

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, October 8, 2018

A Regular Session of the Piedmont Planning Commission was held October 8, 2018, 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 September 24, 2018, and revised agendas were posted on September 26, 2018 and October 4, 2018.

CALL TO ORDER

Chairman Behrens called the meeting to order at 5:00 p.m.

ROLL CALL

Present: Commissioners Allison Alessio, Eric Behrens, Yildiz Duransoy, Jonathan Levine, and Tom Ramsey and Alternate Commissioner Rani Batra (departed at 6:33 p.m.)

Absent: None

Staff: Planning Director Kevin Jackson, Senior Planner Pierce Macdonald-Powell, and Assistant Planner Mira Hahn

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 29-PL-18

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the September 10, 2018, regular hearing of the Planning Commission.

Moved by Levine, Seconded by Alessio

Ayes: Alessio, Behrens, Duransoy, Levine, Batra

Noes: None

Recused: Ramsey

Absent: None

CONSENT CALENDAR

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

- 1333 Grand Avenue (conditional use permit).

Resolution 30-PL-18

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

Moved by Alessio, Seconded by Levine

Ayes: Alessio, Behrens, Duransoy, Levine, Ramsey

Noes: None

Recused: None

Absent: None

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

Conditional Use Permit 1333 Grand Avenue

Resolution 256-CU-18

WHEREAS, Rocha Jiu Jitsu is requesting a conditional use permit to operate a Brazilian Jiu Jitsu Academy for children and adults located at 1333 Grand Avenue, Piedmont, California; 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 recommends that the project is categorically exempt under the California Environmental Quality Act, pursuant to Section 15301, Class 1(a), and the proposal conforms with the criteria and standards of Section 17.68.040(a) of the Piedmont Municipal Code as follows:

1. The proposed use is compatible with the General Plan and conforms to the zoning code in that the use is a pedestrian-oriented retail service, and the use is similar to an adjacent ballet studio and to a prior exercise studio at the location.
2. The use is primarily intended to serve Piedmont residents rather than the larger region in that the academy is currently located further down on Grand Avenue and serves the proximate community; approximately 30 percent of the current students are from Piedmont; the number of students from Piedmont is expected to increase with greater visibility within the confines of Piedmont; maintaining the proximate location of the academy will maintain short commute times for Piedmont students and parents; the proposed location will offer synergies for parents dropping off other children at the adjacent ballet studio and/or learning center; and the location is walkable from Beach Elementary School.
3. Under all the circumstances and conditions of the particular case, the use will not have a materially adverse effect on the health, safety, or welfare of persons residing or working in the vicinity. Considerations for this finding include no substantial increase in traffic, parking needs, or noise; no adverse effect on the character of the neighborhood; no tendency to adversely affect surrounding property values in that the proposed use as a Jiu Jitsu academy will have similar hours to the location's prior use as a Curves Fitness Studio. The traffic, parking, and noise impacts should be similar to the prior use at the location and should not increase or change under the proposed use. Classes offered by the use will be synergistic with the adjacent ballet studio and learning center.
4. The proposed use is consistent with General Plan Land Use Policy 2.6 (Commercial Uses as Gathering Places) in that it recognizes the importance of Piedmont's commercial land uses as community gathering places. Any new commercial projects should be designed in a way that contributes to pedestrian vitality and safety and provides a clean, attractive, and welcoming environment for the public.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission recommends approval by the City Council of the conditional use permit application by Rocha Jiu Jitsu for 1333 Grand Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Terms of the Approval.** A review of the conditional use permit shall occur in October 2018 and the conditional use permit shall have the following operational characteristics:
 - Days and Hours of operation: Monday-Friday 8 AM–12 PM, 3 PM–9 PM, Saturday and Sunday 10 AM–2 PM; and
 - Types of Staff/Personnel: one class instructor at a time (total 4 instructors).

2. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.

Moved by Levine, seconded by Ramsey
Ayes: Alessio, Behrens, Duransoy, Levine, Ramsey
Noes: None
Recused: None
Absent: None

REGULAR CALENDAR

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

**Variance and Design
Review Permit
25 Cambridge Way**

The Property Owner is requesting permission to build approximately 1,488 square feet of habitable space, including a new second floor, a recreation room at the basement level; a new deck at the rear of the second-floor addition, a new roof over the existing garage, window and door replacements throughout, and other exterior and interior modifications.

