

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, August 10, 2020

A Regular Session of the Piedmont Planning Commission was held August 10, 2020, via ZOOM teleconference consistent with Executive Order Nos. N-25-20 and N-29-20 and the Alameda County Health Official's Order #20-04. In accordance with Government Code Section 54954.2(a), the agenda for this meeting was posted for public inspection on July 27, 2020.

CALL TO ORDER

Chair Alessio called the meeting to order at 5:30 p.m.

ROLL CALL

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

Absent: Commissioner Yildiz Duransoy

Staff: Planning & Building Director Kevin Jackson, Senior Planner Pierce Macdonald-Powell, Associate Planner Gopika Nair, Assistant Planner Steven Lizzarago, Planning Technician Ignacio Franco, Administrative Assistant Mark Enea

PUBLIC FORUM

There were no speakers for the public forum.

REGULAR SESSION

The Commission considered the following items of regular business:

APPROVAL OF MINUTES

Planning & Building Director Jackson recommended paragraph 1 of the resolution for the design review application for 212 Bonita Avenue (page 15 of the minutes) reflect "The proposed design is not consistent with"

Resolution 17-PL-20

RESOLVED, that the Planning Commission approves as amended its meeting minutes of the July 13, 2020, regular hearing of the Planning Commission.

Moved by Strout, Seconded by Levine

Ayes: Alessio, Levine, Strout

Noes: None

Abstaining: Batra, Ramsey

Absent: Duransoy

CONSENT CALENDAR

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

- 565 Boulevard Way (Design Review Permit) and
- 3 Wildwood Gardens (Variance & Design Review Permit).

Resolution 18-PL-20

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

Moved by Batra, Seconded by Ramsey

Ayes: Alessio, Batra, Strout, Levine, Ramsey

Noes: None

Abstaining: None

Absent: Duransoy

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

**Fence Design Review
Permit
565 Boulevard Way**

Resolution 107-FDR-19

WHEREAS, the Property Owners are requesting permission to reconstruct the existing wood fence along Boulevard Way and the existing concrete retaining wall and wood fence along the northwestern property line, both the fencing and retaining walls are proposed to be located within the 20-foot street side yard setback, located at 565 Boulevard Way, which construction requires a fence design review permit; and,

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

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the fence height, fence and gate design, and the fence and retaining wall location.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the fence height is appropriate to maintain privacy; the proposed fence is shorter than the existing fence; there is not a significant view; and topographical differences require the construction of a retaining wall and fence.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no adverse effect on pedestrian and vehicular circulation.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.08.01.1, 3.08.02.1, 3.08.02.2, 3.08.02.3, 3.08.02.4, 3.08.02.5, 3.08.02.6, 3.08.03.1, 3.09.01.1, 3.09.01.2, 3.09.02.1, 3.09.02.2, 3.09.02.3, 3.09.02.4, 3.09.03.1, 3.09.03.2, 3.09.03.3, 3.09.03.4.
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 28.6 (Exterior Materials); Design and Preservation element Policy 29.3 (Front Yard Enclosures), Design and Preservation Policy 29.5 (Fence and Wall design), Design and Preservation Element Policy 29.6 (Retaining Walls).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the fence design review permit application for construction at 565 Boulevard Way, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

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

includes the City and its elected and appointed officials, agents, officers, employees, consultants, and volunteers.

2. Sewer Main Condition and Repair. City records indicate that City storm and sewer mains and associated easement(s) may be located near the proposed construction next to the east property line. Prior to the issuance of a building permit and subject to the discretion of the Building Official, the Property Owner shall also work with City staff to verify the location and depth of the storm and sanitary sewer mains. In addition, the City shall videotape the existing sanitary and storm sewer mains to assess their pre-construction condition in order to make a determination as to whether any repairs to or replacement of the sewer main is required prior to the commencement of excavation and/or construction. (The City is responsible for the cost of the main line, and the property owner for costs of the lateral.) As part of the final inspection the same sanitary and storm sewer lines shall be inspected as required by the Director of Public Works, who shall also determine if the sewer lines were damaged as a result of the construction and therefore must be repaired at the applicant's expense. The applicant is responsible to locate their private sewer lateral and note such location on the building permit drawings.

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

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

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

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

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

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

**Variance & Design
Review Permit
3 Wildwood Gardens**

Resolution 136-V/DR-20

WHEREAS, the Property Owners are requesting permission to construct a deck with guardrail adjacent to the driveway, construct new windows and skylights on the front and rear of the home, install a mini split heat pump system, and make other exterior and interior improvements at 3 Wildwood Gardens, which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct a deck 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 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 with multiple street yard setbacks 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 neighboring properties do not have significant drop-offs adjacent to their driveways; and the deck and guardrail improve onsite pedestrian safety by creating a level platform next to the driveway.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the house is already located within the street yard setback, and the residence is located on a through lot with street yard setbacks on multiple sides.

