

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, October 12, 2009

A Regular Session of the Piedmont Planning Commission was held October 12, 2009, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on October 2, 2009.

CALL TO ORDER

Chairman Kellogg called the meeting to order at 5:00 p.m. He announced that immediately following tonight's regular meeting, the Commission will hold its third work session in connection with the on-going update of the City's General Plan Housing Element. The public is invited to attend.

ROLL CALL

Present: Commissioners Jonathan Levine, Jim Kellogg, Melanie Robertston, Bobbe Stehr and Alternate Commissioner Michael Henn

Absent: Commissioner Clark Thiel (excused)

Staff: City Planner Kate Black, Assistant Planner Kevin Jackson, Planning Technician Gabe Baracker and Recording Secretary Chris Harbert

City Council Liaison: Councilmember John Chiang

CONSENT CALENDAR

The following Resolution was approved under one vote by the Commission:

Design Review 1102 Harvard Road

Resolution 222-DR-09

WHEREAS, Mr. and Mrs. Taeku Lee are requesting permission to make various improvements, including to construct an approximately 335 sq. ft. second floor expansion; make roof changes; construct new exterior stairs; add exterior lighting; and make window and door modifications located at 1102 Harvard Road, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed upper level addition/expansion and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level have been considered and are/are not necessary to reduce losses of ambient and reflected light. The project is well designed to fit into the rear portion of the house,

uses compatible components and details and complies with Design Review Guidelines II-1, II-2, II-3(a) through (d), II-5, II-5(a) and II-6.

2. The proposed upper level addition/expansion has been designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), including consideration of the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and/or changing the roof slope or ridge direction. There is sufficient separation distance between adjacent neighboring properties to minimize impact. Proposed windows are sensitively located to preserve neighbor privacy and the improvements do not increase the whole house mass. The project complies with Design Review Guidelines II-1, II-2, II-3 and II-6.

3. The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern. The project complies with the above-cited Design Review Guidelines.

4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new upper level and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood. There is no change in existing circulation patterns.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Lee for construction at 1102 Harvard Road, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Harvard Road and Portsmouth Road;
2. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all phases of this project. As a Covered project, this project is eligible to participate in the Incentive Program in which the City will provide one-half the cost of debris boxes provided by the City's franchised waste hauler and used exclusively for the purpose of removing recyclable construction and demolition debris.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not

extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code, nor does the approval extend to matters not set forth, or inadequately represented, in submitted documents (whether or not consistent with applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Robertson, Seconded by Stehr

Ayes: Levine, Kellogg, Robertson, Stehr

Noes: None

Recused: Henn

Absent: Thiel

PUBLIC FORUM

There were no speakers for the public forum.

APPROVAL OF MINUTES

Resolution 20-PL-09

RESOLVED, that the Planning Commission approves as submitted its meeting minutes of September 14, 2009.

Moved by Stehr, Seconded by Levine

Ayes: Levine, Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

REGULAR CALENDAR

The Commission considered the following items of regular business:

Conditional Use Permit 370 Highland Avenue

Mr. Rob Bloemker is requesting a conditional use permit to open an investment office in Suite 200 on the 2nd floor of the multi-tenant office and commercial building at 370 Highland Avenue. No exterior alterations or signage are proposed. The specifics of the applications are:

- *Days & Hours of Operation* – 6 a.m. to 6 p.m. business days
- *On-Site Parking* –None. Applicant proposes to walk to work.
- *Maximum No. of People on Site* – One to five investment professionals. There will be no client visits.
- *Types of Staff/Personnel* – One investment professional, with the possibility that four additional investment professionals could be added at a later date
- *Requested Permit Term:* 6 years

Written notice was provided to neighbors. **Three affirmative response forms** were received. **Correspondence** was received from: Jerry Ostrander, Oct. 5; George Millirons, Oct. 7.

Public testimony was received from:

Rob Bloemker stated that he is a fixed income investor for the Boston-based money management firm of Putnam Investments. He recently moved to Piedmont and is seeking office space where he can conveniently walk to work. While at present the application proposes a

1-person office, he eventually may add additional investment professionals. He stated that no client visits to his office are expected. He requested a 6-year permit term to coincide with the length of his lease.

The Commission supported application approval, agreeing that the proposed use is very low intensity and consistent with other uses in the existing office building.

Resolution 223-CUP-09

WHEREAS, Mr. Rob Bloemker is requesting a Conditional Use Permit to operate an investment office in Suite 200 in the existing office and commercial building at 370 Highland Avenue, Piedmont, California, and;

WHEREAS, the Piedmont Planning Commission has reviewed the application, the staff report, and any and all other documentation and testimony submitted in connection with the application and has visited the subject property;

The Piedmont Planning Commission makes the following findings:

