

**CITY OF PIEDMONT
COUNCIL AGENDA REPORT**

MEETING DATE: April 4, 2005

FROM: Kate Black, City Planner

SUBJECT: Application #04-0518 to Subdivide the Property at 71 Dudley Avenue

RECOMMENDATION:

- A. Adopt the attached resolution Certifying as complete and adequate the Negative Declaration of significant environmental effect pursuant to the California Environmental Quality Act (CEQA) (Exhibit A, page 14).

- B. Approve the proposed Parcel Map subdivision application as recommended by the Planning Commission, subject to the following recommended conditions:
 - 1. Parcel map shall conform to the Map Act and Article VI - Section 19.35 of the Municipal Code. As noted in Section 19.35, the requirements for the parcel map are the same as those listed for a final map.
 - 2. Parcel map submittal shall be accompanied by current title report (within 6 months);
 - 3. All applicable connection and development fees and assessments shall be paid prior to issuance of building permit;
 - 4. Separate sewer and water laterals shall be provided for each parcel. Services shall conform to minimum City specifications and shall be inspected by City Building Dept. prior to being backfilled;
 - 5. The proposed sewer main extension for Parcel A shall conform to City specifications. Sewer extension shall be installed prior to any permit or entitlement for either parcel;
 - 6. Applicant shall obtain encroachment permits from City and other agencies prior to issuance of building permits;
 - 7. A second driveway shall be constructed and installed according to City Standards & Specifications prior to issuance of any building permit;

8. Parcel map shall show any new easements necessary to develop the parcels.
9. Any requirement for necessary on-site or off-site improvements shall be noted by statement on the parcel map, per Map Act 66411.1(a). The construction of improvements shall be within a reasonable time following the approval of the parcel map and prior to the issuance of a permit, per Map Act 66411.1(b);
10. All utilities shall be undergrounded should a new residence be constructed on either Parcel A or Parcel B, to the extent deemed feasible by PG&E;
11. The Title Report number and company listed on the Tentative Map (Fidelity 216657) shall be corrected to match that on the current title report (1st American 1783080);
12. Prior to the approval of the final map, the applicant shall obtain Design Review approval and a building permit for a new single family residence on one (or both) of the parcels. No demolition of the existing residence may occur until a building permit has been issued;
13. In accordance with a request from the East Bay Municipal District, the applicant shall comply with Assembly Bill 325, Model Water Efficient Landscape Ordinance (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495); and
14. Pursuant to sections 66474.9(b)(1) and (b)(2) of the Subdivision Map Act, the subdivider shall defend, indemnify, and hold harmless the City or its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers, and employees to attach, set aside, void, or annul, an approval of the subdivision by the City if action is brought within the time period provided for in Section 66499.37. The City will promptly notify the subdivider of any claim, action or proceeding and will fully cooperate in the defense.

C. Adopt the Planning Commission recommended findings for subdivision approval:

- (a) The proposed map is consistent with the Piedmont General Plan, any applicable specific plan, and all applicable provisions of this Code as follows:
 - (i) The proposed lot areas of the new lots are consistent with established density standards, in conformance with Goal A, Policy 2 of the Land Use Element of the Piedmont General Plan which requires that the subdivision of large lots and estates must at a minimum meet density standards and further, must be compatible with existing lot sizes.

- (ii) The proposed map is consistent with Goal 1, Quantified Objectives 1 and 2, and Policy 1.1 of the Housing Element of the Piedmont General Plan, to provide an adequate number of sites for the development of housing consistent with ABAG's recommendations, by facilitating the construction of above-moderate income single-family residences.
- (iii) The proposed map is consistent with Goal 4, Program 4.3 of the Housing Element of the Piedmont General Plan, to permit lots to be created with 60 feet of frontage instead of 90 feet, where other minimum standards – including lot size – can be met and where there would be no adverse effects on traffic infrastructure and neighborhood character. Although the City has not yet begun the process to consider changing the Zoning Code to comply with this policy, this project is in compliance with this General Plan policy, because the minimum lot sizes for both proposed parcels have been met (and exceeded) and the proposed lot frontages of 73.07 feet and 83.34 feet exceed the 60 feet minimum contemplated by this program.
- (iv) The proposed map is consistent with Goal B, Policy 4 of the Community Design Element of the Piedmont General Plan, which encourages future development and redevelopment to be in harmony with the character of the existing development in the neighborhood, in that the proposed lot sizes and frontages are similar to the majority of lots in the immediately surrounding neighborhood.
- (v) The proposed map is consistent with Goal D, Policy 2 of the Community Design Element of the Piedmont General Plan, which specifies that subdivisions should be designed and implemented in a manner that fully recognizes the character and aesthetics of the community while observing the rights of the property owners, because the proposed subdivision is in keeping with the existing subdivision pattern of the neighborhood.
- (vi) The proposed map is consistent with Goal D, Policy 3 of the Community Design Element of the Piedmont General Plan, which specifies that subdivisions should be designed with a lot layout and improvements which ensure minimum disturbance to existing trees, because the proposed subdivision proposes to retain the existing large redwood trees.
- (vii) As conditionally recommended for approval, the proposed map is consistent with Goal D, Policy 4 of the Community Design Element of the Piedmont General Plan, which requires that all utilities be placed underground whenever feasible.

