

PIEDMONT PLANNING COMMISSION

Special Meeting Minutes for Monday, January 29, 2024 – DRAFT

A Special Session of the Piedmont Planning Commission was held on Monday, January 19, 2024, both in person and via ZOOM teleconference, in accordance with Government Code Section 54953. The agenda for this meeting was posted for public inspection on January 12, 2024, in accordance with the General Code Section 54954.2 (a).

CALL TO ORDER Chair Douglas Strout called the meeting to order at 5:38 p.m.

ROLL CALL Present: Commissioners Rani Batra, Aradhana Jajodia, Julie Ortiz, Wayne Rowland, Douglas Strout, and Justin Zucker

Staff: Planning & Building Director Kevin Jackson, Senior Planner Pierce Macdonald, Associate Planner Gopika Nair, Assistant Planner Steven Lizzarago, Assistant Planner Joshua Muller, Administrative Assistant Mark Enea, and Deputy City Attorney Deepa Sharma

REGULAR CALENDAR The Commission considered the following items as part of Regular Calendar:

City Administrator’s Report: Informational Update on the Renewal of the City Services Tax / Measure F

City Administrator Rosanna Bayon Moore provided an update on the Renewal of the City Services Tax / Measurement F, accompanied by a slide presentation.

Ms. Bayon Moore stated that the Municipal Services Parcel Tax will be on the ballot in March 2024, listed as Measure F (City Services Tax). She presented that City Service Tax funds critical City services, it’s 7% of the City’s General Fund, and it will expire in June 2025. The City Service Tax was first passed in 1981, it has been renewed ten times by Piedmont voters, and it is a Non-ad Valorem Tax assessment based on the type of use and the size of parcel. The renewal of the City Services Tax is recommended by the Budget Advisory & Financial Planning Committee. If Measure F gets passed, it would renew the City Services Tax for 12 years with a 20% increase. It would cost \$12-\$21/month for most single-family homes and would generate an additional \$545,000/year. Measure F would ensure ongoing delivery of core City services and improve 911 capabilities.

The election will be held on March 5, 2024. Vote-by-mail ballots will be sent starting on February 5, 2024. The last day to register will be February 19, 2024. The decision will impact all City services. More information is available at piedmont.ca.gov/election 2024. The information available includes full text of Measure F, ballot arguments for and against, existing vs. proposed side-by-side, FAQ and fact sheet, and impartial analysis from the City Attorney.

Commissioner Rowland asked about the renewal process and funding permanent needs.

Public Hearing: Consideration of Recommendation to the City Council to: (1) Certify the Sixth Cycle Housing Element Implementation EIR; (2) Adopt General Plan Amendments; and (3) Adopt Zoning Ordinance Amendments

As described in the agenda and public hearing notice, the Planning Commission considered a recommendation to the City Council to certify the 2023-2031 Housing Element Implementation Environmental Impact Report (EIR) and to adopt General Plan amendments and Zoning Ordinance amendments. The General Plan amendments are proposed to the following elements: Land Use; Transportation; Environmental Hazards; Natural Resources and Sustainability; Design and Preservation; Community Services and Facilities; and Parks, Recreation, and Open Space. The amendments to the Piedmont City Code include citywide revisions to division 17.02 Title, Intent, City Charter in Article 1, General Provisions; modifications to the intent, permitted and conditional uses and development standards in Article 2, Zoning Districts; modifications to provisions related to parking, density bonus, accessory dwelling

units, SB 9, residential rentals, and others, in Article 3, Special Regulations; new City Code divisions 17.52: Density Bonus and 17.54: Urban Lot Splits and Two-Unit Housing Development (SB 9) in Article 3, Special Regulations; modifications to Division 17.67, Ministerial Design Review Permits; modifications to Article 5, Definitions and Measurements; and other conforming revisions.

Planning & Building Director Kevin Jackson introduced the agenda items, recognized the team of staff, and introduced Senior Planner Pierce Macdonald to initiate the General Plan amendments presentation.

Ms. Macdonald introduced Kathryn Slama of LWC and Karly Kaufman of Rincon Consultants and presented an overview slide showing the Planning Commission public hearing outline which includes the proposed General Plan Amendments, Zoning Ordinance Amendments, Environmental Impact Report (EIR), and action by the Planning Commission. Ms. Macdonald described the background of Piedmont's Housing Element, that it was adopted by City Council on March 20, 2023, that it was found to be a substantial compliance by California Department of Housing and Community Development on November 9, 2023, and that six study sessions and staff briefings were held on implementation of Housing Element programs. October 8, November 13, November 20, December 11, and December 18, 2023, and January 8, 2024.

