



## CITY OF GLENDALE, CALIFORNIA REPORT TO THE CITY COUNCIL

### **AGENDA ITEM**

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Report: Appeal of Design Review Board's approval of DRB Case No. PDR 1918581 for 1226 Vista Court.

1. Motion to sustain the Design Review Board's decision and approve the project.
2. Motion reversing the Design Review Board's decision, continuing the matter to December 1, 2020 and directing the City Attorney to prepare findings reversing the Design Review Board's decision and denying the project.
3. Motion to remand the project to the Design Review Board for consideration.

### **COUNCIL ACTION**

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**Item Type:** Public Hearing

**Approved for** January 12, 2021 **calendar**

### **ADMINISTRATIVE ACTION**

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**Submitted by:**

Philip S. Lanzafame, Director of Community Development

**Prepared by:**

Chris Baghdikian, Senior Planner

**Reviewed by:**

Michele Flynn, Director of Finance

Michael J. Garcia, City Attorney

Erik Krause, Deputy Director of Community Development

Jay Platt, Principal Planner

**Approved by:**

Roubik R. Golanian, Interim City Manager

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**RECOMMENDATION**

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It is recommended that the City Council sustain the Design Review Board's approval of Case No PDR 1918581, based on the rationale used in the staff report.

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**BACKGROUND/ANALYSIS**

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This hearing is an appeal of a decision made by the Design Review Board on June 25, 2020, to approve Design Review Board Case No. PDR 1918581 for the construction of a new, two-story, 1,976 sq.ft. single-family house with a 500 sq.ft. attached two-car garage on a 6,143 sq.ft. interior lot located in the R1 zone, Floor Area Ratio District III.

**General Information**

**Appellant:** Ingrid Wilcox

**Status of Appellant:** Owner and resident of abutting property to the south

**Applicant:** Sean Briski

1225 Reynolds Drive

Glendale, CA 91205

**Owner:** Sean Briski, Gayle Burns Briski

1225 Reynolds Drive

Glendale, CA 91205

**Requested Action:**

The appellant is requesting that the City Council remand the project to the Design Review Board for consideration of the project revisions implementing the Board's conditions and to allow public comment on the revised project.

**Legal Description:** Lot 1, Parcel Map GLN 1629

**APN:** 5676-022-019

**Zone:** R1 (Low Density Residential Zone), Floor Area District III.

**Land Use Element:** Low Density Residential.

**Lot Size and Frontage:** The project site is an interior lot with approximately 6,143 square feet in area and approximately 88 linear feet of frontage along Vista Court.

**Existing Site Characteristics:** The project site is located in the Adams Hill area and has a frontage on Vista Court. The existing property is a vacant, approximately rectangular lot and is generally flat, except for the rear (east) side where the lot slopes down to the residentially-developed lot to the east. There is an existing 32-inch indigenous tree (oak) located along the street frontage of the lot.

**Circulation Element:** Vista Court is classified as a local street in the Circulation Element of the General Plan and is capable to accommodate the traffic generated by the residential uses.

**Surrounding Land Use/Zoning:** The properties immediately surrounding the subject site are zoned R1, FAR District III and are developed with single family dwellings of modest size.

The property immediately to the west is zoned R1R, FAR District III and is developed with a 3,958 sf house on a 29,520 sf lot.

The remaining properties within 300 ft of the subject site are zoned R1, FAR District III, and are developed with single family dwellings except as follows:

- The properties on the west side of the site are zoned R1R, FAR District III and are developed with single family dwellings.
- One property at the intersection of Vista Court and Green Street (1254 Vista Ct.) is zoned R1, FAR District III and is developed with a multi-family residential building of 12,795 sf on a lot of 15,928 sf in area.
- One property at the intersection of Vista Court and Palmer Avenue (800 E. Palmer Ave.) is zoned R-1250 and is developed with a multi-family residential building of 2,728 sf on a lot of 5,230 sf in area.
- Another property at the intersection of Vista Court and Palmer Avenue (730 E. Palmer Ave.) is zoned R-3050 and is developed with a single family dwelling of 1,140 sf on a lot of 6,970 sf in area.
- Lot 3 of Parcel Map No. GLN 1629 (that created the subject lot), is an undeveloped lot of approximately 5,500 sf and fronts on Reynolds Drive.

