

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, November 8, 2021

A Regular Session of the Piedmont Planning Commission was held on Monday, November 8, 2021, via ZOOM teleconference, in accordance with Government Code Section 54953. The agenda for this meeting was posted for public inspection on October 25, 2021, in accordance with the General Code Section 54954.2 (a).

**CALL TO ORDER** Chair Rani Batra called the meeting to order at 5:30 p.m. There were some technical difficulties, and a brief recess was taken until 5:55 p.m.

**ROLL CALL** Present: Commissioners Rani Batra, Yildiz Duransoy, Jonathan Levine, Douglas Strout, and Justin Zucker

Absent: Commissioner Tom Ramsey

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.

**EX PARTE COMMUNICATIONS & CONFLICTS OF INTEREST** Commissioner Duransoy had a conflict of interest with 305 Sheridan Avenue and was recused from the discussion. Commissioner Zucker mentioned disclosure statement regarding the firm he works for, but it was not a conflict or required recusal for the project at 305 Sheridan Avenue.

**REGULAR SESSION** The Commission considered the following items of regular business.

**APPROVAL OF MINUTES** **Resolution 22-PL-21**  
RESOLVED, that the Planning Commission approves as presented its meeting minutes of the October 11, 2021, regular hearing of the Planning Commission.  
Moved by Strout, Seconded by Zucker  
Ayes: Duransoy, Strout, Zucker, Batra  
Noes: None  
Abstain: Levine

**CONSENT CALENDAR** By procedural motion, the Commission placed the following application on the Consent Calendar as noted:

- **235 Mountain Avenue, #21-0293 (Design Review Permit)**

**Resolution 23-PL-21**  
RESOLVED, that the Planning Commission placed the following application on the Consent Calendar as noted.  
Moved by Levine, Seconded by Strout  
Ayes: Duransoy, Levine, Strout, Zucker, Batra  
Noes: None  
Abstain: None

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

**Design Review Permit  
235 Mountain Avenue**

**Resolution 293-DR-21**

WHEREAS, the Property Owner is requesting permission to add 1,174 square feet of new living area through the construction one-story addition at the rear, east façade, and the southwest corner of the house; construct new or expanded decks in the rear and left side yards; make various door, window and exterior lighting modifications; make various changes to the interior; and make other landscape and hardscape modifications; and

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application and after visiting the subject property, the Piedmont Planning Commission found that the project was categorically exempt under the California Environmental Quality Act, CEQA, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, the project was consistent with General Plan policies and programs, and the proposal, as conditioned, conformed 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:
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light.
3. The proposed design does not adversely affect pedestrian or vehicular safety.
4. As conditioned, the application complies with the following Design Review Guidelines: 3.12.01.1, 3.12.01.2, 3.12.02.1, 3.12.02.2, 3.12.02.3, 3.12.02.4 (Site Design), 4.01.01.1, 4.01.01.2, 4.01.01.3, 4.01.01.4, 4.02.01.1, 4.02.01.2, 4.02.01.3, 4.02.01.4, 4.02.01.5, 4.02.01.6, 4.02.1.7, 4.02.01.8, 4.02.01.9, 4.02.01.10, 4.03.03.1, 4.03.03.2, 4.03.03.3, 4.03.03.4, 4.03.03.5, 4.03.03.6, 4.05.03.1, 4.05.03.2, 4.05.03.3, 4.05.03.4 (Building Design: General), 5.01.01.1, 5.01.01.2, 5.01.02.1 (Building Design: Single-Family Residential).
5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.3 (Additions), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), and Design and Preservation Element Policy 29.8 (Exterior Lighting).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the improvements at 235 Mountain Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be wood.
2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Window Recess.** All new windows shall be recessed at least 3.5 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. **Roof Color.** The proposed flat roof shall be a non-reflective medium or dark color to minimize the visual impact on upslope properties.

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

7. **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.

8. **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.

9. **Roof Water Runoff.** Water runoff from the Project site shall not drain onto neighboring properties. If design modifications are required to comply with this requirement, any such modifications shall be subject to staff review and approval.

