

## PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, March 9, 2020

A Regular Session of the Piedmont Planning Commission was held March 9, 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 February 24, 2020.

### 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, Alternate Commissioner Doug Strout

Absent: Commissioner Tom Ramsey

Staff: Planning & Building Director Kevin Jackson, Senior Planner Pierce Macdonald-Powell, 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 08-PL-20**

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the February 10, 2020, regular hearing of the Planning Commission.

Moved by Alessio, Seconded by Batra

Ayes: Alessio, Batra, Duransoy, Levine, Strout

Noes: None

Abstaining: None

Absent: Ramsey

### REGULAR CALENDAR

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

#### **2020 Design Award Recipients**

Chairman Levine announced the winners in the following categories:

- Excellent Landscape and Outdoor Living Area Design, 17 Sotelo Avenue;
- Excellent Rear Deck and Outdoor Living Area Design, 65 Crocker Avenue;
- Excellent Upper Level Addition, 69 Oakmont Avenue;
- Excellent Comprehensive Stylistic Transformation, 74 Sea View Avenue
- Outstanding Design for Aging in Place, 147 Requa Road;
- Excellent Garage with Upper-Level Accessory Dwelling Unit Design, 67 Sylvan Way; and
- Outstanding Design for an Accessory Dwelling Unit within the Existing Building Envelope, 1056 Park Lane.

Chairman Levine invited the public to attend the 2020 Design Awards Gala on March 12 at the Piedmont Community Hall at 6:00 p.m. He congratulated the winners.

#### **Housing Element Update**

Senior Planner Pierce Macdonald-Powell reported the 2015 and 2019 Annual Progress Reports for the implementation of the Piedmont General Plan Housing Element have been prepared and are scheduled for City Council review on March 16, 2020. Goals for new housing production are set by the State of California and allocated to jurisdictions in the San Francisco area by the

Association of Bay Area Governments (ABAG). The California Department of Housing and Community Development (HCD) is expected to release the Regional Housing Need Allocation (RHNA) this spring, which will begin the planning process for the next Housing Element. Under the current schedule set by HCD, Housing Elements must be certified as meeting State law by the fall of 2022. The RHNA assigned to the City of Piedmont for the period 2015-2022 was construction of 60 new housing units in the following categories:

- 24 units of very-low-income housing;
- 14 units of low-income housing;
- 15 units of moderate-income housing; and
- 7 units of above-moderate-income housing.

The City has issued building permits for approximately 54 new housing units. With the passage of extensive housing and zoning legislation since 2016, demonstrating sufficient production of low and very-low-income housing under the current Housing Element will be challenging. The next Housing Element may be required to affirmatively plan for the development of approximately 180 new housing units on sites not considered in the current Housing Element. The next RHNA-assigned housing unit numbers as well as guidance from HCD about the new State laws and the next Housing Element cycle are expected later in the year. In preparation for the next Housing Element, staff is discussing the changes in state law with staff in other jurisdictions and the City Attorney and seeking grant funding for a housing consultant.

In response to questions, Director Jackson and Senior Planner Macdonald-Powell advised that HCD is more concerned with housing production in the income categories than the overall total. The number of vacant sites in Piedmont are few, and they are generally zoned for single-family residential development rather than multifamily. Under-utilized sites as well as vacant sites can be considered for housing. The City's Housing Element presents the existing conditions for development and points to accessory dwelling units (ADU) as the best way for Piedmont to provide new affordable housing. However, legislators do not appear to be concerned with existing conditions. The consequences of not meeting housing goals may include difficulty obtaining certification of future Housing Elements, escalating fines, and suspension of the City's ability to issue building permits. Amending zoning is one approach to housing production, but many options will need to be discussed. Staff is monitoring the discussion of not allowing ADUs to count toward required housing. With submission of the 2015 and 2019 Reports, the City of Piedmont will be current. Staff is presenting the Report to the Planning Commission in anticipation of the Planning Commission considering housing policies later in the year. The City has been awarded a grant to assist with the planning process, and the Council will consider a Request for Proposals for a housing consultant on March 16.

No **public testimony** was received.

