

**CITY OF PIEDMONT
COUNCIL AGENDA REPORT**

MEETING DATE: September 7, 2004

FROM: Linda Ajello, Assistant Planner

SUBJECT: Appeal of Planning Commission Decision to Approve an Application for Design Review at 1131 Harvard Avenue (Application #04-0260)

RECOMMENDATION:

1. Uphold the Planning Commission's approval of a Design Review application at 1131 Harvard Avenue, adopting the Planning Commission's findings for approval by reference (the findings are on pages 4 and 5 of this report);
2. Uphold the following conditions of approval:
 - The design of the chimney extension shall be subject to staff approval – the applicant has the option of changing the fireplace to a direct vent system;
 - New windows shall be painted wood windows with divided lights to match existing;
 - Based on the scope and nature of the proposed landscape and development plans, a best management practice plan for construction which complies with the new Alameda Countywide Clean Water Program General and Residential Conditions of Approval will need to be developed by the applicant prior to obtaining a building permit;
 - The applicant shall submit for staff approval a construction management plan.
3. Approve the applicants' request for rear and right side yard setback variances to make modifications to the roof on the existing garage, making the following findings:
 - (a) The underlying lot and existing improvements present unusual physical circumstances in that the property is a deep, narrow lot and the existing

garage is already located within the setbacks, which prevents the owner from making changes to the roof without a variance. The application proposes to alter the roof to match the roof on the residence.

- (b) The variance is compatible with the immediately surrounding neighborhood and the public welfare, in that many of the neighboring properties have similar lots, with the detached garages located within the setbacks.
- (c) Accomplishing the improvements without a variance would cause unreasonable hardship in planning, design or construction because it would require the garage to be demolished and relocated which would make it inaccessible, or would require it to have a flat roof that is inconsistent with the roof on the existing house and proposed second story addition.

GROUNDS FOR APPEAL:

Attached is a copy of the appeal filed on July 15, 2004 and subsequent letters submitted on August 17, 2004 and August 25, 2004, by the property owners at 72 and 76 Oakmont Avenue, Mr. and Mrs. Robert Firth and Mr. and Mrs. James Soper, stating the reasons for their appeal (Exhibit D, page 17).

APPLICATION DESCRIPTION:

The residence is situated on a trapezoidal shaped lot with frontage on Harvard Avenue. The existing residence has two rooms eligible for use as a bedroom and one and a half bathrooms. The house was built in 1923 and a permit was issued in 1930 to construct the addition at rear of the house, making it a split level with a bedroom over a storage area. In 1989, a laundry room addition was approved and constructed at the rear of the residence, and 8 feet from the main level ridge at the front of the house.

The plans propose to construct a second story addition to accommodate a new master bedroom suite. The application proposes to convert one of the existing main level rooms eligible for use as a bedroom to a new family room and construct a second story master bedroom suite. The upper level addition is proposed to increase the height of the house by 4 feet measured from the roof ridge of the existing split level room, located on the rear elevation.

The existing residence has a gable roof with asphalt shingle roof material, stucco exterior walls and wood windows. The addition is proposed to have a gable roof with asphalt shingle roof material, stucco exterior walls and wood windows.

The Planning Commission staff report is attached as Exhibit B, page 9, and contains the code compliance analysis and applicable Design Review Guidelines.

REVISED APPLICATION SINCE PLANNING COMMISSION MEETING:

Since the Planning Commission meeting, there have been two changes to the application. First, the applicants have submitted revised drawings which propose to lower the addition by 1 foot, and clarify that the existing windows on the house are divided lite wood windows and the new windows are proposed to be wood divided lite windows to match. These changes are consistent with 2 conditions of approval specified by the Planning Commission, which are no longer listed in the recommended conditions of approval.

Additionally, revisions to the eaves on the garage roof have been made in order to meet the Building Code requirements, and the laundry room has been relocated to the lower level storage room.