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

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

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

- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) 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 Applicants. The City may, at the Applicants' sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of 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 Applicants fail to meet a benchmark set forth in the Approved Construction Completion Schedule, the Applicants shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of 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 Applicants to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance

under the City of Piedmont City Code (“City Code”). The failure of the Applicants to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Applicants fail to comply with the Approved Construction Completion Schedule, the Director of 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.

**12. 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 located on the neighboring property at 229 Mountain Avenue near the proposed deck construction located at the southwest corner of the house. 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 oak tree. 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. 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 the tree has not been compromised by the construction.

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

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

**Housing Policy  
Development Activity  
Update**

Senior Planner Pierce Macdonald-Powell utilized a presentation to update the Commissioners regarding the development of new housing policies and programs, including Measure A-1, SB-2, objective design standards, and existing and new accessory dwelling unit (ADU) incentives.

It was recommended by City Council to request a second extension for the Measure A-1 funding until December 31, 2023, and to also conduct a study of the feasibility of developing housing on City-owned land.

On October 21, 2021, the City and housing consultants LWC held a community workshop to review draft objective design standards for multifamily buildings and

draft ADU incentives, funded by the SB 2 grant. Ms. Macdonald-Powell summarized the workshop materials, outlined the previous and upcoming events, and directed anyone interested in the proposals to the project website <http://PiedmontisHome.org>.

Public comments on the SB 2-funded materials will be accepted until November 19, 2021 and can be sent to Senior Planner Pierce Macdonald-Powell at: [Piedmontishome@piedmont.ca.gov](mailto:Piedmontishome@piedmont.ca.gov).

Also, Ms. Macdonald-Powell invited the public to the Housing Element Workshop #1 on December 2, 2021, which will present initial findings from technical research, such as population and demographic data, constraints analysis, and housing needs analysis, to help form the basis of new housing goals, policies, and programs. More housing information and resources are available at <http://PiedmontisHome.org>.

Lastly, Ms. Macdonald-Powell informed Commissioners and members of the public of an event hosted by the Piedmont Racial Equity Campaign and League of Women Voters of Piedmont. The event will be held on November 9, 2021. For more information visit: [www.piedmontraciaequity.org](http://www.piedmontraciaequity.org).

There was no **public testimony**.

**Fence Design Review  
Permit, 305 Sheridan  
Avenue, #21-0246**

The Property Owner is requesting to construct a five-foot-tall iron fence and two gates within the twenty-foot street yard setback.

**Public testimony** was received from:

John Protopappas, Property Owner, reported that the objective to installing the fence and gate were to secure their large dogs, keep critters out and the deer that eat their flowers and plants. Most of the proposed fence locations are approximately 14'-17' from the property line. The public would have a minimal view of the fence. The locations were designed to protect original stone walkways and the redwood tree that is located on Lakeview Avenue. Similar double-gate entry would be installed above stairwell next to garage on Lakeview Avenue, so large items can be brought into the home.

John Malick, Architect, stated that the City of Piedmont's Guideline 3.09.02.03 on page 3-44 addresses this situation, that a fence greater than 4' should be allowed for side or rear yard.

In general, the Commissioners felt that the proposed fence is an attractive design, but the fence does not meet the Piedmont Design Guidelines due to its proposed height and its location within the 20-foot street setback on an elevated corner lot. All Commissioners were in support of approving the fence if it had been proposed to be a shorter height.

**Resolution 246-FDR-21**

WHEREAS, The Property Owner is requesting to construct a five-foot-tall iron fence and two gates within the twenty-foot street yard setback located at 305 Sheridan 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 that the project was inconsistent with General Plan policies and programs, and the proposal does not conform to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. The project as proposed in the application does not comply with the design review criteria under Section 17.66.060 in terms of the height of the fence and its location within the 20-foot street yard setback given the elevated height of the property.
2. The design has no effect on neighboring properties' existing views, privacy, and access to direct and indirect light.
3. The proposed design does not adversely affect pedestrian or vehicular safety.
4. The application does not comply with Piedmont Design Guidelines 3.09.01.1, 3.09.02.2, and 3.09.02.3.
5. The application does not comply with the City's General Plan Design and Preservation Policies 29.3 (Front Yard Enclosures) and 29.5 (Fence and Wall Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the design review permit application for the construction at 305 Sheridan Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Levine, Seconded by Strout  
Ayes: Levine, Strout, Batra  
Noes: Zucker  
Abstain: Duransoy

**Fence Design Review  
Permit, 1680 Lower  
Grand Avenue, #21-  
0285**

The Property Owners are requesting retroactive approval for the construction of a wood fence within the twenty-foot-street setback.

