

## PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, January 13, 2020

A Regular Session of the Piedmont Planning Commission was held January 13, 2020, 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 December 30, 2019.

### CALL TO ORDER

Chairman Levine called the meeting to order at 5:30 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, Senior Planner Pierce Macdonald-Powell, Associate Planner Mira Hahn, and Assistant Planner 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 01-PL-20**

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the December 9, 2019, regular hearing of the Planning Commission.

Moved by Batra, Seconded by Alessio

Ayes: Alessio, Batra, Duransoy, Levine, Ramsey

Noes: None

Abstaining: None

Absent: None

### CONSENT CALENDAR

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

- 123 Ricardo Avenue (Design Review Permit) and
- 412 Blair Avenue (Design Review Permit).

#### **Resolution 02-PL-20**

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

Moved by Ramsey, Seconded by Alessio

Ayes: Alessio, Batra, Duransoy, Levine, Ramsey

Noes: None

Abstaining: None

Absent: None

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

#### **Design Review Permit 123 Ricardo Avenue**

#### **Resolution 346-DR-19**

WHEREAS, the Property Owners are requesting permission to make the following modifications at the rear (west) and left (south) side of the property: construct a 129-square-foot upper-level addition; replace the existing one-car garage with a larger-sized garage to provide one conforming parking space; make window and door changes at the addition and new garage; build a patio

and eliminate the existing one; add new exterior lights; and make other exterior and interior changes including the addition of a fourth bedroom, located at 123 Ricardo 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, because the proposed project 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 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: the wall material, roof form and material, and window and door material and fenestration pattern.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the proposed addition at the residence and neighboring homes is appropriate; the view is not a significant view; the proposed addition at the residence is within the existing building footprint; and the building height at the residence remains the same.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project improves the onsite parking conditions and maintains adequate visibility for entering and exiting the driveway.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03.01.1, 3.03.02.1, 3.12.01.1, 3.12.01.2, 3.12.02.1, 3.12.02.2, 3.12.02.3, 3.12.02.4 (Site Design); 4.01.01.3, 4.02.01.6, 4.02.01.7, 4.02.01.8, 4.02.01.10, 4.03.03.1, 4.03.03.2, 4.03.03.3, 4.03.03.5, 4.03.03.6, 4.05.03.1, 4.05.03.2, 4.05.03.3, 4.05.03.4 (Building Design: General); 5.01.01.1, 5.01.02.1, 5.02.01.1, 5.02.02.2, 5.02.02.4, 5.02.02.5, 5.02.02.6, 5.02.03.1, 5.02.03.2 (Building Design: Single-Family Residential).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.3 (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 28.12 (Creativity and Innovation), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Design and Preservation Element Policy 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 123 Ricardo 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, aluminum-clad wood, and aluminum.

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

3. **Window Recess.** All new windows shall be recessed 1 inch at the upper sash, and 2 and ½ inches at the lower sash, 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 such as recess and sash dimensions 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. **Roof Color.** The proposed flat roof shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties.

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

7. **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.

8. **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.

9. **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).

10. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the Property Owner shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$2,000,000 per occurrence. The insurance shall include an endorsement requiring 10 days prior

notice to the City if the insurance is to be cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the contractor's insurance carrier states in writing that it is unable to provide the required endorsement, Property Owner shall be responsible for providing the City with the required notice if the insurance is to be cancelled or changed. Property Owner's failure to provide such notice shall constitute grounds for revocation of the City's design review approval and/or permit. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

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

**12. C&D Compliance.** Compliance with Section 9.04 of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

**13. 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.

**14. 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 west and south property lines as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line(s).

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

**16. Notice of Restricted Use.** The proposed garage 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 garage does not meet the safety codes for habitation or sleeping purposes.

**17. 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. 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.

**18. Neighboring Property Inspection.** Should the neighboring property owner provide consent, a licensed civil or structural engineer (chosen by the City, and paid for by the Property Owner) shall inspect neighboring homes at 125 Ricardo Avenue and retaining walls with the intent of establishing base-line information to later be used in determining whether damage was caused by any activities on Property Owner's property (including damage caused by vibrations or other factors due to excavation, construction or related activities). The inspection shall include both foundations and non-foundation related details (walls, windows, general overall condition, etc.) at a level of inspection City Staff deems appropriate. The inspection shall only include readily visible and accessible areas of the neighboring homes. The licensed civil or structural engineer shall provide a full report to the City of his or her conclusions, and the report may be considered in developing the Construction Management Plan. If other independent consultants or specialists are required by the City to review plans and monitor construction activity, they shall be retained at the Property Owner's cost. Before a neighbor agrees to an inspection, City will advise neighbors that the property inspection is necessarily a public record under the California Public Records Act.

