

## PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, August 9, 2021

A Regular Session of the Piedmont Planning Commission was held August 9, 2021, 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 and an amended agenda for this meeting were posted for public inspection on July 26, 2021.

### CALL TO ORDER

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

### ROLL CALL

Present: Commissioners Rani Batra, Yildiz Duransoy, Jonathan Levine, Tom Ramsey, Doug Strout and Alternate Commissioner Justin Zucker

Absent: None

Staff: Planning & Building Director Kevin Jackson, Senior Planner Pierce Macdonald-Powell, Associate Planner Gopika Nair, Assistant Planner Steven Lizzarago, Planning Technician Suzanne Hartman, 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

#### **Resolution 17-PL-21**

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the July 12, 2021, regular hearing of the Planning Commission.

Moved by Strout, Seconded by Ramsey

Ayes: Duransoy, Levine, Ramsey, Strout, Batra

Noes: None

Abstaining: None

Absent: None

### CONSENT CALENDAR

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

- 5 Hampton Court (Fence Design Review Permit).

#### **Resolution 18-PL-21**

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

Moved by Duransoy, Seconded by Ramsey

Ayes: Duransoy, Levine, Ramsey, Strout, Batra

Noes: None

Recused: None

Absent: None

At the end of the meeting, the following Resolution was approved adopting the Consent Calendar:

#### **Fence Design Review Permit 5 Hampton Court**

#### **Resolution 144-FDR-21**

WHEREAS, the Property Owner is requesting permission to demolish the existing wood retaining wall and guardrail along the eastern edge of the driveway at the entrance to the property and construct a new concrete retaining

wall and guardrail in the same location at 5 Hampton Court, 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), and 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 concrete retaining wall material, the wood guardrail material, and the height of the proposed modifications.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because of the size of the property, because topographical differences are appropriate to preserve privacy, views, and light; vegetative screening is sufficient; the project proposes modest improvements at the ground level; and the distances between the project and neighboring homes are appropriate.
3. The proposed design does not adversely affect pedestrian or vehicular safety and will likely improve pedestrian and vehicular safety because the project improves access to the property.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.08.01.1, 3.08.01.2, 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 (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 29.6 (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 the improvements at 5 Hampton Court, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Defense of Legal Challenges.** The Property Owner shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the Property Owner's project ("Challenge").

City may, but is not obligated to, defend such Challenge as City, in its sole discretion, determines appropriate, all at Property Owner's sole cost and expense. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney's fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Property Owner, City, and/or parties initiating or bringing such Proceeding. If the Property Owner is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City. Per Government Code Section 66474.9, the City shall promptly notify Property Owner of any Proceeding and shall cooperate fully in the defense.

**2. Encroachment Permit.** Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the repaving of the driveway and to construct a retaining wall and guardrail within the public right-of-way.

**3. Arborist's Report and Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures to preserve the existing oak tree at the eastern edge of the driveway and within close proximity to the sidewalk. 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 tree that is intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If the tree has been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

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

**REGULAR CALENDAR**

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

**Housing Policy  
Development Activity  
Update**

Senior Planner Pierce Macdonald-Powell utilized a virtual slide presentation to update Commissioners regarding housing policy development activities.

On August 2, 2021, the City Council approved a contract with Rincon Consultants, Inc. to perform an environmental review of any new goals, policies, and actions proposed for the Housing Element Update.

The Measure A1 Bond Subcommittee continues to consider options for the City's use of the low-interest loan for affordable housing, and staff are consulting with affordable housing finance professionals. The City of Piedmont is eligible for a \$2.2 million, low-interest loan through the Measure A1 Alameda County Affordable Housing Bond.

Staff and Lisa Wise Consulting are reviewing draft pre-approved plans for new accessory dwelling units (ADU) and draft objective design standards for multi-family housing, and both documents will be published in September for public comments, ideas, and community participation. A community event is tentatively scheduled for October 2021. The preliminary plans and background information were presented to the Housing Advisory Committee during its June 15, 2021 meeting.

Materials for Housing Advisory Committee meetings are available online at [piedmontishome.org](http://piedmontishome.org). Members of the community are encouraged to send their questions and comments via email to [piedmontishome@piedmont.ca.gov](mailto:piedmontishome@piedmont.ca.gov).

