

PIEDMONT PLANNING COMMISSION

Special Session Meeting Minutes for Tuesday, July 26, 2016

A Special Session of the Piedmont Planning Commission was held July 26, 2016, 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 July 12, 2016.

CALL TO ORDER

Chairman Behrens called the meeting to order at 5:32 p.m.

ROLL CALL

Present: Commissioners Eric Behrens, Susan Ode, Tom Ramsey, Tony Theophilos and Tom Zhang, and Alternate Commissioner Aradhana Jajodia

Staff: Planning Director Kevin Jackson, Assistant Planner Emily Alvarez, and Planning Technician Chris Yeager

Council Liaison: Councilmember Tim Rood

ANNOUNCEMENTS

Chairman Behrens congratulated Kevin Jackson on his promotion to Planning Director.

PUBLIC FORUM

There were no speakers for the public forum.

SPECIAL SESSION

The Commission considered the following item during this Special Session meeting:

City Code Chapter 17 Modifications

Planning Director Jackson continued the recent discussions of City Code Chapter 17 modifications by conducting a slide presentation. He began with a brief recap of the overarching goals of the project and the revisions discussed to date. He followed with a more in depth discussion about the items to be considered under the current agenda, as included below under the headings for each topic.

Correspondence was received from: Kevin Ma, H.S. Sandoval, Michael and Bernice Gallagher, Lu Lynn de Silva, Miguel and Maria DeAvila, Rajeev Bhatia, and Rick Schiller.

Public testimony was received from:

Joy Jacobs, resident of 75 Nova Drive, spoke in opposition to the recommended amendments to the Zone D parking regulations. She discussed the current issues with parking in the neighborhood and expressed concern that the recommended regulation would increase parking congestion. She argued that the recommended change would allow developers to maximize their profits, while placing the burden of increased parking congestion on the neighborhood.

Jim Nemechek, resident of 32 Wildwood Avenue, spoke in opposition to the recommended amendments to the Zone D regulations and questioned the need to develop commercial property along Grand Avenue. With regard to parking, he argued that any commercial development along Grand Avenue would increase the need for parking, despite the pedestrian-oriented design of the buildings. With regard to building height, he argued that a 40-foot building is too tall to be located adjacent to a single-family residence. Mr. Nemechek asked whether the recommended changes are mandated by the state, and Planning Director Jackson responded that state law does not require development to occur in a certain way, but that the City's General Plan mandates that the City's regulations for Zone D

not create any barriers to pedestrian-oriented commercial and mixed-use development.

Malcolm Talcott, resident of 22 Wildwood Avenue, spoke in opposition to the recommended amendments to the Zone D regulations, and he pointed out that the Code indicates that the Intent of Zone D is to have the commercial and mixed uses be compatible with the immediately adjacent residential areas. He expressed concern with recommended revisions to the landscaping requirement, building height, and parking regulations of Zone D. He noted that the recommended regulations could result in a development pattern in which 40-foot tall buildings located at the front property line are on either side of a single-family residences setback on the lot. With regard to the parking regulations, he suggested that the requirements be based on the number of bedrooms in the unit.

Garrett Keating, resident of 148 Ricardo Avenue, reported that he was on the City Council when the General Plan was approved, and that the option for mixed-use development was included to allow for more community-oriented commercial developments, such as cafes and restaurants. He pointed out that the Civic Center and Grand Avenue Commercial zones have different characters and can tolerate different levels of development, and he suggested that Staff consider two separate sets of standards. He argued that some of the code amendments proposed for Zone D would negatively impact the Grand Avenue neighborhood. With regard to Staff's list of recommended exemptions to design review, Mr. Keating also urged the Commission to include electric vehicle chargers located on the back or side of the house. He also asked that the review process be simplified for electric vehicle chargers on the front of the house.