**Variance and Design  
Review Permit  
973 Kingston Avenue**

The Property Owner is requesting permission to remodel and expand the residence by approximately 350 square feet; construct a pergola carport over the existing driveway; and obtain retroactive approval for the conversion of a single-car garage into habitable space for a studio or office. The Property Owner also seeks Planning Commission approval to replace the parking lost because of the conversion of the existing garage with parking in a new carport pergola. A variance is required to construct an accessory structure within the side yard setback greater than 35 feet from the rear property line.

**Public testimony** was received from:

Peter Gilbert, project architect, reported the single-story addition is at the back of the Craftsman home and accommodates a new kitchen and a bonus room. Because a garage on the property was illegally converted to a studio, a covered parking space is required. There is some question as to whether the bathroom in the basement is original to the house, but it was in existence when the current homeowners purchased the property. The bathroom does not comply with Code requirements as the ceiling height is only 6 feet 5 inches. He believed his client obtained the July 2000 building permit for reconstruction of the garage but failed to obtain a permit to convert the reconstructed garage to a studio space after agreeing to do so. The studio has no plumbing or kitchen. The project does not include renovating the garage to be architecturally consistent with the house. However, the bay on the front façade of the garage replicates the stair tower of the house. The project does not include repaving the driveway or removing the pergola at the rear of the garage, but that can be added to the project. His client is elderly, and family members are living with her. A full bathroom and the bonus room on the main level will accommodate the client's needs when she can no longer utilize the stairs. A nephew utilizes the studio. A deck and stairs will provide access between the rear door and the garage. The landing of the rear stairs is approximately 14 inches off the ground. The pergola will comfortably accommodate a vehicle. He indicated he was not aware that landscaping for the rear yard was required. There will be no construction at the front of the home to disturb landscaping.

In general, the Planning Commission liked the design of the rear addition and could support granting a variance, with the exception of Chairman Levine. Chairman Levine could not approve a variance because he would not have approved conversion of the garage to a studio. Commissioners discussed options for parking, repair of the driveway, renovation of the garage/studio facade to be harmonious with the house, and removal of an unpermitted rear yard pergola. Commissioners suggested construction of a full parking pad beneath the pergola; the applicant provide details of the transition from the garage to the deck for staff review; and the applicant add vegetation around fencing in the rear yard.

Senior Planner Macdonald-Powell indicated staff considered the bonus room as a fourth bedroom in analyzing the project because of the applicant's plans for the room. The studio in the converted garage does not meet the definition of a bedroom. The driveway is wide and long enough to accommodate two tandem parking spaces. If the Planning Commission accepts the pergola as covered parking, then the property will comply with parking requirements in Chapter 17. Staff recommends and has provided changes to Condition of Approval 1.

**Resolution 349-V/DR-19**

WHEREAS, the Property Owner is requesting permission to remodel and expand the residence by approximately 350 square feet and construct a pergola carport over the existing driveway; retroactive approval for the conversion of a single-car garage into habitable space for a studio or office; and approval to replace the parking lost because of the conversion of the existing garage with parking in a new carport pergola at 973 Kingston 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 construct an accessory structure within the side yard setback greater than 35 feet from the rear property line; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is 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, because there are no unusual circumstances associated with the property or the project, because existing General Plan policies and programs are sufficient to address the proposed grading and construction, and because there is no substantial evidence that any exception to the Class 3 Categorical Exemption applies to this project, specifically including the unusual circumstances exception, and the project is consistent with General Plan policies and procedures; and,

WHEREAS, the variance from the right side 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 location of the pergola carport in the driveway is confined by the existing residence and the converted garage, 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 other nearby properties have accessory structures in side yards.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the location of the pergola carport accessory structure is the only reasonable place for the proposed new accessory structure.