The second change that has occurred to the application since the Planning Commission meeting is the need for two variances in order to change the roof on the garage from a flat roof to a gable roof. The existing garage is non-conforming because it is located within the existing rear and right side yard setbacks. The proposed modifications to the roof require variances because they involve additional structure within the setbacks. Staff did not recognize the need for the variances until after the Planning Commission approval of the project. Subsequently, the applicant has submitted a variance application for the garage roof modifications for City Council to take action upon (Exhibit G, page 63).

The applicants have also submitted a section drawing for City Council review that shows the relationship between the proposed second story addition and the decks at 72 and 76 Oakmont Avenue (Exhibit K).

VARIANCE FINDINGS:

To approve the variances requested by this application, the City Council must make specific findings of fact to support all of the following conclusions. Staff has recommended findings on page 2 of this report. The **applicants'** proposed findings are indicated in **bold** below:

- (a) The underlying lot and existing improvements present unusual physical circumstances including but not limited to: **The variance is for a new pitched roof to**

replace the existing flat roof (leaky) with a pitched roof on the existing garage. The slope of the pitch will match the existing main house.

(b) The variance is compatible with the immediately surrounding neighborhood and the public welfare as follows: **The garage roof in surrounding neighborhood mostly are pitched roofs or under the main house. If this variance is approved, it will solve the problem of leaking.**

(c) Accomplishing the improvements without a variance would cause unreasonable hardship in planning, design or construction as follows: **The existing flat roofed garage will look much better if changed to match the front of the house as a pitched roof.**

"Unreasonable hardship" for purposes of this subsection refers to the unusual physical characteristics of the underlying lot and existing improvements on the lot which prohibit development of the lot in a manner consistent with lots conforming to City standards. "Unreasonable hardship" shall not refer to any conditions personal to the applicant.

PLANNING COMMISSION DECISION:

Attached are the meeting minutes from the July 12, 2004 Planning Commission meeting (Exhibit A, page 6). The application was approved with a 3:2 vote. Commissioners Chang, Greenman, and Levine were in favor of the design review application and Commissioners Hege and Karren were opposed (Commissioner Summer was absent).

During their deliberations, two Commissioners were not in support of the application and felt that the addition would create a loss of view from the uphill neighbors on Oakmont Avenue and that the size of the addition was disproportionate with the existing house. However, three Commissioners expressed support of the application finding it to be attractive and well integrated with the existing house, and that the addition was relatively modest in size, increasing the existing roof height by 5 feet. They found that there would be no impact on existing upper story views, light or privacy on the uphill neighbors on Oakmont Avenue due to the distance between the properties and difference in elevations. They agreed that the plate height of the upper level could be lowered 1 foot to further reduce view obstruction without compromising the desired living space.

PLANNING COMMISSION FINDINGS

The Commission formalized their design review decision by making the following findings:

Design Review:

1. The design of the improvement is desirable because it is attractively designed and specific design elements such as roof pitch, eaves, exterior materials match existing and compliment the house. Window treatments are similar in size and design to existing and are attractively aligned and nicely composed. The proposed massing breaks up the new structure in a pleasing manner.
2. The design of the improvement does not have a substantial adverse effect on neighboring properties given the separation distance between properties and difference in grade and the reduced mass. There will be some impact on light on adjacent properties but this impact is not significant given the size and relative position of the improvements
3. The design does not adversely affect pedestrian safety, vehicular traffic, or the convenience of either pedestrians or vehicles because there is no change in existing traffic patterns.

Date report prepared: September 1, 2004

EXHIBITS:

Exhibit A, page 6	July 12, 2004 Planning Commission Meeting Minutes
Exhibit B, page 9	Planning Commission Staff Report
Exhibit C, page 15	July 15, 2004 Appeal Letter (Firth/Soper)
Exhibit D, page 17	August 17, 2004 and August 30, 2004 subsequent Appeal Letters (Firth/Soper)
Exhibit E, page 24	Neighbor Comments
Exhibit F, page 56	Planning Commission Application
Exhibit G, page 63	Variance Application
Exhibit H, separate	Supplemental Photographs Submitted by Applicant at PC Meeting
Exhibit I, separate	Current Architectural Plans, date-stamped June 28, 2004
Exhibit J, separate	Revised Architectural Plans, date-stamped August 5, 2004 and August 13, 2004
Exhibit K, separate	Letter, Supplemental Photographs and Section Drawing Submitted by Applicant on August 30, 2004

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, July 12, 2004

A Regular Session of the Piedmont Planning Commission was held July 12, 2004, 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 28, 2004.