Ms. Macdonald described how implementing program 1.P, General Plan Amendments, of Housing Element goal, New Housing Construction, and policy 1.2, Housing Density and Housing Mobility, guide the City to make amendments to the General Plan to ensure internal consistency. The presentation gave a high-level overview of the draft amendments to all General Plan elements include Land Use, Environmental Hazards, Transportation, Design and Preservation, Community Services and Facilities, Natural Resources and Sustainability, and Parks Recreation, and Open Space, which were published to the City's website and announced to community members on December 6, 2023. Amendments have been proposed for all of the elements to update background information to reflect current conditions and remove text and terms that obstruct implementation of the housing programs.

The Land Use Element amendments are a series of changes that increase the development potential of land in Piedmont and align with the proposed Zoning Code changes. There are proposed changes to the Land Use Diagram (map and figure 3.3) to add a new land use designation and description for the Moraga Canyon Specific Plan and include changes to the sites that correspond with the existing Zone C boundaries.

The Environmental Hazards (Safety and Noise) Element amendments support housing element programs and zoning changes. They add new and amended noise and vibration polices related to construction. They meet the State required consistency updates triggered by the 8-year Housing Elements (Senate Bill 1035), climate change (Senate Bill 379), evacuation (Senate Bill 99), and wildfire (Senate Bill 1241).

The Transportation Element amendments add new and amended policies to support vehicle miles traveled (VMT) analyses and transportation demand management (TDM) to reduce reliance on single-occupant cars and trucks. Ms. Macdonald presented additional staff recommended changes, based on further analysis: Ms. Macdonald explained that staff recommends changes to Figure 4.2, Figure 4.4, and Table 4.4 of the Transportation Element to correct the width of Maxwellton Road to indicate it is less than 20 feet wide and to include Spring Trail in the map and list of City Trails.

The Design and Preservation amendments support housing element programs. They adds new and amended policies related to historic resources assessment and treatment, archaeological resources assessment and treatment, and the treatment of tribal cultural resources.

The Community Services and Facilities amendments add new amended policies and actions, including Action 34.D to prepare for increased demand for public services. The draft amendments would support housing for seniors, special needs, and lower-income residents.

The Natural Resources and Sustainability amendments propose additional and amended policies and actions focused on conservation of natural features, urban forests, air quality, water quality, sustainable development, resources, and the protection of special-status species. The State legislative mandate for updating the Natural Resources and Sustainability Element includes a mandated update triggered by 8-year Housing Element (Assembly Bill 162) which amended Government Code (65302(d)), and floodwater accommodation (Assembly Bill 162). The new General Plan policies include those based on EIR analysis to address special status species, protection, air quality, greenhouse gas emissions reduction, updated local air quality data, and others.

Parks, Recreation, and Open Space amendments add and amend policies and actions to support relocation of City services, facilities, and open space on City owned land in Moraga Canyon, including the City Corporation Yard, Coaches Field, Kennelly Skate Park, and Blair Park, for development of 132 housing units and to continue uses in new locations (Housing Element Program 1.L). The proposed amendments add a new action to study City owned land for possible new uses and declaration of surplus land by the City Council.

There were no questions from Commissioners on the General Plan Amendments.

Planning & Building Director Kevin Jackson introduced Associate Planner Gopika Nair to initiate the Zoning Ordinance presentation.

Ms. Nair presented the details of the public hearing for the Zoning Ordinance Amendments. There have been six study sessions and staff briefings held over the past four months. The proposed revisions are to City Code Chapter 17 – Planning and Land Use, required by the Housing Element programs. The changes are to be consistent with the State Law and best practices to ensure consistency with the zoning ordinance. The revisions specifically include updates to the existing divisions and adding new divisions.

The new division 17.52 was added to implement the State Density Bonus Law. A developer who meets the requirements of the State law is entitled to receive a density bonus and other benefits as a matter of right. The law allows for up to five concessions or waivers. Requests must be submitted concurrently with the housing development application.