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 deep eave and corbel bracket design, the existing stucco siding, the window and door material and fenestration pattern, and the door exterior trim design.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the height of the project has been kept as low as possible, and the distances between the project and neighboring homes are appropriate.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the driveway access does not change and will address certain items in the conditions of approval.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03.02.1, 3.03.02.2, 3.03.02.3, 3.03.02.4, 3.12.01.1, 3.12.01.2, 3.12.02.1, 3.12.02.2, 3.12.02.3, 3.12.02.4 (Site Design), 4.01.01.1, 4.01.01.2, 4.01.01.3, 4.01.01.4, 4.01.02.1, 4.02.01.1, 4.02.01.2, 4.02.01.3, 4.02.01.5, 4.02.01.6, 4.02.01.7, 4.02.01.8, 4.02.01.10, 4.02.01.11, 4.03.03.1, 4.03.03.2, 4.03.03.3, 4.03.03.4, 4.03.03.5, 4.03.03.6, 4.03.04.1, 4.03.04.2, 4.03.04.3, 4.03.04.4, 4.03.04.5, 4.03.04.6, 4.03.04.7, 4.05.02.1, 4.05.03.1, 4.05.03.2, 4.05.03.3, 4.05.03.4 (Building Design), 5.01.01.1, 5.01.01.2, 5.01.02.1 (Building Design: Single-Family Residential).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Design and Preservation Element Policy 29.8 (Exterior Lighting), and Design and Preservation Element Policy 29.9 (Sigh Obstructions).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for construction at 973 Kingston Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Retroactive Building Permits.** The applicant shall either: a) seek approval for all existing construction completed without a building permit and approved under this Design Review Permit as part of the Building Permit application for the new construction; or b) prior to issuance of a building permit for the new construction approved herein, the applicant shall apply for retroactive building permits for the garage conversion to habitable studio office space and for the basement bathroom construction.

2. **Notice of Restricted Use.** The rooms labeled as storage and/or furnace room on the proposed lower level basement floor plan do 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 basement spaces do not meet the safety codes for habitation and/or sleeping purposes.

3. **Deck Railing.** A deck railing shall be provided as required by the Building Code and the design and materials of the railing shall be subject to the review and approval of City staff.

4. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be aluminum or aluminum-clad wood with 3-dimensional simulated divided lights. Kitchen door shall be aluminum clad wood with 3-dimensional simulated divided lights.

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

6. **Window Recess.** All new windows shall be recessed a minimum of 2 ½ inches from the exterior wall to the face of window sash, as specified on the approved window schedule. Window details shall be submitted for review and approval at the time of Building Permit application.

7. **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.

8. **Roof Color.** The proposed roofing shall match the roofing color and material of the existing residence.

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

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

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

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

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

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

**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 new plantings to replace trees, hedges, and shrubs to be disturbed by construction. The final plan shall comply with Municipal Code Section 17.17.3 and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. Proposed landscape plan shall include plantings to soften the metal fencing.

**16. Arborist's Report and Certified Tree Preservation Plan.** Before the issuance of a Building Permit, the Property Owner shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures for the trees designated to remain on the final landscape plan such as the City-owned street trees, the coast live oak in garden behind the residence, and trees or hedge on the property lines shared with 27 Greenbank Avenue. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. The Director shall determine the number of in-lieu replacement trees that are required to replace trees proposed for removal, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

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

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

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

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

19. **Deck Elevation.** Prior to issuance of a building permit, the applicant shall submit detailed plans for the deck, including the deck steps, handrail or guardrail (if any), landing, parking pad, pergola, and garage. The design of the deck and the space between the deck and the converted garage, shall be subject to staff review and approval.

20. **Driveway.** Prior to issuance of a building permit, the applicant shall submit plans to repair the driveway pavement so that there is an even and continuous paved driveway surface extending from the public right-of-way to a new parking pad beneath the new carport. The parking pad shall extend fully beneath the carport and to the converted garage and new rear deck. The design for the rehabilitated driveway and parking pad is subject to staff review and approval.

21. **Rear Yard Pergola.** Prior to issuance of a building permit, the applicant shall remove the rear yard pergola. Utilities to the rear yard patio must meet Building Code requirement or be removed. An application may be filed in the future to request a design review permit to construct a pergola in this location.

22. **Converted Garage Design.** Prior to issuance of a building permit, the applicant shall amend the plans to include construction to remodel the converted garage so that it has greater consistency with the design of the primary residence. The proposed design shall be subject to staff review and approval.

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

**Variance and Fence  
Design Review Permit  
1051 Annerley Road**

The Property Owners are requesting retroactive approval to construct a maximum 8-foot 8-inch tall fence within the street yard setback and to construct various exterior features including patio areas, an outdoor fire table, and landscaping. A variance is required to construct a patio within the 20-foot street yard setback.