CALL TO ORDER

Chairman Hege called the meeting to order at 5:00 p.m. She announced that Agenda Item #10 (Variance/Design Review, 15 Glen Alpine) has been withdrawn from tonight's consideration. She also introduced and welcomed Planning Technician Kevin Jackson.

ROLL CALL

Present: Commissioners Arleta Chang, Marty Greenman, Tamra Hege, Fred Karren and Alternate Commissioner Jonathan Levine

Absent: Commissioner Suzanne Summer (excused)

Staff: City Planner Kate Black, Assistant Planner Linda Ajello, Planning Consultant Robin Stark, Planning Technician Kevin Jackson and Recording Secretary Chris Harbert

City Council Liaison: Councilmember Dean Barbieri

**Design Review
1131 Harvard Road**

Mr. and Mrs. Aaron Pan are requesting design review to construct a 696.86 sq. ft. second story addition to accommodate a new master bedroom suite.

Written notice was provided to neighbors. **Two affirmative and five negative response forms** were received. **Correspondence** was received from: Samuel & Elizabeth Jinich, July 5; James & Suzanne Soper, June 24; Robert & Ellin Firth, July 6.

Public testimony was received from:

Aaron Pan requested his young daughter Irene to read a prepared statement emphasizing the family's desire to remain in Piedmont but to expand the small 2 bedroom/1-1/2 bath home to accommodate their growing family needs.

Li-Sheng Fu, Project Architect, stated that the project was specifically designed to minimize second floor massing and keep a very low profile to minimize impacts on neighbor view and light.

James Soper and Robert & Ellin Firth of Oakmont Avenue opposed the proposed second story, citing loss of the last remaining *view corridor* from their properties.

Chris Martin and Elizabeth Jinich of Harvard Road supported project approval, stating that the proposed improvements will improve the streetscape, the existing house is currently *dwarfed* by adjoining properties and the addition will bring the house more in conformance with existing neighborhood conditions, the home is too small for

modern family needs and the size of the addition is modest and appropriate for the property and neighborhood.

The Commission was divided in its support of the application. Chairman Hege and Commissioner Karren opposed the project, citing the detrimental loss of view from the uphill Oakmont neighbors and the size of the master bedroom addition was out of scale and disproportionately large for the existing house. Those Commissioners in support felt that the proposal was a reasonable compromise providing additional living space while minimizing neighbor impacts, citing in particular: (1) the addition was well integrated with the existing house and attractive in design; (2) was relatively modest in size and only increased the existing roof height by 5 ft.; (3) there would be no privacy or light impacts on the uphill Oakmont neighbors because of the placement of the small windows and the difference in elevation; (4) the addition will improve the aesthetics of the property's existing unattractive rear façade; (5) the 20 ft. separation and lower elevation of the home mitigate uphill views – there will be no impact on existing upper story Oakmont views of rooftops and distant greenery; and (6) similar second story additions have been approved along Harvard and it would be unfair to deny the Pan's the same opportunity just because their request is the most recent. However, the Commission agreed that the plate line of the addition could be lowered 1 ft. to further reduce view obstruction while still achieving desired living space.