Within 45 days after the Certificate of Occupancy is issued on Property Owner's property, the same licensed civil or structural engineer chosen by the City (or a substitute licensed civil or structural engineer chosen by the City) shall inspect the same area in each neighboring home and property initially inspected, and shall present to the City a Report detailing any evidence of apparent damage that has been or reasonably might have been caused by activities on the Property Owner's property. The Report may include text, photographs, diagrams, or other evidence that would document the apparent damage. The Report will become a public record and may be used in connection with private causes of action.

**19. 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 Applicants 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) Foundation; ii) Completion of Rough Framing; iii) Completion of Electrical; iv) Completion of Plumbing; v) Completion of Mechanical; vi) Completion of Fire Sprinklers; vii) Completion of Home; viii) 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 Project begins, 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 Applicants. The City may, at the Applicants' 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 Applicants fail to meet a benchmark set forth in the Approved Construction Completion Schedule, the Applicants 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. The failure of the Applicants 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 Applicants 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 Applicants fail to comply with the Approved Construction Completion Schedule, the Director of Planning and 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 and 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 Ramsey

Ayes: Alessio, Batra, Duransoy, Levine, Ramsey

Noes: None

Recused: None

Absent: None

**Design Review Permit  
412 Blair Avenue**

**Resolution 356-DR-19**

WHEREAS, the Property Owners are requesting permission to construct a 134-square-foot addition on the north facade of the house located at 412 Blair 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, that 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: the wall material, roof form and material, window and door material and fenestration pattern, and the eave overhang dimension.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate; there is sufficient vegetative screening; and the height of the project has been kept as low as the remainder of the home.

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

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03.02.1 (Site Design); 4.01.01.3, 4.02.01.6, 4.02.01.7, 4.02.01.8, 4.02.01.10, 4.03.03.1, 4.03.03.2, 4.03.03.3, 4.03.03.4, 4.03.03.5 (Building Design: General); 5.01.01.1, 5.01.02.1 (Building Design: Single-Family Residential).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 31.9 (Recent Past).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for construction at 412 Blair Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Prior Conditions.** Prior conditions issued on December 6, 2019 under Design Review Permit #19-0300 shall remain in full force and effect.

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

3. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
4. **Window Recess.** All new windows shall be recessed a minimum of 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.
5. **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.
6. **Roof Color.** The color of the composite shingle roof shall match the existing roofing material on the house.
7. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
8. **Roof Water Runoff.** Water runoff will not be permitted to drain onto neighboring properties. If design modifications are required to address this requirement, they shall be subject to staff review.
9. **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.
10. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, the Applicant shall defend, indemnify, and hold harmless the City against any and all liability, fees and costs arising out of the defense, Applicant shall pay for all costs of City's own selected legal counsel(s). For this purpose, "City" includes the City and its elected and appointed officials, agents, officers, employees, consultants, and volunteers.
11. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of 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 Project begins, 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 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 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 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 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. 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 Planning and 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 and Building, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

12. **Approved Plan Set.** The approved plans are those submitted on January 9, 2020 after notices to neighbors were mailed and the application was available for public review.

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

## **REGULAR CALENDAR**

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

### **Revisions to the Regulations for Accessory Units**

Planning & Building Director Jackson reported the intent of the proposed revisions is to bring the City Code into compliance with State laws that became effective January 1, 2020. Because several of the City's current accessory dwelling unit (ADU) regulations are inconsistent with State laws and because State laws contain a provision that local ordinances containing inconsistent provisions will be deemed null and void, staff recommends the City adopt a new ADU ordinance that includes the State standards and readopts the City's local standards that are consistent with State laws. State laws place limits on a local

jurisdiction's ability to regulate ADUs and junior accessory dwelling units (JADU). In order to bring the City's regulations for ADUs into conformance with State laws, the following substantive changes are proposed:

- The review of all ADU and JADU permits will be ministerial. Architectural review of construction related to an ADU is allowed, but it must be done ministerially. Under ministerial review, no public hearing and no public notice is allowed. The Planning & Building Director's or his designee's decision is final with no provisions for appeal. ADU permits must be processed within 60 days of the applications being deemed complete. The exception to this timeframe is ADUs proposed as part of new primary dwelling units
- ADUs must be allowed in every zone in which residential use is allowed, including on properties with multifamily buildings.
- ADUs in new structures must be permitted up to 4 feet from a side or rear property line on properties with single-family or multifamily buildings.
- New state laws prohibit cities from applying limits on floor area ratio, lot coverage, and landscaping requirements such that the limits would effectively prohibit construction of an ADU up to 800 square feet and up to 16 feet in height.
- When a garage or carport is demolished or converted for the purpose of creating an ADU, no replacement parking can be required, and existing nonconforming setbacks and coverage can be retained.
- A requirement for owner occupancy relating to ADUs is not allowed, at least through 2025. The only exception is a permit for a JADU requires owner occupancy of the primary dwelling.
- The maximum size of an ADU increases from 800 square feet to 850 square feet, or 1,000 square feet if an ADU will include more than one bedroom. A maximum size of 800 square feet can be required when 50 percent of the existing living area is less than 800 square feet. This provision varies depending on whether the ADU is attached is detached. Exceptions to unit size are permitted subject to deed restrictions requiring occupancy by low or very low income households.
- The building height of a detached ADU is 16 feet.
- A single property may have both an ADU and a JADU. A JADU is a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. It must have a separate entrance and may have separate or shared sanitation facilities. It must have food preparation facilities of at least an efficiency kitchen.
- Section 17.38.060.D has been added to describe the four categories of ADUs the City must approve:
  - a. an ADU and/or a JADU within the existing building envelope of a single-family unit subject to an expansion of not more than 150 square feet for the purposes of ingress or egress.
  - b. On a lot with a single-family unit: a detached ADU that is not more than 800 square feet, that is no more than 16 feet in height, and that is setback at least 4 feet from side and rear property lines.
  - c. Within existing multifamily residential buildings: multiple ADUs converted from areas not currently used as living space (at least one ADU and not more than 25 percent of existing dwelling units) subject to compliance with applicable building standards.
  - d. Not more than two detached ADUs on a lot with an existing multifamily residential building that are no more than 16 feet in

height and are set back at least 4 feet from side and rear property lines.

Since publication of the staff report and public notice on December 20, staff has identified additional edits that improve the proposed regulations contained in Sections 17.20.040, 17.24.040, 17.28.040, 17.38.020, 17.38.040, 17.38.060.B.6.f,3, 17.50.020.B.4.a, and 17.70.010.B.2.a and B.4. The Council is scheduled to consider the proposed ordinance on January 21, 2020.

In response to questions from Commissioners, Director Jackson responded to several questions put forward by the Commissioners, including those related to garage conversions, unit size, when coverage limits are applicable, the number of multifamily properties located in Piedmont, State laws related to ADUs on multifamily properties, objective standards versus discretionary standards, variances from the standards, architectural review, design guidelines for ADUs, parking requirements, the prohibition of short-term rentals in ADUs, owner occupancy, requests for exemptions from unit size limits, occupancy standards, and business license requirements. Director Jackson also mentioned that in 2019, 13 accessory unit projects obtained a final building permit inspection.

**Public testimony** was received from:

Michael Henn felt the new State laws are sweeping and preempt local zoning in a manner that will worsen existing on-street parking problems on certain Piedmont streets. Without violating new State laws, the City could ask or require that certain zoning or building violations regarding parking be corrected. Several areas of the City are located more than a half mile from public transit measured by walking distance; therefore, relief from the State law seems justified. The new State law allows a city to designate areas not suitable for additional accessory units for safety reasons. Consequently, the City could allow one parking space per accessory unit for designated streets. The new State law appears to sunset in 2025.

Ahmad Mohazab asked if a property owner could apply to increase the size of an existing accessory unit up to 800 square feet. Director Jackson advised that a property owner could, but the project would be subject to the standards in effect at the time of submittal.

Dimitri Magganas commented that more State laws will be enacted because of the housing shortage. Nobody reads or enforces lease agreements.

Commissioner Batra anticipated the new law will exacerbate parking problems on certain streets in Piedmont. Creative mitigations may benefit Piedmont residents. Limiting the number of occupants in a residence based on square footage could be one way to manage parking.