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, deck design, guardrail design, the mini-split system location and screening, the window and door material and fenestration pattern, and the skylight locations.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate, and there is sufficient vegetative screening.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the deck and guardrails improve onsite pedestrian safety.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03.02.1, 3.03.02.2, 3.03.02.3, 3.05.01.1 (Site Design); 4.02.01.3, 4.02.01.7, 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, 4.04.01.2, 4.04.02.1, 4.04.02.2, 4.04.02.3, 4.04.02.4, 4.04.02.5 (Building Design: General).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.2 (Landscape Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for the construction at 3 Wildwood Gardens, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window Material.** As specified in the plans, the building material for the new windows 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 4.5 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.
4. **Pre-construction Inspection.** Prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department to review the approved installation criteria, such as the window recess, window trim if any, and windowsill projection if any.
5. **Skylight Flashing.** The metal flashing around the new skylight(s) shall be painted to match the adjacent roof color.
6. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, the Applicant shall defend, indemnify, and hold harmless the City against any and all liability, fees and costs arising out of the defense, including without limitation, Applicant shall pay for all costs of City's own selected legal counsel(s). For this purpose, "City" includes the City and its elected and appointed officials, agents, officers, employees, consultants, and volunteers.
7. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security emergency access, and other potential construction impacts, as well as other details involving the means and methods of completing the Project, including the construction route. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.
8. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Applicant shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage of the project as a whole for each phase.
 - a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix)

- Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
- b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the Approved Construction Completion Schedule and be binding on the Applicant. The City may, at the Applicant's sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
 - c. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Applicant fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Applicant shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Public Works. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.
 - d. The failure of the Applicant to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code ("City Code"). The failure of the Applicant to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Applicant fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.
 - e. At least two weeks prior to start of construction, the Applicant shall provide written notice to property owners and residents of all adjacent properties on forms provided by the Director of Building & Planning. This notification shall include information such as the start date and scope of construction, building permit number, a copy of the Construction Completion Schedule, as well as the contact information of the property owner, designer/agent, and contractor(s). The Applicant shall sign an affidavit of said notice and provide a copy to City Building Official.

9. **Sound.** The proposed mini split system shall meet the sound requirements of a maximum 50 decibels at the nearest property line. Modifications to meet the requirement are subject to staff review and approval.

10. **Approved Plan Set.** The approved plans include the plans submitted on July 17, 2020 and the updated elevation submitted on August 10, 2020, after notices to neighbors were mailed and the application was available for public review.

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

REGULAR CALENDAR

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

**Regional Housing
Needs Allocation
Process Report**

Barry Miller, consultant, reviewed the requirements for a Housing Element. The City's next Housing Element is due on January 31, 2023. The current Regional Housing Needs Allocation (RHNA) cycle reflects greater emphasis on social equity, a higher total regional housing need, expanded California Department of Housing and Community Development (HCD) oversight of methodology and allocations, additional factors to consider in allocations, and new requirements for identifying eligible sites. The regional housing needs determination for the Bay Area was announced in June 2020, but the allocations to cities will not be final until the fall of 2021. Mr. Miller explained the methodology through which the Association of Bay Area Governments (ABAG) allocates housing need to cities.

The total RHNA for the region has decreased slightly over the past three cycles. Overall, the region has provided 65% of the total need for the current cycle. However, the region has provided only 15% of the needs for the very low income and the low income categories. In the current cycle, the City has exceeded its allocation for above moderate income housing but has not fared well in meeting its allocations for low and very low income housing. For the 2023-31 cycle, the region's housing need has increased to 441,176 units and encompasses the expected need for the 2023-31 cycle and the unmet need for the 2015-2023 cycle.

The preliminary estimates indicate Piedmont's total allocation will be a maximum of 796 housing units with roughly half of the allocation designated for low and very low income categories. Failure to meet the need could result in loss of Housing Element certification, loss of grants, and increased legal risk. To fulfill its housing allocation, the City would need a more aggressive program for accessory dwelling units (ADU), more intensive development and reuse of sites in Zones C and D, to reuse public land for housing, rezone parcels, and allow multiunit buildings in Zone A. Current vacant lots in the City could provide approximately 100 housing units, excluding accessory dwelling units. On the afternoon of the meeting, ABAG issued revised preliminary allocations for each city. The allocation for Piedmont dropped from 800 to 500 housing units.

The State has changed the criteria for parcels to qualify as Housing Element sites that are appropriate for low and very low income housing; narrowed the definitions of vacant and underutilized land; and changed the criteria for counting very small sites toward the allocation.

Staff has drafted letters addressing fundamental flaws in ABAG's methodology and Plan Bay Area 2050 assumptions for Piedmont's employment base. Next steps include use of grant funds for additional studies and public engagement.

In response to questions, Mr. Miller indicated comments regarding Plan Bay Area 2050 reference potential changes to job and housing assumptions caused

by the pandemic. Proposition 13 has not been considered a factor in housing supply. As the allocation process plays out over the next year, staff may consider joining forces with other cities to raise issues with the methodology. In previous cycles, cities could appeal their allocations based on reasonable factors, and in the last cycle ABAG accepted three cities' appeals. A large number of cities will likely appeal their allocations on the grounds that they cannot physically accommodate the allocations.