A variance is required to construct a new garage roof and a new second-story addition within the 20-foot street yard setback.

Written notice was provided to neighbors. **One affirmative response form and two negative response forms** were received.

Public testimony was received from:

Bryan Cantrill, Property Owner, wished to renovate the house as the original architect would have intended; therefore, the proposed renovations do not extend the existing building footprint or eliminate many of the existing features. The family wants the rear deck at the second floor as it would allow them to enjoy the backyard.

William Holland, project architect, reported he and the homeowners considered schemes to expand the house horizontally and vertically. The existing house is not wide enough to accommodate a stairway in the center, a kitchen to one side, and a bedroom to the other side, and the homeowners do not wish to expand the footprint. Most of the houses along Cambridge Way that have the same number of stories as proposed for 25 Cambridge Way do not have a setback on Cambridge Way. The project complies with most of the zoning limits. The style of the house is simple. The eaves and overhangs and low roof slopes are reminiscent of the Craftsman style, but the facade is stucco with vertically proportioned windows. The proposed deck has a spaced-wood railing and pilasters with painted wood on the back. A painted-metal balcony with vertical pickets to provide transparency and lights is proposed for the front of the house. The entire front of the house is not located within the setback, only the corner. He could lower the height of the bedroom ceiling to make the bedroom windows more proportional to the living room windows, but the homeowners like the height as proposed. He had the opportunity to capture extra volume in the bedroom but did not intend to create a tower appearance for the entryway.

Currently, the ceilings on the second floor are stepped, but the stepping may be eliminated in which case the living room windows can be taller. The railing at the bedroom balcony is similar to but does not match the railing to the stair. The existing brackets at the eaves can be recreated at the new height. There is no specific program requirement for the size of the deck except to enjoy the outside space from the upper level. The proposed deck design is better than a design that artificially pulls the railing back on a flat roof or creates a mansard around the edge. The deck is located off bedrooms and is not intended to be a gathering place. Because of the slope of the lot, the deck raises a privacy concern for the downhill neighbor, but a large magnolia tree will obscure the neighbor's view of the deck. Privacy issues caused by the location of windows were discussed with neighbors. There are few existing privacy conflicts with the neighbor to the west (uphill), and the project does not introduce many new conflicts with the neighbor. On the downhill side, the neighbor's windows do not align with windows at 25 Cambridge Way; thus, there are no direct views between the two.

In general, Commissioners supported the proposed design and granting a variance for the garage. Commissioner Ramsey expressed concerns regarding the height of the front façade, the height of the proposed master bedroom window being out of proportion with the existing living room windows on that same façade, and the size of the roof deck as it is out of scale with the rest of the house. The corner of the addition could be pushed back so that it is not located in the 20-foot street yard setback. Commissioner Levine noted the project does not adhere to Design and Preservation Policy 28.7, hillside home design, in that the design has more than three floors of straight verticality. The rear deck is not needed because the family room and breakfast room lead to a level outdoor space. If the top of the house is pushed back, a variance for the front setback would not be needed. Commissioners Duransoy and Alessio agreed that the proposed design feels like a three-story house, with Commissioner Duransoy adding that the second stories on neighboring houses are set back. Commissioner Alessio suggested the applicant break up the window patterns or add more style or definition to break up the front of the house. In Commissioner Alessio's opinion, the proposed height of the master bedroom ceiling and the proposed rear deck are fine. She did not like an addition pushed solely to the rear of the house.

In contrast, Chair Behrens could support the project as proposed because the rear deck does not interfere with neighbors' privacy. He was not concerned about the bulk of the project as the addition to the front is narrow.

