

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, June 10, 2019

A Regular Session of the Piedmont Planning Commission was held June 10, 2019, 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 May 24, 2019.

CALL TO ORDER

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

ROLL CALL

Present: Commissioners Allison Alessio, Rani Batra, Yildiz Duransoy, Jonathan Levine, Tom Ramsey, Alternate Commissioner Doug Strout

Absent: None

Staff: Planning Director Kevin Jackson, Associate Planner Chris Yeager, Assistant Planner Mira Hahn, Planning Technician Steven Lizzarago, and Part-time Planner Kathleen Livermore

ANNOUNCEMENTS

Planning Director Jackson reported an appeal of the Planning Commission's decision regarding the project at 67 Glen Alpine Road is tentatively scheduled to be heard by the City Council on August 5, 2019. The City Council adopted the proposed Design Review Guidelines on June 3, 2019; therefore, the new guidelines are in effect for the projects before the Planning Commission.

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 14-PL-19

RESOLVED, that the Planning Commission approves as presented its meeting minutes of the May 13, 2019, regular hearing of the Planning Commission.

Moved by Ramsey, Seconded by Alessio

Ayes: Alessio, Batra, Duransoy, Levine, Ramsey

Noes: None

Abstaining: None

Absent: None

CONSENT CALENDAR

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

- 26 Piedmont Court (Variance & Design Review Permit),
- 120 Wildwood Gardens (Design Review Permit),
- 1235 Grand Avenue (Conditional Use Permit).

Resolution 15-PL-19

RESOLVED, that the Planning Commission approves 26 Piedmont Court as part of the Consent Calendar.

Moved by Batra, Seconded by Strout

Ayes: Alessio, Batra, Levine, Ramsey, Strout

Noes: None

Recused: Duransoy

Absent: None

Resolution 16-PL-19

RESOLVED, that the Planning Commission approves 120 Wildwood Gardens as part of the Consent Calendar.

Moved by Batra, Seconded by Ramsey

Ayes: Batra, Levine, Ramsey, Strout

Noes: None

Recused: Alessio, Duransoy

Absent: None

Resolution 17-PL-19

RESOLVED, that the Planning Commission approves 1235 Grand Avenue as part of the Consent Calendar.

Moved by Batra, Seconded by Alessio

Ayes: Alessio, Batra, Duransoy, Levine, Ramsey

Noes: None

Recused: None

Absent: None

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

**Variance and Design
Review Permit
26 Piedmont Court**

Resolution 11-V/DR-19

WHEREAS, the Property Owner is requesting permission to construct an approximately 128-square-foot second-story addition to the left (east) side of the residence; construct a covered entry porch at the front (north) of the residence; demolish a portion of the rear (south) deck; remove a hot tub; and modify windows, doors, and exterior lighting throughout, at 26 Piedmont Court, 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 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 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 street yard setback 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 lot is unusually small and the existing residence is located within the setback, 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 a majority of the neighboring properties are located in the street yard setback, the home is consistent with other homes in the neighborhood in size and massing, the addition is within the existing footprint, and the home's setback aligns with the setback for adjacent homes.

3. Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction because the house would need to be demolished to remove it from the setback, the majority of the addition is outside the setback line, and the house would not conform to the existing setback of other adjacent homes.

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 stucco wall material, the clipped gabled roof form, the roof material, the wood window and door material, fenestration pattern, divided light pattern, and window recess.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distances between the project and neighboring homes are appropriate due to the shared driveway between the houses, the footprint of the house is not changing, and there is no significant view.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project proposes no changes to bedroom count, parking, or pedestrian access and the project maintains adequate visibility for entering and exiting the driveway.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.03.02.1, 3.03.02.4, 3.05.01.1 (Site Design); 4.01.01.2, 4.02.01.1, 4.02.01.2, 4.02.01.3, 4.02.01.6, 4.02.01.7, 4.02.01.8, 4.02.01.10, 4.03.03.1, 4.03.03.2, 4.03.03.3 (Building Design: General); 5.01.01.1, 5.01.02.01 (Building Design: Single-Family Residential).

5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.6 (Exterior Materials).

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 construction at 26 Piedmont Court, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be wood.

2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.

3. **Window Recess.** All new windows shall be recessed 1-7/8 inches from the exterior wall to the face of window sash in order to maintain consistency with

the original architecture, as required by the City's Design Guidelines and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.