Assistant Planner Steven Lizzarago summarized the new division 17.54. The purpose and intent is to provide development and zoning standards in accordance with SB 9. The State law applies to lots in single-family zones and allows for ministerial review of up to two primary residential units and for urban lot splits to allow for the construction of additional housing units. Under SB 9 an agency must allow for the ministerial approval for up to two primary residences of at least 800 sq. ft. and for lot division of a parcel of at least 1,200 sq. ft. ADUs are also permitted on a parcel

that is proposed to undergo an SB 9 application, allowing for a total of four units. The division also includes standards for lot street frontage, lot configuration, easements, setbacks, parking, plus additional definitions and defining terms.

Ms. Nair moved to discuss the amendments proposed to existing divisions and sections. The proposed amendments to the Planning and Land Use City Code Division 17.02 and intent section of all following zoning districts are recommended by staff to provide consistency with the Housing Element and to reflect the City's goal of welcoming diverse housing types.

The proposed new permitted uses (permitted by right) in all zones include the following:

- Manufactured and mobile homes
- Low barrier navigation centers
- Transitional and supportive housing
- Licensed residential care facilities or group home for up to six residents
- Unlicensed residential care facilities or group homes
- Small family day care home
- Employee housing for up to six people

Conditional uses are uses not allowed as a matter of right, but through a public hearing process. Conditional uses include large family day care homes, licensed residential care facilities or group home for more than seven residents, single room occupancy (SRO) and co-housing development, and commercial portion of mixed-use development.

Development standards guide development, protect and promote public health, safety, and general welfare, reflect the Housing Element's goals, and comply with State law. The revised development standards and regulations for all zones are as follows:

- Add development standards for all the new permitted and conditional uses to be allowed in land use zones.
- Side and rear yard setbacks for multi-family residential and similar group residential reduced to four feet.
- Maximum height for multi-family residential development or similar group uses in Zones C and D is proposed to be 45 feet (which is typically equivalent to four stories) with additional step back requirements for two or higher stories when the lots are smaller in size, allowing greater separation.
- Street yard setbacks for parcels in Zone C is proposed to be reduced to 15 feet.
- Add provisions that allow for SB 9 development in Zones A and E.
- Increased allowable lot coverage, reduced landscape coverage, elimination of FAR standards, requirement of 2-bedroom unit, and addition of density standards in multi-family residential or similar group uses.
- Housing Element Program 1.E: The program calls for requiring the construction of an ADU or JADU with the construction of a new residence, whether on vacant property or on any property that is proposed to be redeveloped, when the property meets certain size thresholds. Draft regulations:
 - Lot size threshold 5,000 square feet.
 - ADU construction to be required when a new residence is proposed on a vacant property and when a remodel of an existing residence is proposed where 70% or more of the structure is demolished, unless the

remodel or reconstruction is required due to earthquakes, fire, flood, accident, or other act of nature.

Consistent with the Housing Element and State Laws, the revisions under Division 17.30 would revive the parking standards for single-family residential use and multi-family residential or similar group use.

- State Law Assembly Bill (AB) 1308 prohibits enforcing minimum parking requirements applicable to single-family residences for projects remodeling, renovating, or adding to a single-family residence, as long as the project does not exceed applicable zoning regulations.
 - Applicable zoning regulations FAR, lot coverage and structure height.
 - Eliminates bedroom-based parking standards.
 - Cannot use parking requirements to limit the scope of remodeling, renovation, or addition projects to single-family residences.
- Amendments require 1 parking space for every primary unit developed under SB 9.

Revised residential rentals Division 17.40 states that the dwellings created through SB 9 are not permitted to be used as short-term rentals.

Staff proposed revisions to Division 17.67 that allow ministerial design review of projects that meet the State's eligibility criteria for ministerial review beyond SB 35, for example an application proposed under SB 6 or AB 2011.

To implement Housing Element program 5.L, staff revised the definition of family. Other definitions for Division 17.90 include adding definitions for the new terms used throughout the round of revisions.

Ms. Nair concluded that staff recommends that the Planning Commission makes a recommendation to City Council for the Certification of the EIR related to the 6th Cycle Housing Element implementation, the adoption of CEQA findings, and the statement of overriding considerations, the adoption of the draft General Plan amendments and draft Zoning Ordinance amendments, and the resolution recommending adoption of the draft Zoning Ordinance. The Planning Commission's recommendation will be considered by City Council during a public hearing planned for February 20, 2024. Ms. Nair paused the presentation to take Commissioner questions.