Dean Miller, longtime resident of 41 Wildwood Avenue, maintained that people move to Piedmont for the residential nature of the community, not to be close to commercial developments. He spoke in opposition to the changes proposed to the Zone D regulations, namely the building height and parking regulations. He argued that the City should increase the constraints placed on commercial development, not remove them, and that the burden should be placed on the developers to make a case for a variance. Mr. Miller also described the noise and environmental impacts that would result from additional parking congestion associated with a restaurant.

Miguel DeAvila, resident of 1250 Grand Avenue, expressed his disappointment that the recommended Zone D regulations are contrary to the opinions expressed in 2015 by neighbors of the 29 Wildwood Avenue mixed-use project. He reported that the neighbors objected to the 35-foot building height, inadequate parking, and the massing of the building, which would result in a loss of light and privacy. He lamented that the recommended code changes would instead allow for a greater building height, less parking, and a greater building mass, which would further affect light, privacy and views. Mr. DeAvila argued that the recommended code changes embrace the commercial potential of a property at the expense of the adjacent residents, and he urged the Commission to find a measured solution that integrates the needs of the General Plan and the Housing Element with the needs of the residents who will be most impacted by any new developments. He suggested that the Commission consider keeping the zoning regulations as is, which still allows developers to apply for variances, and have developers bear the burden of showing excellence rather than leave the residents to have to defend themselves.

Dimitri Magganas, resident of 118 Woodland Way, commended Staff for the work that has been done to update the Municipal Code. He explained that he has over 30 years of experience in commercial real estate and reported that cities throughout the area are trying to reduce their parking requirements due to outdated regulations that require too much parking. He emphasized how difficult it is to get a commercial loan, and indicated that commercial zoning does not directly result in commercial development. Mr. Magganas indicated his agreement with Mr. Keating's comments about electric vehicle chargers and the character of different commercial zones in the City. Otherwise, however, he expressed his support for the recommended changes to the Code. Lastly, Mr. Magganas urged the Commission to make decisions that are right for the long-term interests of the whole community.

Bevan Vinton, resident of 17 Fairview Avenue, expressed concern for the following excerpt from page 9 and 10 of the staff report:

. . . that [the] perceived benefit [of a mixed-use community gathering spot] may need to be balanced with a willingness to bear some resulting vehicular and pedestrian congestion. Holding these properties to the same parking requirements of single-family residences constrains the potential for their development with commercial and mixed commercial/residential uses.

She urged the Commission to consider very carefully the impacts of parking on adjacent residential neighborhoods. Ms. Vinton also questioned whether it is fair that changes in a commercial zone might end up negatively affecting those who live in a nearby residential zone.

Following Public Testimony, the Commission discussed the recommended revisions and gave direction to Staff regarding the following topics:

Revisions to Zone A Intent

Planning Director Jackson outlined the recommended changes to the Zone A Intent section of the Code, including the edits made by Commissioner Behrens, and explained that the recommended changes are meant to add clarity to the Code.

The Commission unanimously directed Staff to move forward with the following language for Zone A Intent, as amended by Commissioner Behrens:

Zone A is established for single-family residential use. The intent is to:

- *Preserve, protect and enhance Piedmont's residential character, protecting the quiet family atmosphere of neighborhoods.*
- *Protect residents from the harmful effects of excessive noise, light deprivation, intrusions on privacy, overcrowding, excessive traffic, insufficient parking, blockage of significant views, and other adverse environmental impacts.*
- *Maintain openness and areas of vegetation between residences and in front yards.*
- *Achieve design compatibility between additions, remodeling and other new construction by establishing development standards.*
- *Minimize the out-of-scale appearance of large homes, parking areas, and other development relative to their lot size and to other homes in a neighborhood.*

Revisions to Fencing Regulations

Planning Director Jackson explained that current fencing regulations are proposed to remain unchanged, with the exception of a provisional regulation allowing Staff to review applications for waste cart enclosures in the front 20-foot setback. He explained that the provisional regulation has been successful and that Staff recommends making it permanent.

The Commission unanimously directed Staff to move forward with the modifications related to fencing regulations, as outlined in the staff report.

