properties and/or in the proximity of schools, including lead-based paint and asbestos. 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.

7. **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.

8. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, the Applicant shall defend, indemnify, and hold harmless the City against any and all liability, fees and costs arising out of the defense, including without limitation, Applicant shall pay for all costs of City's own selected legal counsel(s). For this purpose, "City" includes the City and its elected and appointed officials, agents, officers, employees, consultants, and volunteers.

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

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

10. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the 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 & Building.
- b. Before the Project begins, the Director of Planning & 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 & 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 & 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 & Building 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 Planning & Building, 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 Planning & Building, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

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

**Fence Design Review
Permit
129 Caperton Avenue**

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

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

Planning Technician Steven Lizzarago informed the Commission that an additional sheet showing a conforming parking space has been provided at the dais.

Public testimony was received from:

Dan Mulholand, project designer, reported the design has been modified to align the automatic gate with the existing fencing and to remove the automatic gate from the 14-foot setback. The parking pad measures 8 feet 11 inches by 30 feet. The automatic gate will open into the property and reduce the usable length of

the parking pad to 20 feet. A portion of the existing fencing in the rear yard will be replaced. The automatic and pedestrian gates and fencing will have matching 1-inch by 6-inch boards and will be stained gray. The existing fencing at the front of the house will not be modified.

Director Jackson clarified that the City right-of-way extends 14 feet from the curb face toward the property, and the gate must be relocated so that it is not located on City property. The lot is a through-lot.

Director Jackson and Commissioners discussed design guidelines for fencing located on a through-lot and facing public property.

In general, the Commission supported approval of the project and referred to it as improving the property and the look of the house. Commissioner Allesio preferred the fencing at the front of the house match the style, material, and color of the new fencing, but she could approve the project as proposed.

Resolution 321-FDR-19

WHEREAS, the Property Owner is requesting permission to construct a new fence and automatic gate within the 20-foot street yard setback along Sheridan Avenue, located at 129 Caperton Avenue, which construction requires a fence design review permit; and,

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the fence design and material and the gate design and material.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the fence height is appropriate to maintain privacy in the rear yard; there is not a significant view; and there is sufficient vegetative screening.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no adverse effect on pedestrian and vehicular safety and the proposed gate location will provide adequate space for egress from the property and allow a vehicle to be parked on the parking pad.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.05.01.1, 3.09.01.1, 3.09.01.2, 3.09.02.1, 3.09.02.2, 3.09.02.3, 3.09.02.4, 3.09.03.1, 3.09.03.2, 3.09.03.3, 3.09.03.4 (Site Design).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element,

including: Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 29.4 (Maintaining Privacy), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.9 (Sight Obstructions).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the fence design review permit application for the improvements at 129 Caperton Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, the Applicant shall defend, indemnify, and hold harmless the City against any and all liability, fees and costs arising out of the defense, including without limitation, Applicant shall pay for all costs of City's own selected legal counsel(s). For this purpose, "City" includes the City and its elected and appointed officials, agents, officers, employees, consultants, and volunteers.

2. **Setback from Property Line Verification.** Prior to the issuance of the building permit, the applicant shall submit to the Building Official a survey prepared by a licensed land surveyor showing the location of the property lines, the location of the existing fencing, the sidewalk and the curb. The survey shall call out the dimension between the fencing and the property line and between the face of curb and the property line. Should the survey reveal that the existing fencing is within the public right-of-way, the applicant has the option of relocating the new fencing onto the applicant's property, or prior to the issuance of a building permit, submitting an application for an encroachment permit for the construction of the fencing at the approved distance from the face of curb.

3. **Knox Box.** A Knox box shall be installed to provide access for the fire department in the case of an emergency on the property.

4. **Automatic Gate.** The automatic gate, as shown on the plans, shall open towards the interior of the property and not into the public right-of-way.

5. **Onsite Parking.** The automatic driveway gate shall not restrict the onsite parking requirements of at least one 8-½ foot wide by 18-foot-long parking space on the existing pavement. Any modifications in order to meet this requirement will be subject to staff review and approval.

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

**Revisions to the
Planning Commission
Rules & Procedures**

Director Jackson noted Commissioners informal comments regarding moving the meeting start time to later in the evening so that Commissioners have more time to travel from work to meetings. With discussions of Code amendments and wireless communications facilities upcoming, hearings could extend quite late. He summarized proposed changes to the *Planning Commission Rules and Procedures* as:

- A meeting start time of 5:30 p.m.;

- Replace "Planning Director" with "Planning & Building Director" and "his" and "her" when referring to the Director with "the Director's;" and
- Replace "he" and "she" when referring to Commission Members with "the Commission Member."

Public testimony was received from:

Councilmember Betsy Smegal Andersen remarked that serving as Planning Commission liaison has been an honor. Commission Members' service and careful consideration of applications are inspirational. She thanked Commissioner Ramsey and former Commissioner Behrens for their work on the Piedmont Design Review Guidelines and Commissioners Levine and Ramsey and former Commissioner Behrens for serving as Chairman of the Planning Commission. The Planning Commission should set a meeting start time that it feels is appropriate.

Commissioners discussed a desire not to remain in meetings quite late and not to retain staff late in the evening.

Resolution 28-PL-19

RESOLVED, that the Planning Commission finds that adoption of the revised *Planning Commission Rules and Procedures* does not constitute a project within the meaning of the California Environmental Quality Act (CEQA) and, therefore, is exempt from CEQA per Public Resources Code Section 21065, CEQA Guidelines, 14 California Code of Regulations Section 15378 and adopts revisions to the *Planning Commission Rules and Procedures* as stated in Exhibit A attached to the staff reported dated December 9, 2019.

Moved by Ramsey, Seconded by Allesio

Ayes: Allesio, Batra, Duransoy, Levine, Ramsey

Noes: None

Abstaining: None

Absent: None

ANNOUNCEMENTS

Director Jackson advised that in January staff will present a discussion of amendments to the Accessory Dwelling Unit Ordinance as mandated by state law. Staff will also present housing issues to the Planning Commission as the Regional Housing Needs Assessment and Plan Bay Area 2050 policy and planning processes begin.

ADJOURNMENT

There being no further business, Chairman Levine adjourned the meeting at 6:25 p.m.