



CITY OF OAKLAND

AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: William A. Gilchrist
Director, Planning and
Building Department

SUBJECT: Memorandum of Agreement for 513
Boulevard Way

DATE: September 3, 2021

City Administrator Approval

Date: Sep 17, 2021

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To Enter Into A Memorandum Of Agreement With The City Of Piedmont Establishing That The City Of Piedmont Will Process Planning and Building Entitlements For A Rear Floor Area Addition And Upper And Lower Decks At 513 Boulevard Way, A Property Located Within Both Jurisdictions; And Adopting Appropriate California Environmental Quality Act (CEQA) Findings.

EXECUTIVE SUMMARY

Staff recommends that the City Council authorize the City Administrator to enter into a Memorandum of Agreement (MOA) with the City of Piedmont for a rear floor area addition and upper and lower decks to a single-family home at 513 Boulevard Way. The property is located within both jurisdictions, and the MOA will allow the City of Piedmont to act as the lead agency for the issuance of planning and building permits for the proposed development.

BACKGROUND / LEGISLATIVE HISTORY

Property Description

The property located at 513 Boulevard Way (the "Property") consists of one lot (Assessor Parcel Number 050 085500500) and an existing single-family home that straddles the Piedmont/Oakland border. The legal description and assessor parcel map for the Property is provided as **Attachment A**. The Property is generally bounded by single-family properties at 516-522 Boulevard Way across the street to the north, a duplex at 516-518 and a single-family property at 522 Crofton Way (Oakland) to the south at the rear of the Property, a single-family property at 511 Boulevard Way (Piedmont) to the west, and a single-family property at 523 Boulevard Way (Piedmont) to the east. The Property consists of 9,255 square feet (determined by a survey), with approximately 3,933 square feet or 43 percent of which is located in Piedmont, and approximately 5,322 square feet or 57 percent of which is located in Oakland.

City Council
October 5, 2021

When considering properties intersected by the border between the City of Piedmont and the City of Oakland, by long-standing arrangement between the Cities, certain properties are considered Piedmont properties for the purposes of providing 911 emergency and other municipal services, and certain properties are considered Oakland properties for the purposes of providing 911 emergency and other municipal services. The Property is considered a Piedmont property eligible for Piedmont 911 emergency services, municipal waste removal services, access to the Piedmont Unified School District schools, and other municipal services. The neighboring residences which have vehicular and pedestrian access to Boulevard Way are also considered Piedmont properties for these same services.

The City Council has adopted several resolutions in the past allowing another jurisdiction to act as the lead agency for the issuance of planning and building permits including an Accessory Dwelling Unit at 1086 Annerley this year (Resolution No. 88570 CMS) and demolition and new construction of a single-family residence at 30 Blair Place in 2019 (Resolution No. 87557 CMS), both in the City of Piedmont.

Project

The development applicant seeks to construct a rear floor area addition and upper and lower decks to a two-story, single-family home (***Attachment B***). Specifically, the scope of work (Project) consists of extending and remodeling the first floor kitchen into the space of a covered, but not enclosed, sun porch, extending the master bedroom into the existing sunroom and adding a bathroom on the second floor, and extending the existing roof plane. An upper deck would be constructed off the master bedroom, and a lower deck would be constructed off the kitchen with steps leading to the rear yard and driveway along with new planters, landscaping and retaining walls.

While the majority of the home is located in Piedmont and fronts Boulevard Way, most of the construction would take place in Oakland, within the existing building footprint. The Project would only add approximately 80 square feet (sq. ft.) of building floor area to the Property and only 303 sq. ft. of new footprint for the upper and lower decks.

ANALYSIS AND POLICY ALTERNATIVES

City of Oakland Zoning

The portion of the Property located in Oakland is within the Mixed Housing Type Residential - 2 (RM-2) Zone per the Oakland Planning Code. The RM-2 Zone allows a 30 ft. maximum pitched roof height of the primary building; however, in this Zone, the maximum pitched roof height may be increased to 35 ft. upon the granting of a Conditional Use Permit (CUP). Staff has reviewed the proposal and found that, due to the slight cross-slope, the west elevation shows a height of 31 ft.-6 inches. As such, if the Project were to be processed in Oakland, Regular Design Review and a CUP would be required to comply with Oakland's land use regulations.

Analysis

The applicant has requested that all required permits for land use and building inspections be processed by the City of Piedmont. Staff supports this request for the following reasons:

- The City of Piedmont has historically dealt with permitting at this property;
- The orientation of the existing home is on a street served exclusively by the City of Piedmont;
- The majority of the existing, 1,634 sq. ft. home's footprint is located in Piedmont and only 80 sq. ft. is to be located in Oakland, if approved;
- The Project, except for the new decks, is within the existing building footprint;
- The expansion of the existing roof, although over the Oakland height limit without a CUP, would not adversely affect the Oakland properties to the rear in terms of solar access or privacy as those buildings are over 130 ft. away and buffered at the lot line by mature trees and vegetation;
- Reducing the height of the roof by 1.5 ft. to meet the maximum permitted height limit without a CUP would create an awkward, rear design, inconsistent with the historic, 1912 character of the house;
- Piedmont uses the same State-mandated building codes as Oakland; and
- Piedmont will provide the residence with 911 emergency services, municipal waste removal services, access to Piedmont Unified School District schools, and other municipal services.