**Environmental Determination:** A Mitigated Negative Declaration was adopted by the Planning Commission on July 15, 2015. It was prepared for and adopted with Parcel Map GLN No. 1629 for the subdivision of a lot into three new lots, one of which is the subject lot. The two mitigation measures require:

1. Preparation of an addendum to the indigenous tree report that was prepared for the parcel map when a development review application is submitted for the subject lot.
2. A construction traffic control plan when a building permit application is submitted on any one of the three lots within the parcel map.

## **PROJECT HISTORY:**

### **Design Review Board Case No. PDR1918581**

On June 25, 2020, the Design Review Board considered the DRB Case No. PDR 1918581 for the construction of a new, two-story, 1,976 sqft single-family house with a 500 sf attached two-car garage on the 6,143 sf lot. The DRB voted (3-1) to approve the project with the following 12 conditions (Board members Simonian, Arzoumanian, and Welch voted in favor; Smith opposed. Note: The board consisted of four members at that time).

## **SUMMARY OF DESIGN REVIEW BOARD'S DISCUSSION:**

- Board Member Welch noted the lack of detail on the plans generally, such as the exterior light fixtures and the front door not shown or detailed. He also noted the necessity to step back the bedroom wall over the garage wall to break up the building mass in the front elevation. Regarding the proposed building colors, he observed that the colors on the material board were significantly darker and more uniform than in the renderings and suggested a lighter color palette similar to the renderings and change in materials to improve the contrast among the building volumes.
- Board Member Arzoumanian concurred with Board Member Welch's comments and added that she would expect the applicant to work with staff to address the items that were pointed out. She also pointed out that the roof above the one-story projections at the north and south sides of the house should not be turned into usable deck area.
- Board Member Smith commented on the inappropriate plant material specified at the oak tree, concurred with her colleagues about the stepping back of the bedroom wall over the garage wall in the front elevation. However, she thought the proposed building colors did not fit the neighborhood and the building design was incompatible with the neighborhood pattern. Accordingly, Board Member Smith felt that the project, as revised to address DRB comments, should be brought back before the DRB for reconsideration and, therefore, did not concur with the motion to approve with conditions. Board Member Smith cast the dissenting vote.

- Chairman Simonian echoed the lack of detail generally in the plans, the flatness of the front façade resulting from the garage wall and bedroom wall on top being in the same plane. He noted the necessity to show the downspouts and for all the details to be reviewed holistically. He concurred with Board Member Arzoumanian to have the applicant work with staff to address the board members' comments.

The DRB voted (3-1) to approve the project with the following 12 conditions:

1. Step the second floor above the garage back from the garage façade to break up the mass at this area.
2. Lower the parapets of the one-story projections at the north and south facades to preclude use of these areas as balconies and provide some massing relief toward the neighbors.
3. Revise drawings to correct inconsistencies between plans and elevations, particularly with regard to window placement.
4. Provide a door schedule for all exterior doors.
5. Revise drawings to indicate the locations of all gutters and downspouts.
6. Show the location of the mechanical equipment and trash area on the plans.
7. Revise color palette to provide softer, less saturated colors while maintaining the proposed blue and green color scheme.
8. Revise the landscape plan with a plant and ground cover palette more compatible with the oak tree, subject to approval of Public Works-Urban Forestry Division. Specifically, the gravel below the oak tree canopy shall be replaced with bark and a plant material specified for the hedge along the sidewalk shall be replaced with a more compatible hedge material.
9. Obtain a permit from Public Works-Urban Forestry to prune the oak tree.
10. Specify a decorative finish for the driveway.
11. Fences located within the street front setback shall be removed. Fences located along the north and south interior property boundary, outside of the street front setback, shall be modified to comply with applicable standards. Block walls shall have a decorative finish on both sides (plaster, masonry cladding) and chain link fences removed or replaced with an approved decorative material, such as wood.
12. All mitigation measures adopted for Parcel Map GLN 1629 shall be complied with.