Resolution 226(1)-V/DR-18

WHEREAS, the Property Owner is requesting permission to construct a new roof over the existing garage at 25 Cambridge Way, which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct within the 20-foot street yard setback; and

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, because it is a minor change to an existing private residence which is

less than 2,500 square feet, and the project is consistent with General Plan policies and procedures; and,

WHEREAS, the variance from the 20-foot street yard setback to replace the garage roof only is approved because it complies with the variance criteria under Section 17.70.040 as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the existing footprint of the garage is located within the street yard setback which makes it difficult to replace the garage roof without a variance, 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 the garages on all properties on the street are located within the street yard setback.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the garage roof could not be replaced as proposed without a variance.

WHEREAS, regarding the design review permit, the Planning Commission finds that the proposal to replace the garage roof, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the wall material, the roof form and material, and the door material.
2. The design should have little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the project is the replacement of a roof to be more consistent with the house.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project is not changing the actual usage, design, or layout of the garage itself.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: II-3, III-2, III-3, and III-4 (*garages*).
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 28.5 (Garages, Decks, and Porches) and Design and Preservation Element Policy 29.7 (Driveway and Parking Location).

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 replacement of the garage roof at 25 Cambridge Way, 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 include additional drawings submitted on September 27, 2018, after notices to neighbors were mailed and the application was available for public review.
2. **Garage Door.** The garage door shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review.
3. **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.
4. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
5. **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 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.
6. **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.

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

Resolution 226(2)-V/DR-18

WHEREAS, the Property Owner is requesting permission to build approximately 1,488 square feet of habitable space, including a new second floor and a recreation room at the basement level, a new deck at the rear of the second floor addition, window and door replacements throughout, and other exterior and interior modifications at 25 Cambridge Way, which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code is necessary to construct within the 20-foot street yard setback; and

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is not consistent with General Plan policies and procedures; and,

WHEREAS, the Planning Commission finds that the proposal, as conditioned, 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 following building features are not consistent with the original architecture and neighborhood development: the verticality of the front of the house on the steep hillside accentuates the bulk of the structure at the street side.
2. The design does not have any material 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 the following Design Review Guidelines and General Plan policies and programs: II-3 and II-6 (*remodels*).
5. The project is not 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 28.7 (Hillside Home Design).

WHEREAS, regarding a variance from the 20-foot street yard setback requirements, the Planning Commission in denying without prejudice the design review permit for construction at 25 Cambridge Way finds that there is no approved design for which variances are necessary.

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 25 Cambridge Way, Piedmont, California, and continues the consideration of the request for variances to a subsequent hearing at which the Commission considers a subsequent application for a design review permit submitted by the applicant for a revised design for the house.

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

**Variance and Design
Review Permit
319 Magnolia Avenue**

The Property Owner is requesting permission to demolish two unpermitted decks at the rear of the house; to construct an approximately 871-square-foot second-story addition; to excavate the basement level for additional habitable space; to construct an addition to the rear (north) of the home; to install a

rooftop deck at the rear of the home; and to modify windows, doors, exterior lighting, and hardscape throughout the property.

Two variances are required to construct additional structure within the front street yard setback and the right side yard setback.

Written notice was provided to neighbors. **One affirmative response form and four negative response forms** were received. Correspondence was received from John Psathas.

Public testimony was received from:

Tom Zhang, project architect, reported design revisions focus on relating the project to the neighborhood. The neighborhood has a mixture of home styles. The project will have a pitched roof at the top and a flat roof at the lower level to minimize the bulk of the house. Decks in prior applications have been removed such that only one deck remains at the rear of the house. The canopies in prior applications have been removed. The wall planes have been simplified. Staff reviewed the current plans prior to the hearing. The style of the house is subtly contemporary. The roof deck is not as big as it appears. Hedges can be grown in the planter adjacent to the deck to provide privacy for the neighbor to the right of the property. The roof deck is a natural result of his stepping back the upper level. The apparent size of the deck could be reduced by adding planters around the edges or by constructing a mansard roof around the deck. Internal drains will be used for the deck. When viewed from Arbor Drive, the story poles do not reflect clearly the height of the structure. The string missing from the story poles should represent the actual height of the structure. The photograph submitted by a neighbor shows the story poles located at the corner of the master bedroom. Mr. Zhang designed a flat roof at the lower level in an effort to minimize the height and bulk of the house. If the Commission prefers, he can change the flat roof to a mansard roof. Of all the proposals, the current proposal orients the least mass toward 323 Magnolia Avenue. The roof without the parapet in the current proposal is approximately 2 feet lower than in the prior proposal.