Resolution 260-DR-04

WHEREAS, Mr. and Mrs. Aaron Pan are requesting permission to construct a 696.86 sq. ft. second story addition to accommodate a new master bedroom suite located at 1131 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 design of the improvement is desirable because it is attractively designed and specific design elements such as roof pitch, eaves, exterior materials match existing and compliment the house. Window treatments are similar in size and design to existing and are attractively aligned and nicely composed. The proposed massing breaks up the new structure in a pleasing manner.
2. The design of the improvement does not have a substantial adverse effect on neighboring properties given the separation distance between properties and difference in grade and the reduced mass. There will be some impact on light on adjacent properties but this impact is not significant given the size and relative position of the improvements
3. The design does not adversely affect pedestrian safety, vehicular traffic, or the convenience of either pedestrians or vehicles because there is no change in existing traffic 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. Pan for construction at 1131 Harvard Road, Piedmont, California, in accordance with the plans and

specifications on file with the City, subject to the following conditions:

- The whole addition structure as designed shall be lowered by 1 foot;
- The design of the chimney extension shall be subject to staff approval – the applicant has the option of changing the fireplace to a direct vent system;
- New windows shall be painted wood windows with divided lights to match existing
- The applicant shall submit a copy of any permits issued for the existing vinyl windows or shall request retroactive approval. If the windows do not meet the City’s Window Policy, they shall be removed and replaced with windows that meet the requirements of the City’s Window Policy and Residential Design Review Guidelines, subject to staff review and approval;
- Based on the scope and nature of the proposed landscape and development plans, a best management practice plan for construction which complies with the new Alameda Countywide Clean Water Program General and Residential Conditions of Approval will need to be developed by the applicant prior to obtaining a building permit;
- The applicant shall submit for staff approval a construction management plan

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 Chang, Seconded by Levine

Ayes: Chang, Greenman, Levine

Noes: Hege, Karren

Absent: Summer

EXHIBIT B

July 12, 2004

Planning Commission

Linda Ajello, Assistant Planner

STAFF REPORT FOR 1131 Harvard Road

AGENDA ITEM NUMBER 4

APPLICATION SUMMARY:

Design Review

04-0260

Mr. and Mrs. Aaron Pan
1131 Harvard Road

The applicants request Design Review to construct a 696.86 square foot second story addition to accommodate a new master bedroom suite.

CODE COMPLIANCE:

The residence is situated on a non-conforming lot in zone A. The lot contains approximately 4,059 square feet of area and 40 feet of frontage. The minimum lot area required in the City Code (section 17.10.2) is 10,000 square feet and the minimum lot frontage (section 17.10.3) is 90 feet. *Existing non-conforming.*

The existing building height (average) is approximately 18 feet, 6 inches and is proposed to increase to approximately 23.54 feet. The maximum limit in the City Code (section 17.10.5) is 35 feet. *Complies.*

The existing left side yard setback is 4 feet measured to the existing eave and is proposed to measure 4 feet to the eave on the addition. The minimum required side yard setback in the City Code (section 17.10.7) is 4 feet. *Complies.*

The existing right side yard setback is 5 feet, 5 inches measured to the existing eave and is proposed to measure 5 feet, 5 inches to the eave on the addition. The minimum required side yard setback in the City Code (section 17.10.7) is 4 feet. *Complies.*

The existing floor area ratio is 31.38% and is proposed to increase to 48.54%. The limit in the City Code is 55% for a parcel which is less than 5,000 square feet (section 17.22(a)). If the residence were to be fully developed at some time in the future by converting existing unfinished storage space to living space the floor area ratio would be approximately 53.4%. Section 17.22.3 of the City Code (attached) permits the development of living spaces within a building envelope without regard for the resulting floor area ratio calculation. It is appropriate to consider this code section when considering an expansion of the building envelope. *Complies.*

No changes are proposed that would affect the building coverage percentage, impervious surface coverage percentage, front yard setback, rear yard setback, or parking code provisions. No new rooms eligible for use a bedroom are proposed.

DESIGN REVIEW:

The residence is situated on a trapezoidal shaped lot with frontage on Harvard Avenue. The application proposes to construct a second story addition to accommodate a new master bedroom suite.