In order to efficiently consider the Project, the Cities desire to enter into an MOA to memorialize the designation of Piedmont as the lead agency for the purposes of both land use approvals and building inspection of the Project, including but not limited to issuance of building and occupancy permits, and the provision of 911 and other municipal services to the Project, consistent with the terms and conditions contained in the draft MOA (**Attachment C**) and to ensure that Oakland will not be negatively impacted by the proposal:

- Piedmont will be the lead agency for all land use approvals regarding the Project;
- Piedmont will be responsible for building permit issuance, plan check, issuance of certificates of occupancy, building inspections and similar activities for the entire Project consistent with the appropriate procedures, fees, and standards of Piedmont;
- The Piedmont Fire Department will be responsible for the provision of emergency and public safety services to the Property, including those portions located in the City of Oakland; and
- Piedmont will continue to provide municipal waste removal services, access to the Piedmont Unified School District schools, and other municipal services to the Property.

The establishment of this MOA between the City of Piedmont and City of Oakland as well its terms and conditions support the Citywide Priority of promoting and maintaining **housing, economic and cultural security**.

Policy Alternatives

- Alternative # 1** City Council declines staff's recommendation and requires both planning and building permits to be submitted to and approved by the City of Oakland.
- Pros** The City of Oakland would retain jurisdiction.
- Cons** The applicant would not be supportive of this proposal as this would require them to process the application and pay permit fees to both jurisdictions for the same Project. The applicant would consider this onerous and time consuming and contrary to the State's goal of streamlining the permit process for development projects.
- Reason for not recommending** The portion of the Project in Oakland is only 80 sq. ft. of floor area or 303 sq. ft. of building footprint. Going through a dual permitting process would be confusing for the applicant in terms of requirements, but also for staff in terms of permit authority, plan-check and inspections. Neighbors to the rear within the City of Oakland will not be adversely affected by the Project due to the distance between buildings and intervening mature vegetation.
- Alternative #2** City Council declines staff's recommendation and requires split jurisdiction during the permitting process for the Project, i.e., a planning permit would be processed in Oakland and building permits processed in Piedmont or vice versa.
- Pros** The City of Oakland would retain partial jurisdiction.
- Cons** This is inefficient, confusing, and is typically only done for larger, multi-family projects which would generate significant revenue in both cities.
- Reason for not recommending** The portion of the Project in Oakland is only 80 sq. ft. of floor area or 303 sq. ft. of building footprint. Going through a bifurcated permitting process would be confusing for the applicant in terms of requirements, but also for staff where regulatory conflicts across jurisdictions may also be problematic. This option would require a more complicated MOA, inconsistent with the overall minor scope of the Project. Furthermore, as noted above, neighbors to the rear within the City of Oakland will not be adversely affected by the Project.

FISCAL IMPACT

Adoption of this resolution is expected to be revenue neutral. While fees would not be paid to the City, there would also be no cost to the City because Planning and Building Department staff would not work on the Project. Furthermore, there would be no ongoing impact on the City of Oakland's municipal services for the Property.

PUBLIC OUTREACH / INTEREST

No outreach was deemed necessary for the proposed policy action beyond the standard City Council agenda noticing procedures, as the Project pertains to a single residence and is not expected to adversely affect the Oakland properties to the rear of the Property.

COORDINATION

The City Attorney's Office and the City of Piedmont have worked closely with staff on the preparation of the MOA and have reviewed this staff report and resolution, as has the City's Budget Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: There are minimal economic opportunities associated with this Project. The Project is not anticipated to provide a significant number of construction jobs, and these may or may not be for Oakland workers. The Property will remain a single-family home with a very minor expansion of floor area and footprint.

Environmental: The Project will be required to meet modern standards for energy efficiency and green building.

Race & Equity: There are no race and equity opportunities associated with this Project. The Property will remain a single-family home with a very minor expansion of floor area and footprint.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

CEQA Guidelines exempt specific types of projects from environmental review. The following is an analysis citing the two CEQA exemptions that apply to this Project, both of which provide a separate and independent basis for CEQA clearance.

- ***Section 15061(b)(3) – Review for Exemption:*** Section 15061(b)(3) of the CEQA Guidelines states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That the City Council Adopt A Resolution Authorizing The City Administrator To Enter Into A Memorandum Of Agreement (MOA) With The City Of Piedmont Establishing that the City Of Piedmont Will Process Planning and Building Entitlements For A Rear Floor Area Addition and Upper and Lower Decks At 513 Boulevard Way, A Property Located Within Both Jurisdictions; And Adopting Appropriate California Environmental Quality Act (CEQA) Findings.

For questions regarding this report, please contact Heather Klein, Planner IV at (510) 238-3659.

Respectfully submitted,



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Director, Planning and Building Department

Prepared by:

Heather Klein, Planner IV
Bureau of Planning

Attachments (3):

- A. Property Legal Description
- B. Project Plans
- C. Memorandum of Agreement