John Goldberg, neighbor at 323 Magnolia Avenue, advised that the project will completely block natural light from reaching the main level of his home. The new story poles installed next to his kitchen extend 7 feet above the existing roof line. If the applicant eliminates the existing sloped roof, the view from his kitchen and living room will be a 10-11-foot wall, and those rooms will have no natural light between 1:00 and 4:00. A distance of 8 feet separates the two houses. He objected to the first proposal. He did not object to the second and third proposals because they had the least effect on light and privacy for his home.

Katie Goldberg, neighbor at 323 Magnolia Avenue, reported their primary concerns were the distance the structure extends to the rear and the lack of privacy for their living room, kitchen, and family room. The story poles for the current proposal are taller than for prior proposals.

Planning Director Jackson reported that the story poles were certified by a licensed surveyor hired by the applicant and are required to adequately represent the bulk and mass of the proposed construction. Story poles underrepresenting the bulk and mass of the structure would be a problem, but not necessarily story poles that over represent the bulk of the structure.

In general, the Commission did not support the design or granting variances, citing the differing roof styles, the size and mass of the structure, and neighbors' concerns about light and privacy. Commissioner Duransoy noted the first floor appeared to have been pulled out 3 feet toward the rear, which causes the second floor to look as though it has been stepped back when it has not. Commissioners Duransoy and Alessio suggested respectively the rear facade be stepped back or the home's square footage be reduced. Commissioner Levine advised that the traditional upper level and the modern lower level do not work well together. Commissioner Ramsey felt the roof deck is not appropriate given the neighbors' concerns about privacy. He referred to Guideline II-3(b), consistency of design, with respect to elements of different styles having been applied to the house and the entry and deck looking completely out of place.

Alternate Commissioner Batra departed the meeting at approximately 6:33 p.m.

The Commission discussed needed revisions to the project, neighbors' concerns, the accuracy of the story poles, continuing the hearing versus denying the application, and notification to neighbors.

Commissioner Ramsey remarked that the applicant should consider carefully the Commission's discussion regarding the side yard variance.

Resolution 250-V/DR-18

WHEREAS, the Property Owner is requesting permission to demolish two unpermitted decks at the rear of the house; to construct an approximately 871-square-foot second-story addition; to excavate the basement level for additional habitable space; to construct an addition to the rear (north) of the home; to install a rooftop deck at the rear of the home; and to modify windows, doors, exterior lighting, and hardscape throughout the property located at 319 Magnolia Avenue, 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 additional structure within the front street yard setback and the right 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 not consistent with General Plan policies and programs; and,

WHEREAS, the Planning Commission finds that the proposal does not comply with the design review criteria 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 following building features are not consistent with original architecture and neighborhood development: there is no consistency in style; there are multiple roof types including shed, flat and pitched; and the roof deck at the back of the house is not in proportion with the building addition. The recess of the second-floor massing is appropriate. The treatment of that massing is not appropriate because it is not consistent. The style of the house is not clear in that elements of different design styles have been applied to the design. The material and treatment of the entry is inconsistent with the overall design.

2. Portions of the design adversely affect neighboring properties' existing views, privacy, and access to direct and indirect light because the roof deck and the small distance between the project and the neighboring home to the east interfere with the light and privacy for the neighboring home to the east.

3. The proposed design for the garage does not adversely affect pedestrian or vehicular safety because the project improves pedestrian and vehicular safety by eliminating the need for parking cars on the street; provides conforming parking; and improves onsite parking conditions.

4. The application does not comply with the following guidelines: II-3(b), II-5(a) (*remodels*).

5. The project is not consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Policy 28.2 (Style Compatibility), Design and Preservation Policy 28.3 (Additions), Design and Preservation Policy 28.8 (Acoustical and Visual Privacy).

WHEREAS, regarding variances from front street yard and right side yard setback requirements, the Planning Commission in denying without prejudice the design review permit for construction at 319 Magnolia Avenue finds that there is no approved design for which variances are necessary.