Zone D Uses and Regulations

Prior to outlining the revisions to the Zone D Uses and Regulations that are recommended by Staff, Planning Director Jackson discussed the characteristics of Zone D and showed maps and photos of the properties within Zone D. He explained that Zone D is the smallest zone in the City, with only 19 parcels—six of which are located within the Civic Center and 13 of which are located on Grand Avenue. He reported that of the 13 Zone D properties along Grand Avenue, six are being used for commercial purposes, six are occupied by single-family residences, and one is occupied by a mixed-use building.

Planning Director Jackson explained that a number of General Plan Goals, Policies and Actions mandate revisions to the Uses and Regulations of Zone D. He stated that a 2013 code amendment accomplished the revisions needed to allow for mixed-use development, as mandated by Policy 2.2. He highlighted a few other important mandates, including Policy 2.6, which calls for regulations that enable pedestrian-oriented development as public gathering places; Land Use Element Action 2B, which calls for development standards in Zone D that allow for the development of pedestrian-oriented buildings; and Housing Element Policy 4.2, which mandates that the zoning and building codes and procedures do not constrain the development of multi-family housing in mixed-use projects in Zone D. Planning Director Jackson summarized by stating that the intent behind the General Plan directives is to have regulations and procedures that do not act as barriers to low-density commercial and mixed-use development in Zone D. He showed photographs of examples of such development in Albany, Berkeley and Oakland.

Revisions to Zone D Uses

Planning Director Jackson explained that Zone D Uses are currently divided into 3 categories—those that are permitted, those that are prohibited, and those that require a Conditional Use Permit. He reported that single-family use is the only permitted primary use in Zone D and that the majority of uses allowed in Zone D are only allowed upon receipt of a Conditional Use Permit. Planning Director Jackson reviewed the following Staff recommendations regarding Zone D Uses, as outlined in the staff report:

- To keep single-family residences as the only permitted use, as provided in the City Charter.
- To add drive-through establishments to the list of prohibited uses, to reinforce the goal of pedestrian-oriented development.
- To maintain the same density for multi-family housing: not more than 12 units per net acre, with a density bonus of up to 20 units per acre when affordable housing is provided, in accordance with Government Code section 65915.
- To update the language allowing religious assembly and private schools as conditional uses.
- To add day care facilities as a conditional use in accordance with State law.

- To retain as a conditional use: retail, office and service commercial uses that primarily serve Piedmont residents.
- To retain the need for a conditional use permit to change the structure of a commercial building or to change the existing use of a commercial building, but to clarify what constitutes a change in use.
- To include wireless communication facilities, subject to a wireless communications facilities permit.
- To retain as a conditional use: mixed-use commercial/residential, which was added as a use in 2013 in response to an action included in the Housing Element update, but with a revision that limits the ground floor to commercial uses only and limits the upper levels to multi-family residences only.

The Commission briefly discussed the location of commercial uses within a mixed-use building and agreed with Staff recommendations. The Commission unanimously directed Staff to move forward with the above modifications related to Zone D Uses.

Revisions to Zone D Regulations

Planning Director Jackson reviewed numerous recommended revisions to the Zone D Regulations, including revisions related to lot area, lot coverage, landscaping, structure height, street yard setback, side yard and rear yard setback, floor-to-floor height, and residential and commercial parking. He presented conceptual drawings illustrating the maximum build-out that would result from both the current regulations and those recommended by Staff. Planning Director Jackson reviewed the benefits of the recommended revisions, stating that the revisions fulfill several mandates of the City's General Plan, conform with state law, and remove barriers and constraints to pedestrian-oriented, low-density, mixed-use development. He added that all mixed-use and commercial projects would still require a Conditional Use Permit and design review, and therefore would still have the burden of showing that there are no adverse impacts on the neighbors.

The Commissioners began their discussion by speaking in general terms about the Zone D Regulations:

Commissioner Theophilos expressed his opinion that the recommended revisions to the Zone D regulations push the limits of development too far and suggested that only the minimum changes be made to the Zone D regulations to satisfy the mandates of the General Plan. He emphasized that the City is predominately residential, and that the City's first priority should be to its residents, who, he argued, would be significantly impacted by relaxed regulations on commercial development. He spoke at length about the parking issues in Piedmont and specifically in the vicinity of the Grand Avenue commercial district, and he spoke in opposition to any regulations that would make parking more difficult.