#### **APPELLANT'S DISCUSSION:**

In the appeal, the appellant contends that the application was incomplete for review, that the DRB should not have approved the incomplete application with insufficient details without providing the public the opportunity to review the revisions and instead decided to rely on staff to address the project details. The appellant also lists privacy issues caused by the project's window locations, inappropriate planting materials specified in the landscape plans at the base of the protected oak tree, and a missing condition from the decision requiring details of exterior lighting details. Further, the appeal documents contain a letter dated July 6, 2020 from the appellant discussing the reasons for the appeal and adding to the general statements in the appeal application (both are attached).

Below is a summary of the statements made by the appellant in the appeal application in Part 4 "Statement of Error" (grounds for the appeal), as required by GMC 2.88.030:

- A. That there was a violation of a specific provision of law, which forms the basis of the appeal. The appellant cites GMC 30.40.020 "Applications for Design Review shall contain all information required therefor,", GMC 12.44.1 Indigenous Tree Ordinance and GMC 30.47.040 (B) (3) New developments in R1 zones with more than one story shall not unreasonably impact privacy.
- B. That the DRB exceeded its authority by not appropriately respecting the intent of the code sections listed above. Final design review requires that the applicant file a complete application. DRB approved an application that was preliminary in details and non-compliant with Chapter 12.44 – Indigenous Tree Ordinance. GMC 30.47.040 (D) requires that DRB place particular attention to ensuring a positive design relationship with adjacent developments and failed to do so.
- C. That the DRB failed to fulfill a mandatory duty by any provision of law in A above. GMC 30.40.020 (G) – Application Filing, GMC 12.44 – Indigenous Tree Ordinance, the landscape plan was non-compliant and DRB failed to consider how site drainage could be achieved without injury to the protected coast live oak tree. GMC 30.47.040 (B) (3) and GMC 30.47.030 (1) Review of Plans and conditions of Approval, plans are not in reasonable conformance with municipal code.
- D. That the DRB refused to hear or consider certain facts before rendering its decision. The appellant submitted photos indicating views from the family room of the project would look into her living spaces and backyard. The DRB did not ascertain her privacy impacts as required. DRB did not ensure that earthwork for drainage and irrigation could be performed without encroaching in tree protection zone although public comments raised this issue.
- E. That the evidence before the DRB was insufficient or inadequate to support its decision. Window arrangements shown on elevations did not match plan views. Many dimensions were missing. There were numerous errors, inconsistencies

and misrepresentations. Applicant is an architect and should have been able to provide a complete code compliant design.

- F. That the appellant does not have new evidence of material not previously presented, which if considered, should change the DRB decision. Evidence was presented but not considered as stated in D above.

Statement of additional facts related to the appeal: The public and the appellant were denied their right to a public hearing to consider the design as the application was too full of omissions, errors and misrepresentations to fully review the design. The design was instead shifted to staff. As a result, DRB failed in its responsibility to ensure a positive design relationship with adjacent residences and developments on the block per GMC 30.47.070 – Standards.

#### **STAFF'S ANALYSIS OF APPEAL:**

The appellant's arguments are listed below together with staff response:

- A. That there was a violation of a specific provision of law, which forms the basis of the appeal. The appellant cites GMC 30.40.020 "Applications for Design Review shall contain all information required therefor,", GMC 12.44.1 Indigenous Tree Ordinance and GMC 30.47.040 (B) (3) New developments in R1 zones with more than one story shall not unreasonably impact privacy.

#### *Staff's Response:*

The list of items required for review of a final design review application is contained in GMC 30.40.020 and also outlined in the design review board submittal requirements (attached). For the subject application, all information required for submittal and an arborist report to assess the proposed development's impact on the oak tree were provided. As customary, the application was circulated for comments to the various city departments involved in the review of development applications. The application was then scheduled for DRB review.

Regarding the oak tree on the site, GMC 12.44.010 recognizes the character-defining quality of indigenous trees and requires their preservation and protection. The applicant provided an arborist report to assess the impact of the proposed development on the large oak tree located along the street frontage of the lot. This report and the proposed development plans were reviewed by the Public Works – Urban Forestry Division. The concern raised by the Urban Forestry Division related to inappropriate proposed planting materials at the base of the oak tree.