4. **Pre-construction Inspection.** Prior to the commencement of window fabrication, the installer shall schedule a pre-construction inspection with the Building Department to review the approved installation criteria, such as the window recess, window trim if any, and window sill projection if any.

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

6. **Modifications to Conditions.** Any insurance or security requirement, or related Condition of Approval, may be implemented and, if necessary modified, in a reasonable manner with the joint agreement of the Director of Public Works and the City Attorney, consistent with the intent of the condition.

7. **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.

8. **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.

9. **Notice of Restricted Use.** The mechanical/storage space at the basement level does not meet habitation or safety requirements of the Piedmont Municipal Code. A notice of restricted use shall be recorded with the Alameda County Recorder's office advising current and future owners that the basement- level space does not meet the safety codes for habitation/sleeping purposes.

10. **Construction Management Plan.** The Property Owner shall develop a comprehensive Construction Management Plan. The Construction Management Plan shall address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security, emergency egress, 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.

11. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage of the project as a whole for each phase.
- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Public Works.
 - b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the Approved Construction Completion Schedule and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Public Works a reasonable completion date for any benchmark.
 - c. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Property Owner fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Property Owner shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Public Works. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Public Works shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval.
 - d. The failure of the Property Owner to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code ("City Code"). The failure of the Property Owner to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Property Owner fails to comply with the Approved Construction Completion Schedule, the Director of Public Works, at his or her sole discretion, may make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Public Works, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

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

Design Review Permit Resolution 119-DR-19
120 Wildwood Gardens

WHEREAS, the Property Owner is requesting retroactive permission to install a 5-foot 4-inch tall fountain within the 20-foot street yard setback at 120 Wildwood Gardens, which construction requires a design review permit; and,

WHEREAS, after reviewing the application, plans, and any and all testimony and documentation submitted in connection with such application, and after having visited the subject property, the Piedmont Planning Commission finds that the project is categorically exempt under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301, Class 1(e), Existing Facilities, and the project is consistent with General Plan policies and programs, and that the proposal, as conditioned, conforms to the criteria and standards of Section 17.66.060 of the Piedmont City Code:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Guidelines in that the following building features are consistent with the original architecture and neighborhood development, including the fountain height and the fountain material and decorative patterns.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distances between the fountain and property lines are appropriate, the topographical differences are appropriate to preserve privacy, views, and light, and there is sufficient vegetative screening.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no effect on pedestrian and vehicular safety.
4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: 3.13.02.1, 3.13.02.2, 3.13.02.3, 3.13.02.4, 3.13.03.1, 3.13.03.2, 3.13.04.1, 3.13.04.2 (Site Design).
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 28.01 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.12 (Creativity and Innovation), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.9 (Sight Obstructions), Design and Preservation Element Policy 31.3 (Context-Sensitive Design).

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review permit application for the addition at 120 Wildwood Gardens, 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.

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

Conditional Use Permit Resolution 128-CUP-19
1235 Grand Avenue

WHEREAS, the applicant is requesting a conditional use permit to operate Simple Floors, a hardwood flooring retail store, in the existing commercial space located at 1235 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 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 related to other surrounding businesses and complies with the standards for Zone D listed in Section 17.26.
2. The use is primarily intended to serve Piedmont residents rather than the larger region in that Piedmont residents already make up a percentage of Simple Floor customers and the proposed location is closer to Piedmont, making the business more visible and accessible to Piedmont residents.
3. The use will not have a material 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 traffic, parking, and noise impacts will be similar to the prior use. In addition, the use will not have a material adverse impact on parking in the area because resident-only parking programs are in effect for and enforced on the streets radiating from Grand Avenue. There will be no change in parking demand because the use is similar to prior uses at the site and, therefore, the customer load for the use is likely to be the same as for prior uses.

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 Simple Floors for 1235 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 June 2019 and the conditional use permit shall have the following operational characteristics:

- Office Hours: 9:30 a.m. – 6:00 p.m., seven days per week; and
- Types of Staff/Personnel: 2 sales and industry professionals; 1 manager; 2 part-time, short-term interns (2-4 week periods), once or twice per year.

2. **Signage.** Any new or modified exterior signage may require a design review permit as provided in Division 17.36 of the City Code.

