

**CITY OF PIEDMONT
COUNCIL AGENDA REPORT**

MEETING DATE: October 18, 2004

FROM: Kate Black, City Planner

SUBJECT: Appeal of Planning Commission Decision to Approve an Application for Design Review at 19 Muir Avenue

RECOMMENDATION:

1. Uphold the Planning Commission's approval of a Design Review application at 19 Muir Avenue, subject to the condition that prior to the issuance of a building permit, the applicant shall submit a construction management plan and a landscaping plan; and
2. Adopt the Planning Commission's findings (on pages 4 and 5) by reference.

GROUNDS FOR APPEAL:

Attached is a copy of the appeal (Exhibit B, page 7), filed on September 23, 2004, with a supplemental letter supported by a photograph filed on September 28, 2004, by the property owners of 15 Muir Avenue, Mr. and Mrs. Earl W. Kinney, stating the reasons for their appeal.

APPEAL RESPONSE

Attached is a letter dated October 12, 2004 from James and Melissa Ellis, applicants, addressing the Kinney's appeal (Exhibit C, page 11). The response letter is supported by a streetscape elevation and a site plan showing the relationship of the applicants' and appellants' properties.

APPLICATION DESCRIPTION:

The property is a wide rectangular lot with a slight slope to it. The residence is a ranch style house with brick, stucco and wood shingle siding, a sloped roof with concrete tile shingles and deep eaves, and mostly clear anodized aluminum windows. It is primarily a single story house with a one-room second story. An unusual feature of the property is a driveway and access easement shared with the adjacent property to the right at 15 Muir Avenue.

The application proposes to substantially expand the second story at the rear and left and right sides of the house. Additionally, it proposes to make right side and left side additions to the first story at the rear of the house.

The application proposes a significant stylistic change, mostly to the rear of the house. The walls are proposed to have a combination of horizontal and vertical wood siding and cement plaster. The windows are proposed to be mostly clear anodized aluminum fixed-pane, awning and casement openings, and some are proposed with translucent glass. The existing concrete tile shingle roofing on the front roof slope is proposed to be matched on the new sloped roof sections. The roof for the second story addition is proposed to be flat. The existing deep eaves are proposed to remain at the front of the house and no eaves are proposed at the rear, however, the second story is proposed to cantilever in several locations. A new upper level deck is proposed at the rear with painted steel railings, and a wood and steel sunshade above. The garage door is proposed to be wood, similar to the proposed wood siding.

No landscape plan was proposed but the site plan indicates some schematic plants labeled Alandscaping@ in the 2 foot, 8-5/8 inch strip between the proposed northern wall and the existing driveway that is shared with the appellants' property at 15 Muir.

A color board was submitted. It is available for review in the Planning Department, and will be available for review at the Council meeting.

PLANNING COMMISSION DECISION AND CONDITIONS OF APPROVAL:

Attached are the meeting minutes from the Planning Commission meeting (Exhibit A, page 4). As indicated in the minutes, the project was approved by only three members of the Commission due to two recusals (Karren and Hege) and one absence (Chang).

Commissioners Greenman, Summer and Levine supported the design of the project, agreeing that the design changes were in keeping with the existing contemporary architectural style of the residence, and that the more modern addition was toned down through the use of earth-tone colors and traditional exterior finishes and roof materials. They noted that the neighborhood is composed of an eclectic mix of architectural styles, and found that the project will not significantly change the existing streetscape view of the home, and that the pre-existing contemporary house is merely updated and expanded at the rear.

The Commission also felt that the proposal did not encroach upon the usability of the shared driveway, noting that a 3.5 ft. planting strip is available to screen the addition with vegetation and the extension is located along a small area of the long, 10 ft. wide driveway that is not used to park or exit vehicles

However, in reaching their determination that the project was approvable, the Commission required the following condition of approval:

1. Prior to the issuance of a building permit, the applicant shall submit a construction management plan and a landscaping plan.

PLANNING COMMISSION FINDINGS

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

1. The design of the improvement is desirable because it complies with Design Review Guidelines and is aesthetically pleasing as a whole and harmonious with the existing home. No variances are required and the proposal occurs in a neighborhood with a mix of architectural styles.
2. The design of the improvement does not have a substantial adverse effect on neighboring properties because it has a minimal, if any, impact on neighbor views, light or privacy because of the size and orientation of the homes and existing vegetation screening.
3. The design does not adversely affect pedestrian safety, vehicular traffic, or the convenience of either pedestrians or vehicles because the home has conforming parking for a 4-bedroom residence.

Date report prepared: October 13, 2004

EXHIBITS:

Exhibit A, page 4	September 13, 2004 Planning Commission Meeting Minutes
Exhibit B, page 7	September 23, 2004 and September 28, 2004 appellant (Kinney) letters
Exhibit C, page 11	October 13, 2004 applicant (Ellis) response to appeal
Exhibit D, page 15	Neighbor comments
Exhibit E, page 38	Planning Commission Application
Exhibit F, page 57	Code Compliance Analysis from Planning Commission Staff Report
Exhibit G, separate	Architectural plans

PIEDMONT PLANING COMMISSION

Regular Meeting Minutes for Monday, September 13, 2004

A Regular Session of the Piedmont Planning Commission was held September 13, 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 August 30, 2004.