An addendum to the arborist report was prepared to address the impact of the required sidewalk continuation around the driveway approach on the oak tree. The sidewalk continuation was not shown on the initially-reviewed plans. The Urban Forestry Division reviewed the addendum to the arborist report and did not have any new comments. To address the incompatible planting material at the base of the oak tree, a condition of approval was recommended by staff and adopted by the DRB to require the landscape plan be reviewed by the Urban Forestry Division for approval. When there are indigenous trees on a project site, the Urban Forestry Division reviews all proposed construction plans, including landscape plans and working drawings, for impacts on the indigenous trees and inclusion of conditions, both general and site specific, to safeguard such trees.

With respect to GMC 30.47.040(B)(3), which addresses conflicting relationships of proposed development to adjacent buildings including unreasonable impacts on privacy of adjacent buildings and outdoor spaces, privacy is judged by the view from the proposal's primary living spaces and balconies greater than 25 sf into neighboring buildings and backyard outdoor spaces. The placement and relationship of windows must also be considered.

For the subject property, the proposed house will be two-stories with the second floor limited to bedrooms and bathrooms. A second-story balcony will be located on the south side of the building, towards the middle of the elongated rectangular building, and away from the abutting property to the south. With respect to the first floor, the attached garage will be located adjacent to the southerly property and no windows or other openings will be located on the southerly wall of the garage. While the east facing façade of the garage will have a window, which is the closest window to the southerly adjacent property, the garage is not considered a living space. The remaining living spaces face east, consist of a family room, dining room and living room, and will have east-facing windows which will not be facing directly the southerly adjacent property and will be distanced from the adjacent property by the placement and buffering of the garage in between. Based on comments from the Board, the parapet heights will be lowered at the one story projections at the north and south sides of the house to ensure these areas will not be used as balcony; this use was not part of the proposal, but was seen as a possible alteration in the future.

- B. That the DRB exceeded its authority by not appropriately respecting the intent of the code sections listed above. Final design review requires that the applicant file a complete application. DRB approved an application that was preliminary in details and non-compliant with Chapter 12.44 – Indigenous Tree Ordinance. GMC 30.47.040 (D) requires that DRB place particular attention to ensuring a positive design relationship with adjacent developments and failed to do so.



*Staff's Response:*

Most of the concerns are addressed in Response A above. In addition, GMC 30.47.040 (D) focuses on the compatibility of the proposed development with the character of the neighborhood emphasizing a distance of 300 feet. This section also focuses attention on the development within the block where the proposal is located. While there are properties nearby that are zoned differently than the subject property or developed with multi-family residential buildings, the data is provided to the DRB along with the average and range for the DRB to assess, including any unique factors (see table below).

**Comparison of Neighborhood Survey:**

	Average of Properties within 300 linear feet of subject property	Range of Properties within 300 linear feet of subject property	Subject Property Proposal
Lot size	7,573 sf	3,750 - 29,520 sf	6,143 sf
Setback	22.4 ft	2 - 45 ft	25 ft
House size	2,102 sf	1,001 - 12,795 sf	1,976 sf
Floor Area Ratio	0.28	0.13 - 0.80	0.32
Number of stories	2	1 - 3	2

The DRB considered this information in its deliberation and final determination.

- C. That the DRB failed to fulfill a mandatory duty by any provision of law in A above. GMC 30.40.020 (G) – Application Filing, GMC 12.44 – Indigenous Tree Ordinance, the landscape plan was non-compliant and DRB failed to consider how site drainage could be achieved without injury to the protected coast live oak tree. GMC 30.47.040 (B) (3) and GMC 30.47.030 (1) Review of Plans and conditions of Approval, plans are not in reasonable conformance with municipal code.