Commissioner Ramsey spoke in support of the general direction that Staff is headed with the code revisions, stating that the revisions are necessary to remove barriers to mixed-use development and bridge the gaps between the General Plan and the Municipal Code. He argued that the current code supports a suburban type of development, which is likely unbuildable in the urban fabric of Piedmont. He also noted that the intent of the zoning code should be to both minimize impacts on the adjacent neighbors and allow development where it is more appropriate. However, Commissioner Ramsey agreed with other

Commissioners that some of the regulations, namely building height, should be reworked to better protect the adjacent neighbors.

Alternate Commissioner Jajodia expressed her opinion that the recommended revisions, especially those related to building height, may be loosening the requirements too much. She suggested that instead of trying to scale a project back during design review, she would rather see tighter regulations in place, such as a required setback on upper floors.

Commissioner Ode noted that the commercial area on Grand Avenue is part of a greater commercial area that serves both Piedmont and Oakland residents. She urged the Commission to think about the regulations and the impact of commercial development in the context of the greater area. She also noted that the conceptual drawings presented by the Planning Director show the outside limits of the regulations and do not represent something that would actually be approved by the Commission.

Commissioner Zhang suggested that Staff consider implementing specific plans within Zone D, so that regulations can be tailored to the different characters of the Civic Center and Grand Avenue commercial zones. Other Commissioners expressed interest in this idea as well and directed Staff to consider implementing specific plans.

The Commissioners also discussed the individual topics at length. For clarity, each topic is listed separately below, including the direction given to Staff.

Revisions to Zone D Regulations: Single-Family Residential

Planning Director Jackson explained that currently any single-family residences in Zone D are governed by the regulations of Zone A, and that no change to this is recommended.

The Commission unanimously agreed that no change should be made, and that single-family residences in Zone D should continue to be governed by the regulations of Zone A.

Revisions to Zone D Regulations: Lot Area and Frontage

Planning Director Jackson explained that Zone D currently has no minimum lot size or minimum lot frontage. He stated that Staff recommends keeping these regulations, but recommends prohibiting the subdivision of existing lots into smaller lots.

Alternate Commissioner Jajodia questioned whether prohibiting subdivisions of Zone D properties would limit the development of small businesses. Planning Director Jackson explained that the existing Zone D properties are already small, and that allowing subdivisions of these properties would create a barrier for commercial and mixed-use developments, which become less economically feasible on smaller lots.

The Commission unanimously directed Staff to move forward with the recommended revision to Zone D Regulations: Lot Area.

Revisions to Zone D Regulations: Lot Coverage and Landscaping

Planning Director Jackson explained that the current lot coverage and landscaping regulations fit more to a suburban development standard, where a smaller building is surrounded by a parking lot. He explained that to change to a

more pedestrian-friendly development pattern with a storefront at the sidewalk, Staff recommends that the regulations be revised to include no maximum lot coverage and no minimum landscaping.

Commissioner Theophilos was in favor of keeping the regulations for lot coverage and landscaping as they currently exist. Commissioners Ode and Ramsey maintained that the current lot coverage regulation is good for suburban development, but not appropriate for the urban development pattern of Piedmont.

With the exception of Commissioner Theophilos, the Commissioners consented to directing Staff to move forward with the recommended revisions to Zone D regulations of conditional uses for lot coverage and landscaping.

Revisions to Zone D Regulations: Building Height and Floor-to-Floor Height

Planning Director Jackson explained that the Code currently allows conditional uses in Zone D to have a maximum building height of 35 feet. He explained that Staff recommends increasing the building height for conditional uses in Zone D to 40 feet (maximum of three stories), to accommodate the higher floor-to-floor height of an attractive and viable mixed-use building. He also explained that Staff recommends requiring a 12-foot minimum (and 15-foot optimum) floor-to-floor height for ground floor commercial retail or restaurant use.