**Public testimony** was received from:

Jonah Sachs, Property Owner, reported the side yard provides private outdoor space for the property. The front yard is open and slopes down to two streets. About a year ago, wood and wire fencing around the side yard deteriorated to the point it collapsed. He replanted the front and side yards with drought-tolerant grass, which did not flourish in the side yard. He and his wife replaced the side-yard grass with hardscape and the fencing around the side yard with lower fencing. He plans to replace plantings along the fencing so that it looks similar to the prior fencing. He and his wife have spoken with neighbors about the project, and most feedback was positive. Mr. Sachs indicated one neighbor opposes the project, and a second neighbor changed his opposition to support after they spoke. The neighbor's property is not adjacent to the project, and the neighbor cannot view the fencing from his property. The stone steps to the side yard have been repaired and replaced with similar materials.

Dean Rubinson, neighbor at 1081 Annerley Road, advised that he and wife live three houses away from the subject property and own the home across the street from the subject property. He appreciated the design and location of the new fencing. The new fencing does not impact sidewalks, and vegetation screens the fence from view. The property is a perfect example of a situation that does not allow the homeowner to enjoy his lot in the same way that others do. The side yard is the only opportunity for private open space on the property. He encouraged the Planning Commission to grant the variance.

Siggy Rubinson, neighbor at 1081 Annerley Road, noted the property does not have any private space for the homeowners' children and dog to play outdoors unsupervised. The design of the fencing and the landscaping are good.

Commissioners generally agreed that the height of the fencing should be reduced because it draws the eye away from the house, has a barricade feel, and appears fortress-like and imposing, and its location makes the fencing appear even taller than it is. In addition, Commissioners indicated the fencing could be more decorative and transparent and covered with vegetation. After discussing the variance, the size of the patio, the patio's impact on the setback, and potential compliant designs, the Planning Commission with the exception of Commissioners Alessio and Duransoy could not support granting a variance.

Director Jackson explained that the City Code requires the 20-foot street setback to be landscaped except for areas needed for ingress and egress. The patio is not needed for ingress or egress.

**Resolution 24-V-20**

WHEREAS, the Property Owners are requesting a variance to construct a patio, fire table and landscaping within the 20-foot street yard setback at 1051 Annerley Road, which construction requires a variance 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 not consistent with General Plan policies and procedures; and,

WHEREAS, a variance from the application is not approved because it does not comply with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements do not present unusual physical circumstances of the property, including a design for a patio and surrounding

landscape could comply with requirements, so that strictly applying the terms of this chapter would not prevent the property from being used in the same manner as other conforming properties in the zone.

2. The project is not compatible with the immediately surrounding neighborhood and the public welfare because the majority of neighboring properties do not have such large patios and structures in the street yard setback.

3. Accomplishing the improvement without a variance would not cause unreasonable hardship in planning, design, or construction because the yard is generously sized such that it can accommodate ample private outdoor space.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies the variance application for the construction at 1051 Annerley Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

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

**Resolution 24-FDR-20**

WHEREAS, the Property Owners are requesting retroactive approval to construct a maximum 8-foot 8-inch tall fence within the street yard setback, located at 1051 Annerley Road, 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 design is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, the design is consistent with General Plan policies and programs, and the design, 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 trellis design and the fence design and height.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distances between the design and neighboring homes are appropriate.

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

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.09, 3.11, 3.12, 3.13 (Site Design).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.3 (Front-Yard Enclosures), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.8 (Exterior Lighting).

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 1051 Annerley Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Approved Plan Set.** The approved plans are those submitted on February 26, 2020, after notices to neighbors were mailed and the application was available for public review.

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

3. **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.

4. **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 landscaping proposed for the left side of the property. The final plan shall comply with City Code Division 17.34 and Section 17.33.30. 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.

5. **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).

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

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

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

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

**7. Fence Design.** The fence design shall be modified so that it is no more than 4 feet in height measured from grade on the patio side of the fence, with an allowance for posts and the gate design to exceed the 4-foot height limit. Landscaping on the street side of the new fence shall include vegetation that screens or grows onto the fence. Said fence and landscaping design modifications shall be subject to staff review and approval.