*Staff's Response:*

In addition to the responses included in A and B above, GMC 30.47.030 (K) (1) “Review of plans and conditions of approval” authorizes the DRB to impose conditions to ensure compatibility with surrounding development. In this case, the DRB considered the staff-recommended conditions and the comments that were received and added several additional conditions to address concerns. One condition of approval requiring exterior lighting details to be shown on the plans was missing and not included in the plans reviewed by DRB. However, the applicant subsequently provided a revised set of plans addressing the DRB concerns (attached, shown on Sheet A-1) that shows the down

lights and ceiling lights, all of which are appropriate to the design and will be directed away from neighboring properties.

- D. That the DRB refused to hear or consider certain facts before rendering its decision. The appellant submitted photos indicating views from the family room of the project would look into her living spaces and backyard. The DRB did not ascertain her privacy impacts as required. DRB did not ensure that earthwork for drainage and irrigation could be performed without encroaching in tree protection zone although public comments raised this issue.

*Staff's Response:*

All written comments received from the public were forwarded to the DRB members. One set of photos with comments was received from Ms. Susana Melgoza (1231 Reynolds Drive, adjacent subject site) and forwarded to the DRB members. For the DRB meeting of June 25, 2020, staff received written comments and a petition from the appellant and forwarded them to the DRB members, but staff is not aware of photos that were included in these email messages.

All public comments received, including comments from the project applicant, are attached.

Regarding earthwork and drainage, the project was circulated for comments and was found to be acceptable to proceed, as conditioned. Details about site drainage and work around the oak tree will be addressed in the permitting phase when construction details are considered, as is customary.

- E. That the evidence before the DRB was insufficient or inadequate to support its decision. Window arrangements shown on elevations did not match plan views. Many dimensions were missing. There were numerous errors, inconsistencies and misrepresentations. Applicant is an architect and should have been able to provide a complete code compliant design.

*Staff's Response:*

The DRB found that the plans were adequate for a decision and proceeded to conditionally approve the application. The DRB did not think the approved conditions warranted a second review by the DRB.

- F. That the appellant does not have new evidence of material facts not previously presented, which if considered, should change the DRB decision. Evidence was presented but not considered as stated in D above.

*Staff's Response:*

The appellant is not presenting new evidence for consideration regarding the items listed in "D" above that was not already presented to the DRB for their consideration. The appellant refers to her statement in "D" above for information that was presented to the DRB but claims the DRB did not weigh appropriately and should be reconsidered in the appeal.

Pursuant to GMC 30.47.100 The appeal before the council is a "de novo" review and a reexamination of the matter shall be made, independent of the DRB review.

Accordingly, the photos taken from the appellant's property, which were emailed for the DRB review but were not received by the DRB or staff, can be provided for the appeal consideration. All public comments received for the DRB meeting, including comments from the project applicant, are attached.

Statement of additional facts related to the appeal: The public and the appellant were denied their right to a public hearing to consider the design as the application was too full of omissions, errors and misrepresentations to fully review the design. The design was instead shifted to staff. As a result, DRB failed in its responsibility to ensure a positive design relationship with adjacent residences and developments on the block per GMC 30.47.070 – Standards.

*Staff's Response:*

The appellant felt that the project was not sufficiently detailed for conditional approval by DRB and that the public should be provided with the opportunity to consider and comment on the project, when revised to address the DRB conditions instead of mere reliance on staff to implement the DRB conditions administratively. It is relatively common for the Design Review Board to conditionally approve projects and rely on staff to implement the conditions. This is especially true when there is a great amount of specificity and detail to describe exactly what the Board is looking for, as is the case here.

## **SUMMARY**

Based on the analysis of the appeal and the reasoning above, staff recommends that the City Council sustain the DRB decision to approve the project.

The basis of the staff's recommendation includes the following:

**Site Planning:** The proposed site planning is appropriate, as modified by any conditions, to the site and its surroundings for the following reasons:

- The site is relatively flat and the building will be sited with a front setback of 25 ft. compatible with the pattern of the residential development in the vicinity.
- The attached garage will be facing the street and will be similar to the site layout of the neighboring residential development. The driveway location will be on the south side of the property, away from the existing oak tree to be preserved.
- The proposed landscaping under the canopy of the oak tree is not compatible with the oak tree. Public Works-Urban Forestry has recommended the use of bark instead of gravel and a different plant material for the hedge along the sidewalk.
- Existing retaining walls on the east side of the property, which were permitted as part of the subdivision of the property, were designed to minimize alterations to the existing landform and to provide a transition to the lower abutting lot to the east.
- Fences within the street front setback where fences are not permitted will be removed as conditioned. Also, fences located along the interior (north and south) property lines consist of non-compliant materials and are conditioned to be either removed or maintained if modified with code-compliant materials.