Director Jackson added that a video has been recorded of him explaining the Housing Element Update, the need to prepare an update, and the benefits of an update. Additional videos will be prepared regarding topics associated with the Housing Element Update.

**Fence Design Review  
Permit  
15 Nace Avenue**

The Property Owners are requesting permission to replace the existing wood fence that extends along the northwest and northeast property lines and encloses the outdoor living area with a new stucco wall with a maximum height of 5 feet and replace the wood gates located at the front and rear of the property.

**Public testimony** was received from:

Anna Patty, Property Owner, reported that additions to the home have been constructed over the years without a cohesive design. She and her husband have been working on landscape and hardscape improvements with a Mediterranean feel. The wooden fence is original to the house and failing. The proposed improvements will elevate the property and the corner of Nace Avenue. The property has not been surveyed to determine if the existing fence is located on the property line. The fence may be located on the setback line. The fence height is 5 feet. The rear yard is extremely small, and the existing 5-foot- tall fence provides privacy while her children play in the yard. Other homes in Piedmont that have no rear yards have fences for privacy.

In general, Commissioners appreciated the fence and gate designs but expressed concern that the proposed fence height exceeds the allowed maximum height. Commissioner Strout suggested a maximum fence height of 4 feet along street-facing sides of the property and 5 feet along the side yard. Commissioners agreed with Commissioner Duransoy's proposal to add conditions of approval requiring the finish, texture, and color of the wall match those of the house.

**Resolution 189-FDR-21**

WHEREAS, the Property Owners are requesting permission to replace the existing wood fence that extends along the northwest and northeast property lines and encloses the outdoor living area with a new stucco wall with a maximum height of 5 feet and replace the wood gates located at the front and

rear of the property located at 15 Nace Avenue, which construction requires a fence design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, 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 stucco wall material, wood gate material, and the wall location is appropriate.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the view is not a significant view, and the wall replaces an existing fence at the same location.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no effect on pedestrian and vehicular safety.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.09.01.1, 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, 3.09.03.4 (Site Design).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 29.5 (Fence and Wall Design).

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 15 Nace Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Defense of Legal Challenges.** The Property Owner shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the Property Owner's project ("Challenge"). City may, but is not obligated to, defend such Challenge as City, in its sole discretion, determines appropriate, all at Property Owner's sole cost and expense. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney's fees

and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Property Owner, City, and/or parties initiating or bringing such Proceeding. If the Property Owner is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City. Per Government Code Section 66474.9, the City shall promptly notify Property Owner of any Proceeding and shall cooperate fully in the defense.

**2. 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).

**3. 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.

4. **Stucco Wall Finish.** The color, texture and finish of the stucco wall shall match those of the house.

5. **Wall Height.** The height of the wall facing Nace Avenue shall have a maximum height of 4 feet measured from adjacent grade. The transition in height from the 4 foot wall facing the street to the 5 foot wall along the side property line shall be subject to staff review and approval.

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

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

The Property Owners are requesting permission to construct a 542-square-foot addition along Parkside Drive containing a basement-level two-car garage with main-level master suite above; construct a 25-square-foot expansion at the northwest corner of the house; remove the existing driveway; convert the existing garage into a kitchen; construct a fence within the street yard setback along Ronada Avenue; install new windows and doors throughout the residence; and construct new decking in the rear of the property and other

exterior features including retaining walls, exterior lighting, front awning, and guardrails. Variances are required to construct within the 20-foot street yard setback along Parkside Drive, the 20-foot street yard setback along Ronada Avenue, and the 5-foot side yard setback.

**Public testimony** was received from:

Rebecca Schnier, project architect, recalled the Planning Commission's denial of the project in 2020 and outlined how the current project addresses the Planning Commission's concerns and enhances the details of the house and mitigate the overall sense of mass from the downhill approach. The wooden trellis, the alignment of the doors with the gable above, and the play of roof forms along the Parkside elevation add visual interest and shadows. Ms. Schnier advised that the homeowners will install green screens and possibly a horizontal or vertical trellis to mitigate the addition's impact on adjacent properties. To address concerns regarding the proposed location of the garage, the homeowners are amenable to Public Works and traffic staff suggesting appropriate designs for stepped retaining walls on both sides of the garage and installing a convex mirror and/or signage on the street. She noted that the addition impacts the neighbor at 3 Parkside Drive more than other neighbors, and the homeowners are willing to work with the neighbor and planning staff to respond to the neighbor's concerns and questions regarding retaining walls, the fence, planting, and irrigation. The fence between the subject property and 3 Parkside Drive is in fair condition, and the property owners will replace the fence if the neighbor wishes. Two 20-foot setbacks reduce the lot's buildable area to one-third of the total lot size, which creates a hardship.