1. The use is of benefit to Piedmont residents. The applicant will provide financial expertise to Piedmont residents and neighboring financial businesses.
2. The use will be properly related to other land uses and transportation and service facilities in the vicinity. The proposed use is investment banking and fixed income portfolio management.
3. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health or safety of persons residing or working in the vicinity. The proposed use is a very low intensity business office.
4. The use will not be contrary to the standards established for the zone in which it is to be located. The existing commercial building is located in Zone D and is becoming a financial center for Piedmont.
5. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area. There is no client visits and the applicant intends to walk to work. The maximum use proposed consists of five investment professionals.
6. The use is compatible with the General Plan and will not adversely affect the character of the surrounding neighborhoods or tend to adversely affect the property values of homes in the surrounding neighborhoods. A leased office space is better for the community than vacant space.
7. Adequate provision for driveways to and from the property has been made; facilities for ingress and egress from secondary streets instead of arterials, where possible, have been made; provision for parking in compliance with this Chapter 17 has been made, together with sufficient agreements to enforce the carrying out of such plans as may be required by the Council. The proposed use is within an existing

office building and no exterior changes to this building are being proposed.

8. The plans conform to all other laws and regulations of the City, provided, however, that the Council shall have the right to require front, rear and side yard setbacks greater than those otherwise provided in the laws and regulations of the City if the Council finds that such larger front, rear and side yard areas are necessary to provide for the health, safety and general welfare of the residents of Piedmont in accordance with its zoning laws.

RESOLVED, that in consideration of the findings and facts set forth above, the Piedmont Planning Commission recommends approval by the City Council of the application for a conditional use permit by Mr. Bloemker for property located at 370 Highland Avenue, Piedmont, subject to the following conditions:

- *Days & Hours of Operation* – 6 a.m. to 6 p.m. business days
- *Maximum No. of People on Site* – One to five investment professionals. There will be no client visits.
- *Types of Staff/Personnel* – One investment professional, with the possibility that four additional investment professionals could be added at a later date
- *Permit Term*: 6 years to coincide with the applicant's lease

Moved by Stehr, Seconded by Robertson

Ayes: Levine, Kellogg, Robertson, Stehr, Henn

Noes: None

Absent: Thiel

**Variance and
Design Review
102 & 104 Pacific**

Mr. and Mrs. Langxing Pan are requesting variance and design review to modify the main house by demolishing the rear deck cover and stair; enlarging the upper unit by enclosing the rear roof deck and an alcove on the east façade; changing the design and height of the rear roof; replacing the garage door; replacing the shingle siding and roof material; making window modifications; and making various changes to the interior. The application also proposes to modify the rear cottage by changing the design and height of the front roof and replacing the shingle siding. The requested variance is from Section 17.12.7 to allow the eave of the rear cottage to extend to within 1'3" and the parapet of the front house to extend to within 3'8" of the left (east) side yard property line in lieu of the code required minimum of a 4 ft. side yard setback. This multi-family dwelling is located in Zone C. The main house and cottage were constructed in 1906 and have had numerous remodels and additions.

Commissioner Levine recused himself from discussion and action on this application and left the chambers.

Written notice was provided to neighbors. **Two neutral and one negative response forms** were received. **Correspondence** was received from: Frank & Lill Anderson, Oct. 7; Mark Ratcliffe & Sharon Pilmer, Oct. 2

Public testimony was received from:

Langxing Pan stated that he purchased this very neglected property in 2001 and is in the process of repairing the foundation. He stated that

all construction materials and debris will be stored on site – out of public view and most of the exterior related work should be completed within three to six months. In response to Commission questions, he acknowledged the mish-mash of aluminum and wood window treatments but stated that it would be too expensive to replace all 70+ windows. However, he noted that he may replace some of the aluminum windows with wood windows made by his carpenter. He also noted that existing hardscape will be improved by the substitution of brick for concrete but he opposed submitting a full landscaping plan. He stressed that if too many conditions or changes to his plan are required, he may abandon proposed improvements and simply repair existing deficiencies.

Mark Ratcliffe referenced his letter in requesting that the design be modified to create more window treatment uniformity and propose a hip roof design on the main house and cottage to minimize view impacts. He also stated that he has submitted an application for the fence/retaining wall between the two properties, noting that the property line was surveyed in connection with this fencing plan.

Clayton Pang, Project Architect, reviewed the challenges in improving the existing structures without negatively impacting adjacent residences.

The Commission supported the upgrading of this deteriorated property but felt that additional design modifications were necessary to comply with the City's Design Review Guidelines. The Commission felt that the cottage improvements (104 Pacific) were acceptable provided the roof line was changed to a hip to lessen its impact on the Ratcliffes – this design modification could be approved at the staff design review level. However, the Commission, with the exception of Commissioner Stehr, requested that proposed revisions to the main house (102 A & B Pacific) be resubmitted for Commission review and approval (Commissioner Stehr felt that these design changes could also be handled at staff level). In particular, the Commission requested that: (1) increased window uniformity be provided on the rear façade; and (2) the roof line treatment be re-examined to better integrate the overall structure with itself. The Commission felt that the existing flat roofs were inappropriate and inconsistent with the City's Design Review Guidelines and several roof design options exist to eliminate the existing "tacked on" appearance of the residence. The Commission agreed that variance approval was justified given that the encroachments are pre-existing -- both the main house and cottage are located within the side yard setback.