- (b) The proposed map does not have a substantially detrimental effect on the public service needs of the residents of the city, or if it does, the benefit of additional housing outweighs the detrimental effect, in that the addition of one more residence in this neighborhood will not have a measurable effect on public service needs, and the addition of a new residence is in compliance with the City's obligation to provide for the construction of more above-moderate income single family residences;
- (c) The proposed map does not have a substantial detrimental effect on available fiscal and environmental resources or, if it does, the benefit of additional housing outweighs the detrimental effect for the same reasons as cited in subsection (b) immediately above, because as noted in the CEQA analysis, the project will not have a significant effect on the environment, and the addition of a new residence is in compliance with the City's obligation to provide for the construction of more above-moderate income single family residences;
- (d) The site is physically suitable for the type and density of development because the size of each resulting lot exceeds the minimum lot size requirements of Zone A; and the resulting lot frontages are similar to the lot frontages of lots in the neighborhood;
- (e) The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish and wildlife or their habitat as defined by the California Environmental Quality Act, because an Initial Study was prepared pursuant to the requirements of CEQA which determined that the proposed project could not have a significant effect on the environment, and a Draft Negative Declaration has been prepared;
- (f) The discharge of waste from the proposed subdivision into an existing community sewer system will not violate existing regional water quality control board requirements because the waste discharge of one additional home will not have any perceptible effect on those water quality requirements;
- (g) There are no known public easements which would be affected by this subdivision;
- (h) The design of the subdivision or the type of improvements are not likely to cause serious public health or safety problems because the addition of one possible future residence in this neighborhood will have no measurable effect on the public health and safety. Future access to both proposed parcels may be proposed in the future, and will be evaluated at that time, including compliance with Section 17.20.9 (b) of the Zoning Code; and
- (i) The design of the subdivision provides, to the extent feasible, for future passive or natural heating or cooling opportunities, in that there are no proposed changes

to the topography of the site or structures on the site as part of the proposed subdivision that would preclude those opportunities. The possible future development of both parcels will be addressed through the design review process for its compliance with the General Plan, the Residential Design Review Guidelines, City policies and the Zoning Code, specifically Section 17.20.9 (b).

APPLICATION SUMMARY:

An application for Subdivision has been submitted by Jennifer Lee and Roger Ha, for the property at 71 Dudley Avenue. The property currently has a single family residence, a guest/maid's cottage, a pool, other accessory structures and numerous large trees. The application proposes to subdivide the existing property, which has 29,816 square feet of area and 156.41 feet of frontage, into two properties. Subdivided parcel A is proposed to have 14,400 square feet of area and 73.07 feet of frontage. Subdivided parcel B is proposed to have 15,416 square feet of area and 83.34 feet of frontage. The application also proposes to remove all of the structures, impervious surfaces and pool that exist on the property. All redwood trees with a diameter of 24 inches or greater are proposed to be preserved. Variances are required for the two proposed parcels because they have less frontage than the required 90 feet of frontage. An Initial Study and a Notice of an Intent to Adopt a Negative Declaration were prepared pursuant to the California Environmental Quality Act (CEQA).

CRITERIA FOR EVALUATION:

NOTE: Because the project requires a lot frontage variance for both proposed parcels, the applicants also concurrently submitted variance and design review applications for each proposed parcel. Pursuant to the Zoning Code, the Planning Commission is the final decision-making body for variance and design review applications, unless the applications are appealed. However, pursuant to the Subdivision Code, the Planning Commission is only advisory to the City Council on subdivision applications, and the Council is the final decision-making body.

In evaluating this subdivision application, the City Council is required to consider criteria in several City plans and codes, including the General Plan, the Zoning Code and the Subdivision Code. The next section of this report provides the procedures and criteria for evaluation of the subdivision application under each applicable plan and code. The final section of this report, beginning on page 12, summarizes the Commission's deliberations at the March 14, 2005 Planning Commission meeting, including their approval of the variance and design review applications, which were not appealed.

Chapter 17 – Zoning Code

Because the application proposes the creation of two lots, each of which is individually subject to compliance with the Zone A regulations, the code compliance section of this report has been broken into separate analyses for each parcel.

Zoning Compliance - Parcel A