The existing split-level residence has two rooms eligible for use as a bedroom and one and a half bathrooms. The application proposes to convert one of the existing rooms eligible for use as a bedroom to a new family room and construct a second story master bedroom suite.

The existing residence has a gable roof with asphalt shingle roof material, stucco exterior walls and vinyl windows. The addition is proposed to have a gable roof with asphalt shingle roof material, stucco exterior walls and vinyl windows.

City records do not indicate any permits issued for the existing vinyl windows on the house. In 1989 a laundry room addition was approved at the rear of the residence, which included two new wood casement windows. The permit was finalized on November 16, 1989. The room addition at the rear of the house was constructed with a permit issued on March 21, 1930.

Should the Commission wish to make the required variance and design review findings to approve the project, the Commission might consider the following conditions of approval:

1. The applicant shall submit a copy of any permits issued for the existing vinyl windows or shall request retroactive approval. If the windows do not meet the City's Window Policy, they shall be removed and replaced with windows that meet the requirements of the City's Window Policy and Residential Design Review Guidelines, subject to staff review and approval.
2. Based on the scope and nature of the proposed landscape and development plans, a best management practice plan for construction which complies with the new Alameda Countywide Clean Water Program General and Residential Conditions of Approval will need to be developed by the applicant prior to obtaining a building permit.

Design Review Guidelines which may be used for reference are listed below.

DESIGN REVIEW GUIDELINES:

Guideline II-1: The scale and mass of the existing residence, once the addition/remodel has been completed, should maintain compatibility with the scale and mass of the existing residences in the neighborhood.

Guideline II-2: The scale and mass of the existing residence, once the addition/remodeling has been completed, should maintain compatibility with the scale and mass of the existing residences on contiguous parcels and should not overpower or dominate them.

Guideline II-3: The architectural style, scale, and mass of the addition/remodeling should be consistent with the architectural style, scale, and mass of the existing residence.

Comments:

II-3(a): The objective of Guideline II-3 regarding consistency of architectural style, scale and mass is compatibility so that the addition/remodeling cannot be distinguished from the original structure. An addition or remodel which looks “tacked on” or is immediately apparent to the observer, obviously fails to meet this objective.

II-3(b): Consistency with respect to architectural style is a matter of breaking down the existing residence into its individual components, as listed below, and their respective details, and matching them in the design of the addition. Matching means consistency in design and construction as defined by rhythm, texture, color and materials. Components and details which should be matched include:

Exterior Wall Covering. The siding used on the exterior walls of the addition or remodeled portion of the residence should be consistent with the design integrity of the existing residence. Where the original siding of the residence has been replaced or is covered over with a “modern” siding, e.g. asbestos shingles covering wood shingles, the construction of the addition may offer the opportunity to restore the entire residence to its original siding. Where it is impossible to obtain siding which exactly matches the existing siding, a close substitute should be used.

Ornamentation. The ornamentation and the design details of the addition should be consistent with those of the existing structure. Conflicting or inappropriate ornamentation should be avoided.

Windows. The type proportion, placement, details and materials of new windows should be compatible with that of the existing windows. Individual elements which should be addressed include the frame and the pattern of the light

defined by the muntins. It is not necessary to exactly replicate the pattern of the existing lights, but this pattern should be reflected by the new windows.

Roof. If the addition will have a roof, it should be consistent with the design integrity of the existing residence. The geometry of the new roof should relate to that of the existing roof. Individual design elements which need to be addressed include the type and pitch of the roof, cornices, rake or gable-end finish, gutters, roof covering, and trim and molding. For example, an addition to a residence with a gable roof should extend the existing roof or match the pitch of the existing roof.

II-3(c): Consistency with respect to scale and mass means that the addition or remodeling should be carefully integrated into the three-dimensional form and proportional relationships of the existing residence.

II-3(d): Consistency of scale and mass between the addition/remodeling and the existing residence is a question of balance. The mass and scale of the former should not overpower or dominate the latter, yet at the same time it should not appear as an appendage or something which was "tacked on."