3. **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 Alessio, Seconded by Duransoy
Ayes: Alessio, Batra, Duransoy, Levine, Ramsey
Noes: None
Recused: None
Absent: None

REGULAR CALENDAR

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

Variance and Design Review Permit 30 Jerome Avenue

The Property Owner is requesting permission to construct a 1,063-square-foot second-story addition; expand the existing garage to provide a tandem two-car garage; make window and door modifications throughout; install new exterior lights; construct a new deck with a guardrail at the rear of the house; demolish the existing rear patio; and make various interior modifications, which include the addition of a fourth bedroom. A variance is required to increase the number of bedrooms from three to four without complying with the onsite parking requirements.

Commissioner Ramsey recused himself from the item as he owns real property located within 1,000 feet of the subject property.

Written notice was provided to neighbors. **One affirmative response form, one negative response form, and one response form expressing no opinion** were received.

Public testimony was received from:

Brian Armstrong, Property Owner, reported the house currently has three bedrooms and one bathroom. The addition follows the slope of the hillside. The houses on each side of the property have partial second stories. Homes to the rear of the property, which front Oakland Avenue, should not be impacted by the addition. Mr. Armstrong reported he has spoken with two neighbors, one living at 26 Jerome Avenue and one living across the street from the project. He has not spoken with the neighbors at 32 Jerome Avenue and 1205 Oakland Avenue; however, he left copies of the plans with requests for them to contact him with questions. The existing home has two windows located in the pantry

on the eastern side of the home. A refrigerator is located in front of one of the windows. He plans to block or close both windows as part of the project. He drew the plans and is acting as architect for the project. The ceiling height for the second-floor addition will be 8 feet. He considered a roof for the addition with a shallower slope than the existing roof, but it was less desirable. He also considered a hipped roof with a slope matching the existing roof, but it appeared to be a pyramid. One of the two smaller windows on the front of the second floor could be removed. The proposed casement window is an egress window. A double hung window in place of the casement window would appear extremely large in relation to the other windows. A casement window will match the size of the existing windows even though it will not match the style of the existing windows. The existing garage door is solid wood. He intended to maintain the existing style of the house with the addition. At some point, plantings will be added to the landscape, but there are no plans to add hardscape.

Planning Director Jackson advised that in processing applications for window replacements when there is no change in the size of the window frame, staff will often approve changing an egress window from a double-hung window to a casement window that simulates the divided light pattern of a double-hung window. This project is not eligible for the exception to the parking requirement because the existing parking space is located within the 20-foot street setback. Consequently, the applicant is requesting a variance from the parking requirement.

Generally, Commissioners supported granting a variance from the parking requirement; however, Commissioners felt the design needed work. Specifically, the window placement on the second floor should be respectful of the first-floor windows. On the west elevation, the windows for the two bedrooms should be either casement or double-hung but not one of each. Breaking up the addition's gable roof into smaller portions will likely reduce the height and the mass of the addition. The second-story addition needs to be integrated into the existing building. The front facade needs a more prominent style. The applicant should submit a landscape plan for the rear yard.

Resolution 131-DR/V-19

WHEREAS, the Property Owner is requesting permission to construct a 1,063-square-foot second-story addition; expand the existing garage to provide a tandem two-car garage; make window and door modifications throughout; install new exterior lights; construct a new deck with a guardrail at the rear of the house; demolish the existing rear patio; and make various interior modifications, including the addition of a fourth bedroom, located at 30 Jerome Avenue, 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 increase the number of bedrooms from three to four without complying with the onsite parking requirements; 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 the original architecture and neighborhood development, including the gable roof form which would be better served with smaller components, the window fenestration pattern, and the use of casement and double-hung windows.
2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light.
3. The proposed design does not adversely affect pedestrian or vehicular safety because the project has no effect on pedestrian and vehicular safety..
4. As conditioned, the application does not comply with the following Design Review Guidelines and General Plan policies and programs: 4.02.01.10, 4.03.02, 4.03.03 (Building Design: General), 5.01.02.1, (Building Design: Single-Family Residential).
5. The project is not consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element.

WHEREAS, regarding a variance from parking requirements, the Planning Commission in denying without prejudice the design review permit for construction at 30 Jerome 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 construction at 30 Jerome 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 Batra, Seconded by Duransoy
Ayes: Alessio, Batra, Duransoy, Levine, Strout
Noes: None
Recused: Ramsey
Absent: None

ADJOURNMENT

There being no further business, Chairman Levine adjourned the meeting at 5:55 p.m.