CALL TO ORDER Chairman Hege called the meeting to order at 5:00 p.m. She introduced and welcomed the planning department's newest consultant Elizabeth Watty

ROLL CALL Present: Commissioners Marty Greenman, Tamra Hege, Fred Karren, Suzanne Summer and Alternate Commissioner Jonathan Levine

Absent: Commissioner Arleta Chang (excused)

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

REGULAR CALENDAR The Commission considered the following items of regular business:

**Design Review
19 Muir Avenue**

Mr. and Mrs. James Ellis are requesting design review to stylistically alter the residence; add a second story, including increasing the roof height; construct a 2-story addition at the right (northern) side of the house; a 2-story addition at the left (southern) side and rear of the house; and 2-story additions at the rear of the house; add new upper level decks at the rear of the house; make window and door modifications; and add exterior lighting.

Written notice was provided to neighbors. **One affirmative and six negative response forms** were received. **Correspondence** was received from: Mr. & Mrs. Earl Kinney, dated June 23 and 2 undated; Roddy Moore, August 25 & September 2; Carlisle Moore, September 9; David Bowie, September 9;

Commissioners Hege and Karren recused themselves from discussion and action on this application and left the chambers.

Public testimony was received from:

James Ellis stated that after the Commission's April 12 approval of his project, he withdrew the plans because of strong neighborhood objection. The revised design was developed based on discussions with his neighbors and reflect significant changes to mitigate the neighborhood's concerns and objections.

Jay Serrao, Project Architect, described the design changes made to the proposal in response to neighborhood concerns, noting that while the home remains *contemporary* in style, exterior materials are wood and stucco to better blend with the more traditional architectural styles found in the immediate neighborhood. In addition, the roof material is concrete shingle tile that will be brown in color to be compatible with the home's earth-tone colors.

Joseph Woods objected to the proposed style changes, believing they were too industrial looking, incompatible with neighborhood conditions and added a bedroom without increasing the size of the existing garage.

Missy Nelson also opposed the project, believing that it was too noticeable, incompatible with the neighborhood, imposed a massive, box-like structure on the streetscape and was insensitive to the neighborhood.

Beth Kinney, speaking on behalf of her parents, also opposed the project, noting that a driveway easement was granted to the Ellis based on the promise that no outward expansion would occur on that side of their property. However, the proposed addition will be too close to the shared driveway, precluding attractive vegetation screening of the addition and restricting the possibility of wheelchair access along that portion of the driveway. She also felt that the second story addition would loom over her parents' property adversely impacting their light and privacy.

Peter Fischel requested that the applicants be required to plant street trees to screen the large expanse of roof from streetscape view.

David Bowie, Attorney representing the Kinney, referenced his letter in objecting to the side yard extension component of the project for the reasons cited by Beth Kinney. He also requested that the applicants be required to submit a landscape plan.

Marilyn Kinney responded to Commission comments by noting that the lower level of her home accessible from the driveway is suitable for handicap access and habitation. She submitted photographs in support of her contention that the proposed addition will crowd their shared driveway.

The Commission supported project approval, agreeing that the design changes respect the existing contemporary architectural style of the residence but tone down this style through the use of earth-tone colors and traditional exterior finishes and roof materials. The Commission also felt that the proposal did not encroach upon the usability of the shared driveway, noting that a 3.5 ft. planting strip is available to screen the addition with vegetation and the extension is located along a small area of the long, 10 ft. wide driveway that is not used to park or exit vehicles. The Commission noted that the neighborhood is composed of an eclectic mix of architectural styles, the project will not significantly change the existing streetscape view of the home and the proposal merely updates and expands a pre-existing contemporary home.

Resolution 382-DR-04

WHEREAS, Mr. and Mrs. James Ellis are requesting permission to stylistically alter the residence; add a second story, including increasing the roof height; construct a 2-story addition at the right (northern) side of the house; a 2-story addition at the left (southern) side and rear of the house; and 2-story additions at the rear of the house; add new upper level decks at the rear of the house; make window and door modifications; and add exterior lighting located at 19 Muir Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such

application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The design of the improvement is desirable because it complies with Design Review Guidelines and is aesthetically pleasing as a whole and harmonious with the existing home. No variances are required and the proposal occurs in a neighborhood with a mix of architectural styles.
2. The design of the improvement does not have a substantial adverse effect on neighboring properties because it has a minimal, if any, impact on neighbor views, light or privacy because of the size and orientation of the homes and existing vegetation screening.
3. The design does not adversely affect pedestrian safety, vehicular traffic, or the convenience of either pedestrians or vehicles because the home has conforming parking for a 4-bedroom residence.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. and Mrs. Ellis for construction at 19 Muir Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following condition:

- Prior to the issuance of a building permit, the applicant shall submit a construction management plan and a landscape 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 Levine, Seconded by Summer

Ayes: Greenman, Summer, Levine

Noes: None

Recused: Hege, Karren

Absent: Chang