Alexander Hughes, Property Owner, added that the design of the addition is based on comments from Commissioners in the 2020 hearing. The lot is oddly shaped. The home was built in 1921, long before guidelines were adopted.

Generally, Commissioners with the exception of Commissioner Strout supported the project and granting the variances, noting design modifications reflect Commissioners' comments, the homeowners agreed to work with staff and the neighbor at 3 Parkside Drive regarding retaining walls, the unusual physical circumstances of the site, and any other location for the proposed garage would be problematic. Commissioner Strout did not support the project because the addition could be accomplished without building in the setback along Ronada Avenue. Commissioners concurred with Commissioner Duransoy's suggestions for the window above the garage entry and the existing window to the left having the same size, a planting strip with hedges between the subject property and 3 Parkside Drive, reducing the height of the retaining walls on both sides of the garage, and the left retaining wall stepping up with the street. Commissioners discussed refining the transition between the two roof gables or adding a decorative element to the space.

**Resolution 218-V/DR-21**

WHEREAS, the Property Owners are requesting permission to construct a 542-square-foot addition along Parkside Drive containing a basement-level two-car garage with main-level master suite above; construct a 25-square-foot expansion at the northwest corner of the house; remove the existing driveway; convert the existing garage into a kitchen; construct a fence within the street yard setback along Ronada Avenue; install new windows and doors throughout the residence, and construct new decking in the rear of the property and other exterior features



including retaining walls, exterior lighting, front awning, and guardrails at 1 Parkside Drive, which construction requires a design review permit; and,

WHEREAS, variances from the requirements of Chapter 17 of the Piedmont City Code are necessary to construct within the 20-foot street yard setback along Parkside Drive, the 20-foot street yard setback along Ronada Avenue, and the 5-foot side yard setback; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after 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, variances from the two street yard setbacks and the side yard setback are approved because they comply 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 a steep corner lot, portions of the existing home are located within the 20-foot street setback, a majority of the perimeter property line has a front yard setback requirement because of the lot's unusual shape and frontage on two streets, and the lot slopes across the footprint of the home, 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 many neighboring properties are located within the 20-foot street setback, a majority of properties on Parkside Drive have a two-car garage with habitable space above, and a variance is required to construct conforming parking.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the existing house would need to be demolished or require significant excavation in order to supply a code-conforming garage outside the setback, much of the existing residence is located within the street yard setback due to the shape of the corner lot, the proposed additions are consistent with the existing residence's setback from the street, and additions constructed outside the setback would be architecturally incompatible with the rest of the home and may create other more significant negative impacts to neighboring properties' access to light and privacy.

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 two-story addition's size, location, bulk, and recess into the existing site; the single-story addition's size, location, and bulk; the stucco wall material, tile roof material, and roof

form match the existing structure; the window and door material and consistent fenestration pattern; the awning design and material; the street-yard fence design and height and limited extent; and the rear deck size and design.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the upper level of the proposed addition is placed to avoid impacting the neighboring property's private rear yard area and aligns with the neighboring wall that does not have windows; the windows along the side property line are placed to minimize the impact on privacy; there is no significant view; and the proposed fence and retaining wall will provide added privacy between the two adjacent properties.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project improves the onsite parking condition by providing two code-compliant parking spaces; the project maintains adequate visibility for entering and exiting the driveway, as conditioned, similar to other semi-recessed garages in Piedmont conforming to design guidelines; and the new handrails and guardrails should improve 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, 3.03.02.4, 3.05.01.1, 3.08.01.1, 3.08.01.2, 3.08.02.1, 3.08.02.2, 3.08.02.3, 3.08.02.4, 3.08.02.5, 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, 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), 4.01.01.2, 4.01.01.3, 4.02.01.1, 4.02.01.2, 4.02.01.3, 4.02.01.6, 4.02.1.7, 4.02.01.8, 4.02.01.10 (Building Design: General), 5.02.01.1, 5.02.01.2, 5.02.02.1, 5.02.02.2, 5.02.02.3, 5.02.02.4, 5.02.02.5, 5.02.02.6, 5.02.03.1, 5.02.03.2 (Building Design: Single-Family Residential).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Element Policy 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 29.6 (Retaining Walls), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Design and Preservation Element Policy 29.8 (Exterior Lighting), Design and Preservation Element Policy 31.3 (Context-Sensitive Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application and the design review permit application for the improvements at 1 Parkside Drive, 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 providing clarifying information submitted on August 4, 2021, after notices to neighbors were mailed and the application was available for public review.
2. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be aluminum clad wood.
3. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
4. **Window Recess.** All new windows shall be recessed 2 inches from the exterior wall to the face of window sash in order to maintain consistency with the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.
5. **Pre-Construction Inspection.** Prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department to review the approved installation criteria, such as the window recess, window trim if any, and windowsill projection if any.
6. **Roof Design.** As specified in the plans, the proposed new roofing shall match the existing style of the current roofing on the residence.
7. **Exterior Lighting.** All new exterior light fixtures shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
8. **Guardrails.** If the proposed rear deck exceeds 30 inches in height measured from grade, the deck shall have guardrails. The design of the guardrails is subject to staff review and approval.
9. **Deck Design.** The deck shall meet the building code standards for one-hour fire rated construction. The deck design, including bracing, is subject to staff review and approval.
10. **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.
11. **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.