**Mass and Scale:** The proposed mass and scale are appropriate, as modified by any conditions, to the site and its surroundings for the following reasons:

- The building will be designed with the second story stepping back from the first story at some locations, including above the garage as conditioned by DRB, and with a hipped roof that will step down with the building and will create a transition from the adjacent buildings. Also, second story trellises will further soften the second story mass of the building. The vertical wall planes will be mitigated by these design features and largely resulting from the narrow configuration of the lot and the necessity of building away from the large oak tree toward the front.
- The site slopes down gently from south to north and the building will step down with the topography.
- The building will consist of rectangular volumes and extended porches which will articulate the building mass both horizontally and vertically, consistently throughout the building and with the design guidelines. The building will be capped with a two-level hipped roof which will soften the roofline.
- The building volumes, including the first story covered porches and second story trellises, are appropriately scaled and integrated into the overall building design.
- The low-pitched hipped roof steps down with the building and provides a transition to the neighboring buildings.

**Building Design and Detailing:** The proposed building design and detailing are appropriate, as modified by any conditions, to the site and its surroundings for the following reasons:

- The overall design and detailing of the two-story house enhance the Modern style with the consistent use of articulated rectangular stuccoed volumes on the ground level and wood-sided volumes on the second level. The use of wood trellises and

tiled hipped roof are appropriate to the Modern style and to the neighboring development.

- The main entry is integrated and recessed into the building.
- The fenestration complements the building design with the use of rectangular, painted, wood-framed windows and doors.
- The building relates to the site and is not expected to create privacy issues due to the placement of windows away from the property boundaries and the reduction of parapet heights at the one-story projections at each side to preclude their use as balconies.
- The finish materials consist of stucco, wood siding, wood windows and doors, wood trellises, and composition shingles which are consistent with the style.
- The concrete paving of the driveway requires a decorative finish.
- The location of outdoor mechanical equipment or trash is conditioned to be specified on the plans and there are appropriate locations on the site for these.

## **PUBLIC NOTICE**

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The Code requires public notice when the Council considers approval of entitlements such as design review. Staff has mailed copies of the notice to all property owners and occupants within 500' of the project. Also, a public notice was posted on-site.

## **FISCAL IMPACT**

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There is no fiscal impact associated with this item.

## **ALTERNATIVES**

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Alternative 1: The City Council may approve the attached motion to sustain the Design Review Board's decision to approve Case No. PDR 1918581.

Alternative 2: The City Council may approve the attached motion to continue the matter, directing the City Attorney to draft findings overturning the Design Review Board's decision and denying the project.

Alternative 3: The City Council may make a motion to remand the case to the Design Review Board for further consideration.

Alternative 4: The City Council may consider any other alternative not proposed by staff.

## **CAMPAIGN DISCLOSURE**

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In accordance with Council direction pursuant to the adopted City Campaign Finance Ordinance, the names and addresses of all owners and applicable parties involved in this project proposal in this Agenda Item Report are attached as Exhibit 12.

## **EXHIBITS**

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1. Location Map
2. Photos of Subject and Neighboring Properties, and Neighborhood Survey
3. Reduced Plans for current DRB case No. PDR1918581
4. DRB staff Report, June 25, 2020, (without attachments)
5. Indigenous Tree Report and addendum
6. Final Mitigated Negative Declaration (MND)
7. Comments and other materials received for DRB June 25, 2020
8. DRB's Record of Decision
9. Appeal application of DRB's Decision
10. Applicant's rebuttal to appeal
11. Applicant's revised plan addressing DRB conditions
12. Campaign Disclosure Form