**Public testimony** was received from:

Richard Przybyla, Property Owner, apologized that they already constructed this project without knowledge of the design review process. They replaced the old fence and extended it across the front and side of the property. It is under 42" and consists of redwood. They reconstructed the fence due to safety for their daughter and dog, due to aggressive drivers and busy traffic. The fence was constructed taller than the original fence due to having a large dog.

The Planning Commission generally felt that the proposed fence did not meet the Piedmont Design Guidelines due to the solid fence design and height. Commissioner Zucker discussed that the proposed fence was not consistent with the architecture of the home, nor was it consistent with the surrounding neighborhood development.

**Resolution 285-FDR-21**

WHEREAS, The Property Owners are requesting retroactive approval for the construction of a wood fence within the twenty-foot-street setback located at 1680 Lower Grand 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 that the project was inconsistent with General Plan policies and programs, and the proposal does not conform to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. The proposed design is not consistent with the City's General Plan and Piedmont Design Guidelines in that the proposed fence is not consistent existing architecture of the home and neighborhood development, the fence height, the fence location, and fence opacity.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light
3. The proposed design does not adversely affect pedestrian or vehicular safety
4. The application does not comply with Piedmont Design Guidelines 3.09.01.1, 3.09.02.2, and 3.09.02.3;
5. The application does not comply with the City's General Plan Design and Preservation Policies 29.3 (Front Yard Enclosures) and 29.5 (Fence and Wall Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the design review permit application for the construction at 1680 Lower Grand Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Zucker, Seconded by Duransoy  
Ayes: Duransoy, Levine, Strout, Zucker, Batra  
Noes: None  
Abstain: None

**Fence Design Review  
Permit, 410 Hampton  
Road, #21-0294**

The Property Owners are requesting to install an automatic galvanized steel driveway gate at the front of the property

**Public testimony** was received from:

Architect John Malick presented that this application was discussed between neighbors. The family has a collection of cars and wants them secured as much as possible and the fence, if no greater than 4', could be located between sidewalk and house. The first 10' of the proposed deer fence turns and becomes part of front yard fence and the gate consists of wires strung between a rigid frame.

The Commissioners agreed that the design of the galvanized gate was appropriate and architecturally consistent with the residence but could not support the proposed deer fence and location of the gate which encloses the driveway and front left corner yard.

**Resolution 294-FDR-21**

WHEREAS, The Property Owners are requesting to install an automatic galvanized steel driveway gate at the front of the property located at 410 Hampton Road, which construction requires a fence design review permit; and

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that that the project was inconsistent with General Plan policies and programs, and the proposal does not conform to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:



1. The proposed design is not consistent with the City's General Plan and Piedmont Design Guidelines in that the proposed height and location within the 20-foot street yard setback.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light.
3. The proposed design does not adversely affect pedestrian or vehicular safety.
4. The application does not comply with Piedmont Design Guidelines 3.09.01.1, 3.09.02.2, and 3.09.02.3;
5. The application does not comply with the City's General Plan Design and Preservation Policy 29.5 (Fence and Wall Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies without prejudice the design review permit application for the construction at 410 Hampton Road, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Levine, Seconded by Strout  
Ayes: Duransoy, Levine, Strout, Zucker, Batra  
Noes: None  
Abstain: None

**ANNOUNCEMENTS**

Chair Batra encouraged the public to review and make comments on the objective design standards found on PiedmontisHome.org, and to attend the Community Workshop for the Housing Element update scheduled for December 2, 2021.

Director Jackson reminded the commission and public that there are two upcoming Community Pool Workshops scheduled on November 16, 2021, and December 14, 2021. He also announced that the Planning Commission would be taking a recess from its regular meetings in January 2022, but that the Commission will have a special meeting scheduled on January 10, 2022, to receive an update on the Community Pool design.

**ADJOURNMENT**

There being no further business, Chair Batra adjourned the meeting at 7:20 p.m.