12. **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.

13. **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.

14. **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.

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

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

17. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows landscaping proposed for retention and new landscaping proposed in the rear yard and along Ronada Avenue. The final plan shall comply with City Code Division 17.34 and Section 17.33.30, and shall not propose plants near the

driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. Upon the determination of the Director, minor differences in the number, size and/or species of vegetation between those shown on the approved landscape plan and those installed at the time of final inspection that do not involve an increase in hardscape or structure coverage may be subject to staff review and approval. Significant differences between the vegetation installed at the time of final inspection and vegetation shown on the approved landscape plan are subject to a design review permit.

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

- a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at [cleanwaterprogram.org](http://cleanwaterprogram.org).
- b. Project and Site Specific Items: As a part of the construction management plan, the applicant shall provide a detailed plan showing pedestrian and vehicular access down Parkside Drive during demolition, excavation, and construction; indicate the location of parked construction vehicles, dump trucks, materials staging, and drop boxes; and shall ensure emergency vehicles can access Parkside Drive.

**19. Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the 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.

20. **Retaining Walls.** The retaining walls flanking the new driveway shall be modified to enhance visibility as follows: the west side of the driveway shall have a series of retaining walls that step up the hillside; and at its southern terminus the retaining wall on the east side of the driveway shall match the height of and be integrated with the retaining wall on the property at 3 Parkside Drive. The design changes shall be subject to staff review and approval.

21. **Window Design.** The master bedroom window on the south façade shall be reduced in size and proportion to match the bedroom #1 window. The final design shall be subject to staff review and approval.

22. **Fence height and location.** The Applicant has the option to adjust the height and location of the fencing along the east property line to enhance privacy between the properties at 1 and 3 Parkside Drive. The final fence design shall be subject to staff review and approval.

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

**New House Design  
Review Permit  
58 York Drive**

The Property Owners are requesting permission to demolish the existing primary residence and construct a new approximately 2,783-square-foot two-story house with an attached two-car garage, basement "cellar," four bedrooms, four bathrooms, half bath, laundry room, mud room, kitchen, great room, living room, dining room, and study.

**Public testimony** was received from:

Ahmad Mohazab, project architect, reported that the homeowners and he met with planning staff and the neighbors at 54 York Drive to discuss changes in the design pursuant to Commissioners' comments during the previous hearing. The location of the building has been adjusted to provide more daylight between the subject property and 54 York Drive. Additional design changes include setting the garage back; reducing the size of the second floor, which simplified the roof plan; simplifying materials; reducing the height by 5 feet; and creating coherence among all sides of the structure. Because the space within the existing house is chopped up and the ceilings are low, remodeling or expanding the existing house to accommodate a functional contemporary floor plan is not possible. The project meets the intent of the General Plan to strengthen the defining qualities of Piedmont neighborhoods. The windows on the front facade will be nailed into place. Mr. Mohazab agreed to explore changes to the detailing of the front windows and the eave above the garage. The tile is incorrectly noted as porcelain and should be honed marble. The tiles have varying widths and work well with the stucco and wood finishes.