Planning Director Jackson noted during his tenure with the City, it has attempted to change its housing policy and zoning requirements to facilitate the production of housing.

Public testimony was received from:

Irene Cheng, Piedmont Racial Equity Campaign, suggested housing discussions should consider racial equity and diversity and should not assume all Piedmont residents are happy with the status quo.

Senior Planner Pierce Macdonald-Powell summarized Rajeev Bhatia's written comments to the Planning Commission.

**Variance & Design
Review Permit
190 Somerset Road**

The Property Owner is requesting permission to construct a new entry porch and roofline over the garage, expand the existing rear deck, make window and door changes throughout the residence, and make various exterior and interior modifications. A variance is required to construct the entry porch and garage within the 20-foot street yard setback.

Public testimony was received from:

Charlie Bambarger, Property Owner's representative, reported a structural engineer raised concerns regarding the stability of the garage and front porch and recommended raising and reinforcing the garage header. Improvements are intended to be consistent with the character and quality of surrounding houses. The rear deck will be extended further away from the home in order to capture the view of San Francisco Bay. Glass railings for the deck are a priority for the Property Owner in order to most effectively display the view. Mr. Bambarger indicated he left notes and elevation plans at all immediately adjacent homes and spoke with the residents who were home. He advised that two neighbors have voiced support for the project. The various sidings will be replaced with stucco siding. A brick veneer is proposed for the spaces above the garage door and the front entry. The brick should appear as though it is set into the stucco. Mr. Bambarger agreed to consider replacing the brick veneer with a more modern treatment to be consistent with the rest of the house. The proposed windows are vinyl to reduce maintenance.

Michael O'Callaghan, project designer, clarified that the project will utilize both whole bricks and brick veneer. The brick veneer will have fabricated corners such that the veneer will wrap around the corner and appear to be a whole brick. The vinyl windows are a quality product and can be painted, but they will not be painted as part of this project. The gables are intended to enliven the front facade. The brick above and below the arch can be slightly different than the brick used in the arch. Mr. O'Callaghan agreed to work with staff on that component of the project. The siding and window trim will be stucco.

Generally, Commissioners appreciated the use of a single siding, the addition of the gables, the wider rear deck, and the raising of the front. However, Commissioners recommended the applicant work with staff to redesign the space above the garage door and the front entry because the space is too small for the number of elements applied to it and brick has a traditional aesthetic while the rest of the house has a modern aesthetic. Commissioner Ramsey indicated the use of vinyl windows is acceptable as all existing windows will be replaced with the same window. Commissioners supported granting a variance because the gables align with the existing eave and are low profile.

Resolution 108-V/DR-20

WHEREAS, the Property Owner is requesting permission to construct a new entry porch and roofline over the garage, expand the existing rear deck, make window and door changes throughout the residence, and make various exterior and interior modifications at 190 Somerset Road, 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 the entry porch and garage 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), and the project is consistent with General Plan policies and procedures; and,

WHEREAS, the variance from the 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 has an unusually steep topography, the residence is located within the street yard setback, and portions of the front facade are below standard height at the eaves 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 neighboring properties have garages located close to the street, a majority of neighboring properties are located within the front setback, and this project increases the height of the front of the house without extending any living space into the setback.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because a lower eave is not compatible with the design of the house; the existing eaves are located within the setback; the home would have to be relocated further back on the lot and toward the drop-off in order to comply with the setback requirement; and improvements would not be possible without a variance because of the house's location in the 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 stucco wall, the roof form, the window and door material and fenestration pattern, the eave overhang dimension, the deck size, and the guardrail design.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate, and the topographical differences are appropriate to preserve privacy, views, and light.
3. The proposed design does not adversely affect pedestrian or vehicular safety because no change in the existing pedestrian and vehicular access to the public way is proposed.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03, 3.05 (Site Design), 4.01, 4.02, 4.03 (Building Design: General).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.7 (Hillside Home Design), Design and Preservation Element Policy 31.9 (Recent Past).

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

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be paintable vinyl.
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 7/16 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. **Preconstruction Inspection.** Prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department to review the approved installation criteria, such as the window recess, window trim if any, and windowsill projection if any.
5. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.

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

7. 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.

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

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

a. At the discretion of the Building Official, the applicant shall provide a survey verifying the location of the eaves within the 20 foot street yard setback.

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

a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following

- benchmarks as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of 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.

11. **Handrails.** Code-compliant handrails shall be constructed on the exterior stairs. The handrails are subject to staff review and approval.

12. **Front Façade.** The applicant shall revise the design and materials for the façade at the front entry and garage so that it is consistent with the architecture on the remainder of the home. The revised design shall be subject to staff review and approval.

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

ANNOUNCEMENTS

Planning Director Jackson reported an appeal of a staff determination is tentatively scheduled for the September 14, 2020 Planning Commission meeting. The City Council is tentatively scheduled to hear an appeal of the Planning Commission's decision regarding the application for 212 Bonita Avenue on September 8, 2020.

ADJOURNMENT

There being no further business, Chair Alessio adjourned the meeting at 7:05 p.m.