Commissioner Ramsey noted staff's workload will increase. He expressed interest in modifications to design criteria as a means to direct project design. He supported the proposed ordinance and could recommend the City Council approve it. He suggested the applicant be required to provide a map demonstrating the distance from an applicant property to public transit as part of the application submittal if walking distance is the preferred measurement between the two.

Commissioner Allesio expressed concern that the new laws will reduce the amount of light, views, privacy, and vegetation, which will be a hardship for residents. Perhaps standards for those elements can be included in modifications to the Design Guidelines. Some type of rules for on-street parking, such as permit parking, needs to be in place.

Commissioner Duransoy noted the City can do nothing about the requirements imposed by the new laws.

Chair Levine commented that the new laws raise two main issues of concern for him, the lack of notice to neighbors and the lack of an appeal process. He proposed providing a notice of an ADU application to neighbors prior to a ministerial approval. The notice could encourage applicants to work with their neighbors. He also suggested staff review applications prior to the Planning & Building Director reviewing and approving/denying the applications.

Director Jackson advised that discretionary standards for ADUs are prohibited by State laws. This includes standards for view and privacy. He would not recommend providing a notice to neighbors because staff cannot consider their comments during review of the application. The construction management plan condition of approval could require the applicant to provide notice to surrounding neighbors of construction activity and a description of the project. Director Jackson did not recommend a multistep ministerial review process. The review of all applications subject to Director review is a collaborative process. Conditions of approval that are discretionary in nature may not be imposed on projects. Initial staff research indicates that properties located more than one-half mile walking distance from public transit are few in number and in isolated pockets of the city. Requiring those few properties to provide parking for accessory units is not equitable, but staff could explore the issue. Currently, the distance between a project and a transit route is measured in a direct line between the two points.

**Resolution 3-PL-20**

RESOLVED that the Planning Commission recommends that the City Council (1) find that the proposed revisions to the City Code Chapter 17 are statutorily exempt from the California Environmental Quality Act (CEQA) per Public Resources Code Section 21080 and CEQA Guidelines Section 15282(h); and (2) approve the proposed ordinance amending City Code Chapter 17 to regulate accessory dwelling units in accordance with recent State legislation and the revisions provided in the second packet to the Planning Commission with the understanding that staff is developing applicable conditions of approval and modifications to design criteria.

Moved by Ramsey, seconded by Batra

Ayes: Allesio, Batra, Duransoy, Ramsey

Noes: Levine

Abstaining: None

Absent: None

**Variance and Design  
Review Permit  
8 Parkside Drive**

The Property Owner is requesting permission to construct a two-level addition in the front of the house and a single-level addition in the rear, totaling 262 square feet; add new windows and doors throughout; make various exterior modifications including new lighting and new landings in the side and rear yards; and make various interior changes. A variance is required to construct within the 20-foot street yard setback.

**Public testimony** was received from:

James Tucker, Property Owner, reported he and his wife decided to reduce the size of the project in order to achieve a design that respects the integrity of the original home and neighboring properties. The main focus of the project is adding a single bathroom to the first floor and expanding the kitchen slightly. Other proposed modifications support the objective. He indicated neighbors Grier Graff, Dan Riordan, Duncan Callaway, and Mauricio Green support the most recent proposal. He did not believe the project would cause a loss of privacy for the neighbors at 6 Parkside Drive because windows in his existing bedrooms provide views into the home and backyard of 6 Parkside Drive. He related that the neighbors at 6 Parkside Drive have not altered the landscaping along the fence to increase their privacy and keep their curtains closed at all times. He plans to modify some of the windows but not all and to paint the interior and exterior of the house. The existing trees in the backyard will be removed, and a decision to replace them has not been made. He will comply with conditions of approval for landscaping.

Sundeep Grewal, project architect, advised that the second-floor addition has been reduced considerably since the Planning Commission reviewed the project in January 2019. The addition at the front will allow modification of the staircase to the second floor and the garage. The lot is oddly shaped, causing the majority of the house to be located in the front setback. A small bobcat will be used to excavate the backyard and will access the backyard via the 6-foot setback on the right side of the property. He chose the right side of the house for access to the backyard because it will be undergoing modifications, while the left side of the house will not be modified. He has not explored replacement vegetation for the backyard but will prepare a landscape plan. Some landscaping will be installed following construction. The existing walkway will be expanded to 3-feet wide, which will leave 3 feet for vegetation. The staircase landing to the kitchen will be pushed back. Ivy growing on the fence blocks the neighbor's view of the trash cans.