Guideline II-4: When a residence is undergoing a major addition/remodeling, consideration should also be given to the exterior appearance of the garage, if it is visible from the street, to maintain architectural compatibility.

Guideline II-6: The siting of the addition/remodeling on a lot should be compatible with the siting of the existing residences along the street on which it fronts. Priority attention should be given to the siting of the addition/remodeling with respect to the residences on either side.

Comments:

II-6(a): Nothing in this guideline should be interpreted to relieve an addition/remodeling of its obligation to conform to the requirements set forth in Chapter 17 of the City of Piedmont Code. In the event of a conflict, the latter shall prevail.

II-6(b): In the context of Guideline II-6, the phrase “be compatible with” means that the addition/remodeling should respect the existing front, side and rear-yard setbacks of the houses in the neighborhood so that the overall character of the neighborhood in this respect is maintained.

II-6(c): If there is a uniform front-yard setback in the neighborhood, the addition/remodeling should respect this setback. There must be compelling reasons if the new addition/remodeling does not conform to the uniform setback. If there exists a range of front-yard setbacks, the setback of the addition/remodeling should fall within this range. In either case, uniform or range of front-yard setbacks, the setback of the addition/remodeling should ordinarily not be less than the residence on either side, unless a lesser setback will not significantly obstruct or reduce the view of the streetscape from these existing residences.

Guideline II-7: The siting of an addition/remodeling, the exterior location of its windows, and the exterior location of appliance ventilation and exhaust ports should respect the visual and acoustical privacy of residences located on contiguous parcels, including their outdoor yards and open spaces.

Comments:

II-7(a): This guideline shall not be interpreted as an outright prohibition of side yard windows. Rather, the design of the windows of the addition/remodeling should consider their number, size, placement, glazing treatment and dressing in order to respect the visual and acoustical privacy of the residences located on contiguous parcels. Similarly, the ports or exterior wall openings for clothes dryer vents, kitchen and stove exhaust fans, and other appliances should be sensitive to their acoustical impacts on adjacent residences.

DESIGN REVIEW FINDINGS:

To approve this application for design review, the Planning Commission must make findings to support each of the criteria and standards identified below. **The applicants' proposed findings are indicated in bold.**

(a) The exterior design elements (including but not limited to height, bulk, area openings, breaks in the facade, 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 new addition is compatible with the existing house style and the neighborhood along the street. The smaller addition is set back from front and also back on 2nd floor to reduce the mass of the house. The gable roof follows the view direction to reduce the impact of the neighbor's view. No big window facing rear to keep the privacy between neighbors. Using the same detail for the addition to enrich the aesthetic of the house. The simple roof adds character to the small house.**

(b) The design of the improvement does not have a substantial adverse effect on neighboring properties because: **The proposed improvement will not affect neighbor's privacy and access to direct and indirect light but will affect a little of their existing view from their lower deck, not from their upper rooms.**

(c) The design does not adversely affect pedestrian safety, vehicular traffic, or the convenience of either pedestrians or vehicles because: **There is no change for parking of the house. No circulation pattern changes.**

CLEANWATER CONSIDERATIONS

Although the proposed project will not create *or replace* more than 5,000 square feet of impervious surfaces and will not result in any significant changes to water runoff at the site, it is recommended that Best Management Practices (BMPs) to prevent stormwater pollution as well as the Bay Area Stormwater Management Agencies Association's *Start at the Source* criteria for stormwater quality protection be implemented.

The proposed project meets the Bay Area Stormwater Management Agencies Association's *Start at the Source* criteria for stormwater quality protection. It complies with Site Design Guideline 4.3 to maximize permeability by reducing the land coverage of impermeable surfaces because it concentrates the requested addition into a second story with no expansion of the building footprint.

CEQA COMPLIANCE

The proposed project is Categorically Exempt from the provisions of the California Environmental Quality Act pursuant to Article 19, Sections 15300 through 15329.

CITY COUNCIL ACTION REQUIRED:

No City Council action is required unless the decision of the Planning Commission is appealed.