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 319 Magnolia Avenue, Piedmont, California, and continues the consideration of the request for variances to a subsequent hearing at which the Commission considers a subsequent application for a design review permit submitted by the applicant for a revised design for the house.

Moved by Ramsey, seconded by Levine
Ayes: Alessio, Behrens, Duransoy, Levine, Ramsey
Noes: None
Recused: None
Absent: Alternate Commissioner Batra

The Commission recessed for dinner at 6:56 p.m. and reconvened at 7:26 p.m.

**Variance and Design
Review Permit
145 Hillside Avenue**

The Property Owner is requesting permission to replace the stairs to the entry porch; to add patios, stone seat walls, a water feature, and other modifications in the front yard of the residence; to construct an arbor over the second-story deck at the rear of the house; and to make related interior and exterior modifications.

A variance is required to pave areas in the 20-foot street yard setback that are unnecessary for ingress and egress.

Written notice was provided to neighbors. **Three affirmative response forms and no negative response forms** were received.

Public testimony was received from:

Arleta Chang, project architect, reported the project is intended to reduce the need for landscape irrigation significantly. The front yard will be densely planted with drought-tolerant, mostly evergreen shrubs. Vegetation heights will vary from 2 feet at the sidewalk to 4 feet at the stone walls. The color of the flagstones will closely match the existing porch trim and floor color. The rectangular stone pattern and tight joints are appropriate for the home's symmetrical front facade. The flagstone wings add a layer to the arrival sequence to the front porch and make the front yard feel deeper. The request for a variance applies to the flagstone paving only. The stone seat walls and water feature do not require a variance. Perhaps the notion that a home must have an ornamental front lawn is dated. In this case, having a modest amount of flagstone integrated into the plantings within the 3,300-square foot front setback is reasonable. The landscape design promotes water conservation, neighborliness, and a stronger sense of community.

Winnie Creason, landscape designer, explained that the plan is to replace the existing high-water-use plants, lawn, and rhododendrons with vegetation that is more appropriate to the existing drought conditions. A second goal of the project is to create an enhanced entry experience. Adding symmetrical patios to either side of the front walkway will complement the architecture of the home, provide open space for neighborly interactions, and reduce water use. The plants shown in the photographs will be incorporated into the project. Plans include a drip irrigation system and possibly a micro-spray system.

Phoebe Barkan, landscape designer, advised that mortared flagstones for the patios match the formality of the house and the walkways better than other pervious and impervious surfaces and provide greater safety. Plans include low-voltage lighting with adjustable LED fixtures. Lighting will be modest and balanced and increase the legibility of the stairs. Plants for the parking strip will be drought-tolerant, low, and durable. The parking strip adds 530 square feet of planting area to the front of the property. The existing mature Japanese maples will be retained. Different species of plants will bloom through each season. Bricks in the parking strip will be replaced with square-cut stone and plants.

Generally, Commissioners supported the project and granting the requested variance, stating paving can be part of the arrival sequence, will improve the front yard and front facade of the home, and will be an integral part of the landscape. Even with the proposed paving, the project exceeds the landscape minimum requirement. The project may require a variance, but it is not inconsistent with General Plan policies. The paving will not function as an enclosure or structure that blocks the view from the street. The project is well-designed and beautiful.

Resolution 255-V/DR-18

WHEREAS, the Property Owner is requesting permission to replace the stairs to the entry porch; to add patios, stone seat walls, a water feature, and other modifications in the front yard of the residence; to construct an arbor over the second-story deck at the rear of the house; and to make related interior and exterior modifications at 145 Hillside Avenue, which construction requires a design review permit; and,

WHEREAS, a variance from the requirements of Chapter 17 of the Piedmont City Code are necessary to pave areas in the 20-foot street yard setback that are unnecessary for ingress and egress; 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, because it is a minor change to an existing private residence, which is less than 50 percent of the floor area of the structure before the addition, and the project is consistent with General Plan policies and procedures; and,

WHEREAS, the variance from the application is approved because it complies with the variance criteria under Section 17.70.040.A as follows:

1. The property and existing improvements present unusual physical circumstances of the property, including the existing front yard is within the street yard setback and any patio addition in that area will require a variance, 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, based upon the information provided by the applicant, other homes have structures within their front yard setbacks, and a new patio will improve the overall look of the space.
3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because, based upon information provided by the applicant, it would not be possible to create a patio in the front yard without a variance.