Associate Planner Gopika Nair advised that the first-floor room called out as "en suite" is considered the fourth bedroom. The study is not considered a bedroom because it does not have direct access to a full bathroom.

Commissioners generally appreciated the applicant responding to their previous comments and addressing neighbors' concerns, adjustments to massing, refinement of the design, exterior finishes, and simplification of the footprint and roof. Commissioners, with the exception of Commissioner Levine, suggested the applicant work with staff to refine the facade on the south elevation and eliminate some lighting at the second-floor soffit. Commissioner Levine did not support the project, stating the modern style of the proposed home is not compatible with other homes on the street.

**Resolution 219-NH-DR-21**

WHEREAS, the Property Owners are requesting permission to demolish the existing primary residence and construct a new approximately 2,783-square-foot two-story house with an attached two-car garage, basement "cellar," four bedrooms, four bathrooms, half bath, laundry room, mud room, kitchen, great

room, living room, dining room, and study at 58 York Drive, 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 15303(a), because the project consists of one single-family residence to be constructed within a single-family zoning district, 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, excavation, 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 programs, and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the materials used for the roof, walls, and windows of the main house and attached garage are consistent with the contemporary design, and the massing, setbacks, and heights are consistent with the neighborhood development pattern.

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 and similar to existing conditions; the topographical distances are appropriate to preserve privacy, views, and light; the height of the proposed house is consistent with other houses on York Drive and lower than houses on adjacent properties; there is sufficient vegetation; there is no adverse impact on significant views; and there are no significant views from neighboring properties.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project provides conforming parking and direct pedestrian access from the public way.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03.01.1, 3.03.02.1, 3.03.02.2, 3.03.02.3, 3.03.02.4, 3.09.01.1, 3.09.01.2, 3.09.02.1, 3.09.02.2, 3.09.02.3, 3.09.02.4, 3.09.03.1, 3.09.03.2, 3.09.03.3, 3.09.03.4, 3.12.01.1, 3.12.01.2, 3.12.02.1, 3.12.02.2, 3.12.02.3, 3.12.02.4, 3.13.02.1, 3.13.02.2, 3.13.02.3, 3.13.02.4, 3.13.03.1, 3.13.03.2, 3.13.04.1, 3.13.04.2 (Site Design), 4.03.03.2, 4.04.01.1, 4.04.02.2, 4.04.02.3, 4.04.02.4, 4.04.02.5, 4.05.02.1, 4.05.02.2, 4.05.02.3, 4.05.02.4, 4.05.02.5, 4.05.02.6, 4.05.02.7, 4.05.03.1, 4.05.03.2, 4.05.03.3, 4.05.03.4 (Building Design: General), 5.01.01.2, 5.02.01.1, 5.02.02.1, 5.02.02.2, 5.02.02.4, 5.02.02.5, 5.02.02.6, 5.02.03.1, 5.02.03.2 (Building Design: Single-Family Residential).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Natural Resources and Sustainability Element Policy 16.4 (Permeable Pavement), Natural Resources and Sustainability Element Policy 16.5 (Hardscape Surface Standards), 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 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Land Use Element Policy 1.3 (Harmonious Development), Housing Element Policy 6.2 (Energy-Efficient Materials), Housing Element Policy 6.7 (Water Conservation).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the proposed construction at 58 York Drive, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows shall be aluminum and doors shall be wood, aluminum and glass.
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 3 inches from the exterior wall to the face of window sash. 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 roof shall be a non-reflective medium or dark color to minimize the visual impact on neighboring properties.
6. **Skylight Flashing.** The metal flashing around the skylight(s) shall be painted to match the adjacent roof color.
7. **Exterior Lighting.** Prior to issuance of a building permit, all new exterior light fixtures and wall-mounted or pendant landscape lighting shall be downward directed with an opaque or translucent shade that completely covers the light bulb and source of the light, subject to staff review and approval.
8. **Garage Doors.** The garage doors shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review. In addition and in compliance with California Health and Safety Code Section 19892, an automatic garage door opener for the garage door(s) shall have a battery backup function that is design to operate when activated in the event of an electrical outage.
9. **Setback from Property Line Verification.** Prior to foundation inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from the north, south and west 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.

10. **Building Height and Floor Level Verification.** Prior to frame inspection, the applicant shall provide the Building Official written verification by a licensed land surveyor stating that the floor levels and roof of the new structure are constructed at the approved heights above grade.