The Commissioners were not fully in support of the Zone D building height revisions recommended by Staff. Commissioner Ramsey suggested that Staff reexamine the building height requirement and consider allowing the building height to exceed 35 feet only when otherwise benefitting the neighborhood. The Commissioners agreed, and Commissioners Zhang and Jajodia suggested that Staff consider requiring the building to step back above a certain height.

The Commission directed Staff to reexamine the recommended building height regulations for conditional uses in Zone D and consider requiring a greater setback of upper floors. The Commission supported the recommended floor-to-floor height requirement; however, since the floor-to-floor height is closely related to the overall building height, Staff will reexamine it along with building height.

Revisions to Zone D Regulations: Setbacks

Planning Director Jackson explained that the current code has no minimum setbacks for Zone D properties, with the exception of properties that border a Zone A property, which must have a minimum 10-foot street yard setback and minimum 4-foot side and rear yard setbacks. He pointed out that all of the Zone D properties along Grand Avenue are adjacent to a Zone A property and would currently not be able to have storefronts built along the front property line. Staff recommends revising the Code for conditional uses in Zone D properties to require no minimum setback along the street, and require a 5-foot setback only along a side or rear property line that is shared by a Zone A property.

The Commissioners were generally in favor of the recommended revisions to the street yard, side yard, and rear yard setbacks of conditional uses in Zone D; however, they directed Staff to revise the code to require greater setbacks from the property lines at the upper floors.

Revisions to Zone D Regulations: Residential Parking

Planning Director Jackson reviewed the recommended revisions to residential parking within mixed-use developments in Zone D. He stated that Staff recommends keeping the current requirement of one parking space per dwelling unit of 700 square feet or less. He explained that Staff recommends changing the current parking requirement for dwelling units greater than 700 square feet from two parking spaces per dwelling unit to one-and-a-half parking spaces per dwelling unit. He added that Staff recommends that no parking be located between the building and the front property line. Planning Director Jackson explained that the intent of the recommended parking reduction is to focus more of the building square footage on pedestrian-oriented development rather than auto-oriented development. In response to a question from Commissioner Ramsey, he also indicated that the recommended revisions are in line with parking requirements in other jurisdictions.

The Commissioners discussed the Zone D residential parking regulations and considered the likely size of the dwelling units, the size of the parking spaces, and the ownership of the parking spaces. Commissioner Zhang pointed out that the Zone D parcels are all in close proximity to public transportation, and that reduced parking requirements are therefore warranted.

With the exception of Commissioner Theophilos, who opposed the recommended changes, the Commissioners supported the recommended changes to residential parking within mixed-use developments in Zone D and directed Staff to move forward with the recommended revisions. They also directed Staff to prohibit parking between the building and the front property line.

Revisions to Zone D Regulations: Commercial Parking

Planning Director Jackson reviewed the recommended revisions to commercial parking in Zone D. He explained that the Code requires one parking space per 150 square feet of floor area for commercial eating places and similar high-intensity uses, and one parking space per 250 square feet of floor area for commercial retail stores, offices and other low-intensity uses. He explained that this amount of required parking is typical of auto-oriented development. Planning Director Jackson explained that Staff instead recommends no parking required for the first 3,000 square feet of floor area to allow for small pedestrian-oriented retail or eatery establishments, such as McMullen on Grand Avenue. Beyond the first 3,000 square feet, Staff recommends requiring one parking space per 300 square feet of floor area for commercial eating places and similar high-intensity uses, and one parking space per 400 square feet of floor area for commercial retail stores, offices and other low-intensity uses. He added that Staff recommends that no parking be located between the building and the front property line.

The Commissioners discussed the Zone D commercial parking requirements at length and talked about commercial parking precedents in Piedmont. Commissioner Ramsey questioned whether the recommended requirements adequately consider handicap accessible parking spaces, and Commissioner Zhang questioned how the 3,000-square-foot parking exception would provide enough parking for employees of a commercial business. Alternate Commissioner Jajodia asked whether 3,000 square feet is the right threshold for the existing Zone D properties.