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

**Design Review Permit  
21 Alta Avenue**

The Property Owners are requesting permission to construct a two-story addition at the rear of the house that is proposed to contain 1,076 square feet of habitable space; a new roof line on the main level of the house; new rear decks; new windows and doors throughout; and to make various exterior modifications including new lighting, siding, and railing.

**Public testimony** was received from:

John Klopff, project architect, reported the front, street view of the house will remain the same except for the trimming of beam extensions to remove dry rot. The addition is located at the rear and below the house. The deck will be enlarged with the bedroom expansion located beneath it. At the lowest level, the addition will house an office, bathroom, and media room. The addition will not increase the number of bedrooms. The home's style is Mid-Century Modern with a mostly glass rear wall. A neighbor located on the east side of the property noted a new window in the living room would look into his lot. The homeowners are willing to remove the window if the Planning Commission requires it. A small deck at the front of the house will be removed. The height of the house will not technically change. The gable roof on the main level of the home, which is below street level, will be replaced with a slightly higher flat roof. Raising the roof will make the interior space feel larger. With removal of interior walls, the interior shape will be proportional with taller ceilings. A flat roof is consistent with the Mid-Century Modern style of the house. Currently, beams run the length of the house with interior crossbeams. The existing interior crossbeams and beams will be removed, and higher crossbeams will be installed. Wood siding consistent with that on the house will be applied to the addition. The rear windows will be aluminum-framed windows in the Mid-Century Modern style.

Tara Zorovitch, Property Owner, advised that the addition will not affect neighbors' views and will not be visible from the street. She and her partner work from home and need an office space. She indicated one adjacent neighbor noted a privacy concern about a window, and the other adjacent neighbor has no objections.

In general, the Planning Commission appreciated the design of the addition, stating the style is compatible with the house and the neighborhood. Commissioners suggested the applicant work with staff to modify the living room if the applicant wants to retain it. Alternate Commissioner Strout expressed concern regarding the stability of the wooden stairway.

**Resolution 34-DR-20**

WHEREAS, the Property Owners are requesting permission to construct a two-story addition at the rear of the house that is proposed to contain 1,076 square feet of habitable space; a new roof line on the main level of the house; new rear decks; new windows and doors throughout; and to make various exterior modifications including new lighting, siding, and railing, located at 21 Alta 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 size of the addition, the wall material, the roof form and material, the window and door material and fenestration pattern, the eave overhang dimension, and the deck locations, design, and guardrail material.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distances between the project and neighboring homes are appropriate; the location of the addition does not impact Bay 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 have an adverse effect on pedestrian and vehicular safety.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03, 3.12 (Site Design), 4.02 (Building Design: General), and 5.01 (Building Design: Single-Family Residential).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and 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 28.7 (Hillside Home Design), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 29.8 (Exterior Lighting), 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 21 Alta 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 aluminum.
2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Window Recess.** All new windows shall be recessed 2 and 3/8 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. **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.** The garage door shall be mechanized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.
8. **C&D Compliance.** Compliance with Section 9.04 of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.
9. **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.
10. **Guardrails.** The guardrails on the new decks shall meet the standards in the California Building Code Section R312, including that guardrails must be a minimum of 42 inches in height.
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, 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.

**12. Setback from Property Line Verification.** Prior to the roof framing 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 northeast property line as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property line.

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

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

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

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

Stormwater Permit are available from the Piedmont Public Works Department and on-line at [cleanwaterprogram.org](http://cleanwaterprogram.org).

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

shall include information such as the start date and scope of construction, building permit number, a copy of the Construction Completion

16. **Fence.** The fence within the street yard setback shall be either: 1) repaired and replaced with no change to its design and location; or 2) removed entirely if removal meets the requirements of the Building Code. Alternatively, the owners may submit an application for Fence Design Review Permit to seek approval for new or modified fencing in the street yard setback.

17. **Stairs.** The stair structure located in the left (south) side yard shall be repaired and/or replaced to meet Building Code requirements. Should a variance from the 5-foot side yard setback requirement be required to repair or replace the stairs, the owners shall submit an application for Variance and Design Review Permit to seek approval for the modified stair structure.

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

**ADJOURNMENT**

There being no further business, Chairman Levine adjourned the meeting at 7:13 p.m.