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 paving material, the seat walls material, and the water feature and arbor material.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because it 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 because the project has no effect on pedestrian or vehicular safety.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: II-1, II-2, II-3, II-3(a), II-3(b), II-3(c), II-3(d), II-5, II-5(a), II-6, II-6(a), II-6(b), II-6(c), II-7, and II-7(a) (*remodels*).
5. The project is consistent with General Plan policies and programs, including the 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 28.6 (Exterior Materials), 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 29.8 (Exterior Lighting).

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 additions at 145 Hillside Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **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.
2. **Defense of Legal Challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
3. **Encroachment Permit.** Before the issuance of a building permit, and at the discretion of the Building Official, the Property Owner shall apply for an encroachment permit to allow for the addition of pavers within the public right-of-way.
4. **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 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.

5. 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.

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

**Fence Design Review
Permit
1919 Oakland Avenue**

The Property Owner is requesting permission to construct a wood fence with gates in the right (east) side yard within the street yard setback along Hardwick Avenue.

Written notice was provided to neighbors. **No affirmative response forms and no negative response forms** were received.

Public testimony was received from:

Rachel Licitra, Property Owner, reported she met with staff to ensure revisions to the plans would comply with Commissioners' comments at the prior hearing. She proposed two designs for the Commission's review. One option is a 4-foot-tall fence with a trellis atop the fence. She is open to staining the wood fence gray or painting it to match the house. Generally, neighbors responded positively to the new plans.

Susan Miller, landscape architect, remarked that the two proposed options comply with design guidelines for aesthetics and compatibility. The design has been simplified, and the fence height has been reduced by approximately 6 inches. The trellis design atop the fence is more open than originally proposed. Materials are more traditional than originally proposed. The proposed fence height of 5 feet 6 inches complies with Guideline V-6 as the fence surrounds the corner lot's only private yard space.

Diane Schave, neighbor at 46 Hardwick Avenue, supported the proposed project as it is a good solution for the neighborhood.

Commissioners generally supported either option proposed by the applicant, with Commissioner Duransoy and Chair Behrens favoring Option 2 because of the openness of the trellis and Commissioner Alessio favoring Option 1 because it looks better than Option 2. Commissioners appreciated the applicant and architect responding to their comments in the revisions.

Resolution 257-FDR-18

WHEREAS, the Property Owner is requesting permission to construct a wood fence with gates in the right (east) side yard within the street yard setback along Hardwick Avenue, located at 1919 Oakland 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, because it is a minor change to an existing private residence, and the project is consistent with General Plan policies and programs, and the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code as follows:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development: the fence material and design is compatible with the house and the neighborhood; the fence is located in the side yard of a corner property without alternative private outdoor space; the fence has been kept low; and the fence is visually penetrable.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate; the height of the project has been kept low; and there is no significant view to block.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project does not change the vehicular or pedestrian access.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: V-5(a), V-5(b), V-6, V-7, V-8, V-10, and V-11 (*fences*).
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 Policy 28.6 (Exterior Materials), Design and Preservation Policy 29.3 (Front Yard Enclosures), Design and Preservation Policy 29.4 (Maintaining Privacy), Design and Preservation Policy 29.5 (Fence and Wall Design), Design and Preservation Policy 29.9 (Sight Obstructions), and Transportation Element Policy 12.2 (Maintaining Sight Lines).

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 1919 Oakland 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.** If there is a third party administrative, legal or equitable action challenging the project approvals, including CEQA issues, the Property Owner shall defend and indemnify the City against any liability, fees and costs arising out of the defense, including the costs of City's own counsel. If such an action is filed, the Property Owner and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers and employees.
2. **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 trees proposed for retention as any modified vegetation in the right side yard. 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.

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

ADJOURNMENT

There being no further business, Chairman Ramsey adjourned the meeting at 8:15 p.m.