The Commission directed Staff to reexamine the recommended commercial parking regulations for Zone D and consider requiring a certain minimum amount of parking within the initial 3,000 square feet of floor area (or other

appropriate floor area) to accommodate handicap accessible parking and essential employees. They also directed Staff to prohibit parking between the building and the front property line.

Revisions to Projects Exempt from Design Review

Planning Director Jackson explained that Staff recommends revisions to the list of projects that are exempt from design review for the purpose of better serving the public, adding clarity, accommodating new technologies, and including minor projects that are routinely approved and have little impact on neighbors. He explained that Staff recommends revising eight current exemptions and adding 15 new exemptions, as outlined in the staff report. Planning Director Jackson highlighted the following revisions and additions to the Code:

- PVC and sprayed polyurethane foam to be included in the list of exempt flat roof materials.
- Small residential rooftop solar energy systems, as outlined in the California Solar Rights Act, if no variance is required.
- Window replacement: wood to wood clad with aluminum or fiberglass, no change in size, location or reveal.
- Siding replacement: wood to cementitious replica.
- Flat-profile skylights and sola-tubes, not visible from the street.
- Automatic pool and spa covers.
- Electric vehicle chargers located in a garage or carport.
- Air-conditioning units, with limitations
- One storage shed otherwise exempt from a building permit.
- Gas meters in street setbacks, screened from street view.
- Chicken coops, beehives and dog houses, with limitations.
- Children's play equipment, limited in size and location.
- Tankless water heaters, interior locations and within enclosed exterior alcoves.

The Commissioners asked Staff for clarification on some of the recommended exemptions. After some discussion, the Commission directed Staff to revise three of the recommended additions to the list of projects exempt from design review, as follows:

- A change in the exterior wall material from wood siding to cementitious fiber siding with a texture that matches the existing siding, so long as there is no change in the siding location, orientation or design.
- Exterior-mounted electric vehicle chargers, provided that: 1) the charger is not located on a street-facing façade or within a street setback, and 2) no electrical conduit leading to the charger is exposed on the exterior wall of the building.
- The replacement of foundations, provided that there are no alterations that would otherwise alter the size, shape or exterior design of the building.

Reorganization of Chapter 17 and its Subchapters

Planning Director Jackson reviewed the recommendations made by Staff regarding the restructuring and reorganization of Chapter 17 and its subchapters. He explained that Staff recommends relocating some of the provisions to Chapter 5 Building Code, including Chapter 17A Building Sewers, Chapter 17F Disclosure Statements, the Civic Green Building Requirements, the Bay Friendly Landscaping Requirements, and the Building Energy Savings Ordinance (if adopted). He indicated that Staff recommends removing Chapter

16 Private Schools, as it is no longer applicable, and that the City Clerk will determine the new location of Chapter 17C Public Safety Service Charge. He also indicated that Staff recommends moving Subchapters 17G Wireless Communication Facilities and 20A Utility Use Tax into Chapter 17 and Chapter 20, respectively. Planning Director Jackson explained that the revised Chapter 17 would have separate Articles, which would be subdivided into subchapters, sections and divisions. He also reported that some of the minutia of the Administration article might be moved into the Design Guidelines, to simplify the Code and make it easier to maintain.

Next Steps

Planning Director Jackson announced that the next discussion of the Chapter 17 revisions will be held during the next regular Commission meeting on August 8, 2016, at 5:00 p.m. He noted that subsequent discussion are planned for a special meeting of the Commission on August 30, 2016, at 5:30 p.m., and a regular Commission meeting on September 12, 2016, at 5:00 p.m. He added that Staff hopes to have a complete draft for the Commission to review in October, and that the Code will be considered for adoption by the City Council in November or December.

ADJOURNMENT

There being no further business, Chairman Behrens adjourned the meeting at 8:00 p.m.