Richard Wrensen, neighbor at 6 Parkside Drive, reported he and his wife have hosted multiple neighborhood discussions of the plans. The proposed kitchen expansion will put new construction directly opposite the outdoor fireplace, which straddles both properties. Altering the fireplace may be necessary to avoid a fire hazard. He has not consented to removal of the fireplace. Construction work may impair the structural integrity of his flagstone wall and the mature landscape. The front addition is particularly bulky. A variance from the front setback will be inconsistent with the aesthetics of other homes in the cul-de-sac and will create an asymmetric roofline. Granting a variance will provide the applicant with special treatment and may set a precedent. The washer and dryer can be relocated from the front addition so that a variance is not necessary. Extending the appendage to the front of the garage will create a conforming covered two-car garage. The proposed basement reconfiguration will create habitable space and may encourage future owners to circumvent parking requirements.

Christine Cumbelich, neighbor at 6 Parkside Drive, expressed concerns regarding habitable space in the basement, the bulkiness of the front addition, and loss of privacy due to the destruction of mature landscape. She requested conditions of approval to require preservation of the mature landscaping between the two homes. While utilizing the side yard, the bobcat could damage her flagstone wall. The applicant's trash cans are visible from her property.

Duncan Callaway, neighbor at 5 Parkside Drive, urged the Planning Commission to approve the project. The applicant has sought neighbors' input regarding the project. The project is simple, and the variances are minor. He emphasized the need to increase housing density and to retain families in their homes.

Grier Graff, neighbor at 94 Ramona Avenue, indicated the applicant has held two neighborhood meetings to review designs. He supported the Commission granting the variance. Modifications to the project address neighbors' concerns. He did not object to the removal of the three mature trees in the applicant's backyard.

In General, the Commissioners supported the project, stating the modest addition will not significantly impact the neighbors' light, privacy, or views; the addition blends in with the existing home; the applicant followed the prior Planning Commission's comments regarding the project; the addition is consistent with the architecture of the house; and a portion of the existing home is located in the front setback. Commissioners discussed additional conditions of approval to address landscaping, landscape plans, the location of construction vehicles, fire hazards presented by the outdoor fireplace, and painting of the exterior of the home. Commissioner Ramsey encouraged the applicant to rebuild the fence if the neighbor agrees.

Director Jackson reported the plans examiner did not list the outdoor fireplace as an issue, but staff will review the matter.

**Resolution 348-V/DR-19**

WHEREAS, the Property Owner is requesting permission to construct a two-level addition in the front of the house and a single-level addition in the rear, totaling 262 square feet; add new windows and doors throughout; make various exterior modifications including new lighting, new landings in the side and rear yards; and make various interior changes at 8 Parkside Drive, 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 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 that the project is consistent with General Plan policies and procedures; and,

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

1. The property and existing improvements present unusual physical circumstances of the property, including the lot is unusually shaped and located at the end of a cul-de-sac, and a majority of the front footprint of the house is located within the setback, 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 a majority of neighboring homes are located in the front setback; most homes in the neighborhood are similar in size; and the addition is modest and within the center of the structure's footprint.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because alternative locations for the stairs would have a greater adverse impact on neighboring properties' light and views, and the existing home is located in the front setback so that any addition at the front of the home would impact the street yard setback.