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

12. **Stormwater Design.** The California Regional Water Quality Control Board requires all projects, or a combination of related projects, that create and/or replace 2,500 square feet or more of impervious surface to comply with Provision C.3.i of the Municipal Regional Stormwater NPDES Permit. As required by the Building Official, the Property Owner shall verify the total area of impervious surface to be created and/or replaced within the scope of this project, or this project combined with other related projects and/or permits, and incorporate the site design measure(s) required under Provision C.3.i into the plans submitted for a building permit, such as stormwater retention basins and landscape bio retention features. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and online at [cleanwaterprogram.org](http://cleanwaterprogram.org).

13. **Final Landscape Plan.** Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan for the front (west) yard and side (north and south) yards. The final plan shall comply with City Code Division 17.34 and Section 17.33.30, and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. 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.

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

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

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

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

15. **BAAQMD Compliance.** The applicant shall comply with the Bay Area Air Quality Management District regulations related to any building demolition. The Demolition Notification form is available on their website at [www.BAAQMD.gov/forms](http://www.BAAQMD.gov/forms).

16. **Environmental Hazards.** Prior to the issuance of a building permit, as required by the Building Official, the applicant shall provide a plan, including necessary testing, to verify compliance with all local, state and federal regulations regarding the disturbance and removal of hazardous materials (if any) on residential properties, including lead-based paint and asbestos. Said plan for the proper removal and handling of hazardous materials shall be provided on the appropriate sheets of the construction plan sets and included in the Construction Management Plan.

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

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

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.

19. **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.

20. **Consultant Cost Recovery.** In order to accommodate the scope and nature of the Project proposed by the Property Owner, if the Director of Planning & Building deems it necessary to retain independent consultants with specialized expertise, including the City Engineer, the Property Owner shall make a cash deposit with the City at the time of the Building Permit Application in the amount of \$5,000 to be used to pay for the fees and expenses of such City consultants, or in any way otherwise required to be expended by the City for professional consultant assistance. If the cash deposit has been reduced to

\$2,500 or less at any time, the Director of Planning and Building may require the Property Owner to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained by the City on a regular basis or specifically for the Property Owner's Project. Any unexpended amounts shall be refunded to the Property Owner upon request within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

21. **City Attorney Cost Recovery.** If there is a substantial additional commitment of City Attorney's time required to accommodate the scope and nature of the Project, the Property Owner shall, at the time of the Building Permit Application, make a cash deposit with the City in the amount of \$5,000 to be used to offset time and expenses of the City Attorney relating to the Project. If such cash deposit has been reduced to \$2,500.00 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated additional City Attorney time and expenses. Any unused amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

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

- a. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction stormwater management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at [cleanwaterprogram.org](http://cleanwaterprogram.org).
- b. Street Tree Protection. The driveway expansion shall be such so that it does not necessitate any street tree removal along York Drive. Prior to issuance of a building permit, the Applicant shall provide a tree protection plan prepared by a licensed arborist for the three street trees along York Drive, subject to staff approval. If it is determined by the Director of Public Works that the trees health and structural stability will be compromised by the stair construction, the existing trees shall be removed and replaced. The location, size, and species of the replacement street tree shall be determined by the Director of Public Works or their designee

23. **Modifications to Conditions.** Any insurance or security requirement, or related Condition of Approval, may be implemented and, if necessary modified,

in a reasonable manner with the joint agreement of the Director of Planning and Building and the City Attorney, consistent with the intent of the condition.

**24. Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the 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.

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

26. **South Façade Design.** Prior to the issuance of a building permit, the applicant shall revise the design of both the upper and lower-level stucco walls of the south façade in order to break up the expanse of stucco wall, subject to staff review and approval.

27. **Soffit Lighting.** The soffit lighting on both upper and lower level eaves shall be eliminated except where located above entry doors.

28. **Window Framing.** The details for how the windows are framed and sit within the surrounding exterior wall shall be consistent with the window design as it appears in the approved elevations and floor plans. The design shall be subject to staff review and approval.

29. **Eave Alignment.** Prior to the issuance of a building permit, the eave of the roof over the garage and the eave at the lower level of the house shall be redesigned so that they align. The final design shall be subject to staff review and approval.

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

**ADJOURNMENT**

There being no further business, Chair Batra adjourned the meeting at 7:07 p.m.