Resolution 225-V-09

WHEREAS, Mr. and Mrs. Langxing Pan are requesting permission to modify the rear cottage by changing the design and height of the front roof and replacing the shingle siding located at 104 Pacific Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct within the 4 ft. 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 subject property, the Piedmont Planning Commission makes the following findings:

1. The underlying lot and existing improvements present unusual physical circumstances, including but not limited to the fact that the existing cottage is already located within the side setback. Because of these circumstances, strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
2. The variance is compatible with the immediately surrounding neighborhood and the public welfare because the proposed improvements to the cottage do not increase the existing setback encroachment.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because improvements to the left side of the existing cottage cannot be made without variance.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the variance application of Mr. and Mrs. Langxing Pan for the above variance at 104 Pacific Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code, nor does the approval extend to matters not set forth, or inadequately represented, in submitted documents (whether or not consistent with applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Robertson, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Recused: Levine

Absent: Thiel

Resolution 225-DR-09

WHEREAS, Mr. and Mrs. Langxing Pan are requesting permission to modify the rear cottage by changing the design and height of the front roof and replacing the shingle siding located at 104 Pacific Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The exterior design elements (including but not limited to height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment) are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development in that the project complies with Design Review Guidelines II-1, II-2, II-3, II-3(a) through (c), II-6 and II-6(a) and (b).
2. The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light because it minimizes light and view impacts on neighboring properties. The project complies with Design Review Guidelines II-6, II-6(b), II-7 and II-7(a).
3. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress because existing circulation patterns are not changed.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Pan for construction at 104 Pacific Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. Due to the scope and nature of the application, a construction management plan shall be developed and approved by staff prior to obtaining a building permit. Said plan shall be comprehensive while specifically addressing the duration of the project, construction hours, the staging of materials, and parking of worker vehicles to ensure the free flow of traffic along Pacific Avenue;
2. Compliance with Chapter 9 Article III of the Municipal Code, which governs the recycling of construction and demolition debris, will be required on all phases of this project. As a Covered project, this project is eligible to participate in the Incentive Program in which the City will provide one-half the cost of debris boxes provided by the City's franchised waste hauler and used exclusively for the purpose of removing recyclable construction and demolition debris; and
3. The design of the northwest bay of the roof be a hip design, with said design modification subject to staff review and approval.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code, nor does the approval extend to matters not set forth, or inadequately represented, in submitted documents (whether or not consistent with applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if

noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Robertson, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Recused: Levine

Absent: Thiel

Resolution 225(1)-V-09

WHEREAS, Mr. and Mrs. Langxing Pan are requesting permission to modify the main house by demolishing the rear deck cover and stair; enlarging the upper unit by enclosing the rear roof deck and an alcove on the east façade; changing the design and height of the rear roof; replacing the garage door; replacing the shingle siding and roof material; making window modifications; and making various changes to the interior by changing the design and height of the front roof and replacing the shingle siding located at 102 A & B Pacific Avenue, Piedmont, California, which construction requires variance; and

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary in order to construct within the 4 ft. side yard setback;

RESOLVED, that the Planning Commission defers consideration of a side yard variance for 102 A & B Pacific Avenue pending resubmittal of a revised design for this main house property.

Moved by Henn, Seconded by Stehr

Ayes: Kellogg, Robertson, Stehr, Henn

Noes: None

Recused: Levine

Absent: Thiel

Resolution 225(1)-DR-09

WHEREAS, Mr. and Mrs. Langxing Pan are requesting permission to modify the main house by demolishing the rear deck cover and stair; enlarging the upper unit by enclosing the rear roof deck and an alcove on the east façade; changing the design and height of the rear roof; replacing the garage door; replacing the shingle siding and roof material; making window modifications; and making various changes to the interior by changing the design and height of the front roof and replacing the shingle siding located at 102 A & B Pacific Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. While some of the exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development, the proposed roof design and metal window material do not comply with the City's Design Review Guidelines II-1, II-2, II-3, II-3(b) and (c).

2. While the proposed upper level addition/expansion has been somewhat designed in a way that reasonably minimizes view and light impacts on neighboring properties (as defined in Section 17.2.70), the view impact of the flat roof does not comply with the above stated Design Review Guidelines as well as Guidelines II-3(d) and II-6(b).
3. The size and height of the addition is not in keeping with the existing neighborhood development pattern. The mish-mash of window materials and the roof line is not compatible with the above stated Design Review Guidelines as well as Guidelines II-3(b) and (c).
4. The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new upper level addition, and additional parking is not required to prevent unreasonable short and/or long term parking impacts on the neighborhood.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, without prejudice, the design review application of Mr. and Mrs. Pan for construction at 102 A & B Pacific Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Robertson, Seconded by Henn

Ayes: Kellogg, Robertson, Henn

Noes: Stehr

Recused: Levine

Absent: Thiel

ADJOURNMENT

There being no further regular agenda business, Chairman Kellogg adjourned the meeting at 6:30 p.m. He announced that following a dinner break, the Commission would reconvene to a work session discussion of the General Plan Housing Element update.