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

1. The proposed design 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 wall material, the roof form and material, the window design and material, and the door 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 single-story addition will not impact neighbors' views, privacy, and access to direct and indirect light; the hipped roof on the addition minimizes the height of the addition along the perimeter; the view is not a significant view; and the vegetative screening will be replaced along the south property line as conditioned.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project does not alter the existing pedestrian and vehicular safety access.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03.01.1, 3.03.02.1, 3.03.02.2, 3.03.02.3, 3.03.02.4, 3.05.01.1, 3.08.01.2, 3.12.01.1, 3.12.01.2, 3.12.02.1, 3.12.02.2, 3.12.02.3, 3.12.02.4, 3.13.02.1, 3.13.02.2, 3.13.02.3, 3.13.02.4 (Site Design); 4.01.01.3, 4.01.02.1, 4.02.01.2, 4.02.01.5, 4.02.01.6, 4.02.01.7, 4.02.01.8, 4.02.01.10, 4.03.03.1, 4.03.03.2, 4.03.03.3, 4.03.03.4, 4.03.03.5, 4.03.03.6, 4.04.01.1, 4.04.02.1, 4.04.02.3, 4.04.02.4, 4.04.02.5 (Building Design: General); 5.01.01.1, 5.01.01.2, 5.01.02.1 (Building Design: Single-Family Residential).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for the construction at 8 Parkside Drive, 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 aluminum-clad wood while the doors shall be wood or aluminum clad wood.
2. **Entry Door.** The entry door shall be subject to staff review and approval.
3. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
4. **Window Recess.** All new windows shall be recessed 1.5 inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application. The new exterior window trim shall match existing window trim.
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, and windowsill projection if any.
6. **Notice of Non-Habitation.** The City of Piedmont will file a notice of non-habitation for the storage room with the Alameda County Recorder's office.
7. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
8. **Sound.** Prior to rough mechanical inspection, please submit specifications for the heat pump along with ANSI/AHRI Standard 275 calculation sheet showing the unit meets the City's sound requirements of 50 decibels at the nearest property line. Any modifications to meet the requirements are subject to staff review and approval.
9. **Garage Door.** The garage door shall be electronically operable. If design modifications are required to accomplish this, those modifications shall be subject to staff review.
10. **Double Trailer Truck Prohibition.** To reduce potential damage to the streets and to avoid traffic hazards on narrow curving city streets, no double trailers shall be used as part of the Project.
11. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, the Applicant shall defend, indemnify, and hold harmless the City against any and all liability, fees and costs arising out of the defense, Applicant shall pay for all costs of City's own selected legal counsel(s). For this purpose, "City" includes the City and its elected and appointed officials, agents, officers, employees, consultants, and volunteers.



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

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

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

one is required, in order to complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

14. **Approved Plan Set.** The approved plans are those submitted on January 10, 2020 for sheets A1.2 and A3.1, after notices to neighbors were mailed and the application was available for public review.

15. **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 any in-lieu trees. The final landscape plan shall also include privacy screening along the south property line to provide privacy between the houses at 6 and 8 Parkside Drive. The privacy screening may be in form of vegetation or fencing, or a combination of fencing and vegetation. 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.

16. **Paint Scheme.** The paint scheme for the remodeled and expanded house shall be consistent throughout.

17. **Neighboring Property Inspection.** Should the neighboring property owner provide consent, a licensed civil or structural engineer (chosen by the City, and paid for by the Property Owner) shall inspect the freestanding wall and other built features between the houses at 6 and 8 Parkside Drive with the intent of establishing base-line information to later be used in determining whether damage was caused by any activities on Property Owner's property (including damage caused by vibrations or other factors due to excavation, construction or related activities) The inspection shall include both foundations and non-foundation related details (walls, fencing general overall condition, etc.) at a level of inspection City Staff deems appropriate. The inspection shall only include readily visible and accessible areas of the neighboring properties. The licensed civil or structural engineer shall provide a full report to the City of his or her conclusions, and the report may be considered in developing the Construction Management Plan. If other independent consultants or specialists are required by the City to review plans and monitor construction activity, they shall be retained at the Property Owner's cost. Before a neighbor agrees to an inspection, City will advise neighbors that the property inspection is necessarily a public record under the California Public Records Act.

Within 45 days after the Certificate of Occupancy is issued on Property Owner's property, the same licensed civil or structural engineer chosen by the City (or a substitute licensed civil or structural engineer chosen by the City) shall inspect the same area in each neighboring home and property initially inspected, and shall present to the City a Report detailing any evidence of apparent damage that has been or reasonably might have been caused by activities on the Property Owner's property. The Report may include text, photographs, diagrams, or other evidence that would document the apparent damage. The Report will become a public record and may be used in connection with private causes of action.

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

**ANNOUNCEMENTS**

Director Jackson reported Dana Peak has resigned her employment with the City, and recruitment is under way for a Planning Technician.

Associate Planner Mira Hahn indicated staff will hold a public forum to obtain input regarding reach provisions for certain Building Codes on January 29 in Community Hall. Additional events are scheduled for February 12 and 26. More information will be available on the City website and the Planning Department's Facebook page.

**ADJOURNMENT**

There being no further business, Chairman Levine adjourned the meeting at 7:25 p.m.