Commissioner Batra asked about the one parking space per unit, for an additional structure built. She asked if the existing residence is not compliant in parking, would compliance still be required for the existing residence, when an additional structure is built. Director Jackson stated that State Law does not allow the City to require replacement parking when a carport or garage is converted to an ADU. For existing house remodels and additions, if the proposed project exceeds the underlying zone's structure coverage, FAR or height, 1 additional parking space (for a maximum of 3) must be provided. The City, consistent with AB 1308, is eliminating bedroom count-based parking for a single-family home remodel.

Commissioner Batra asked about prohibition of short-term vacation rentals in new housing units (SB 9). Director Jackson stated the current short-term vacation rentals ordinance prohibition of short-term renting of accessory dwelling units.

Commissioner Jajodia asked if the newly added permitted uses emergency shelters and single room occupancies are required in the Housing Element to meet the City's RHNA goal. LWC Director Kathryn Slama stated that there is a requirement in State law that an emergency shelter be allowed in at least one zone which Piedmont

already allows in Zone B. By including this as a Housing Element program to allow emergency shelters affiliated with a religious institution, the City is going beyond the State law.

Karly Kaufman, representing Rincon Consultants, presented information on the Piedmont 2023-2031 Housing Element Implementation Project Environmental Impact Report (EIR).

Ms. Kaufman described the purpose of the California Environmental Quality Act (CEQA) is as follows:

- Disclose the potential significant environmental effects of proposed actions.
- Identify ways to avoid or reduce adverse environmental effects.
- Consider feasible alternatives to proposed actions.
- Foster interagency coordination in the review of projects.
- Enhance public participation in the planning process.

The EIR Process includes the (1) Notice of Preparation (NOP), (2) first comment scoping period, (3) develop the Draft EIR, (4) public review of the DEIR, (5) comments on the DEIR received will be provided with written responses, (6) prepare the final EIR, (7) consideration by Planning Commission and City Council, and (8) file Notice of Determination.

Ms. Kaufman described the CEQA timeline for the EIR which started with the NOP released on February 16, 2022. There were 13 written comments, and the verbal comments at the scoping meeting held by the Planning Commission on March 1, 2022. Ms. Kaufman described the 45-day Draft EIR comment period as November 3, 2023, through December 18, 2023. There were 15 written comments on the Draft EIR, and the Final EIR, including responses to comments, was published in January 2024.

Ms. Kaufman explained that the impacts and mitigation in the EIR are as follows:

- In many cases, less than significant impacts would occur because of new/revised General Plan policies.
- Impacts that were found to be less than significant with mitigation incorporated include:
 - Geology and Soils
 - Mitigation Measure MCSP GEO-1 Geotechnical Assessment for Moraga Canyon Specific Plan Area
 - Hazards and Hazardous Materials
 - Mitigation Measure MCSP HAZ-1 Property Assessment – Phase I and Environmental Site Assessments (ESAs)
 - Mitigation Measure MCSP HAZ-2 Soil Management Plan
- Impacts that were found to be significant and unavoidable include:
 - Historic Resources
 - Greenhouse Gas Emissions
 - Construction Noise
 - Transportation (vehicle miles traveled)
 - Wildfire
 - Utilities and Service Systems

The Final EIR consists of:

- 15 comment letters received.

- 4 public agencies (EMBUD, California Geological Services, Alameda County Transportation Commission)
- 11 individuals/residents
- EIR comments mostly pertained to geology and soils, noise, transportation, and impacts specific to the Moraga Canyon Specific Plan Area.
- Some corrections, revisions, and additional information was added in the Final EIR
- None of the EIR revisions resulted in new or more severe significant environmental impacts than those found in the Draft EIR

Ms. Kaufman described the alternatives studied in the EIR. The EIR Alternatives are as follows:

- Alternative 1 – No Project Alternative
 - Continued implementation of the City’s existing plans and policies that would accommodate development in accordance with the existing land use designations, policies, and zoning standards.
- Alternative 2 – Reduced Buildout
 - Assumes that the entirety of the Housing Element is not implemented, but that State laws such as SB 9, AB 1851, AB 2244 and the State Density Bonus Law, would continue to be implemented.
 - Because Alternative 2 slightly reduces the severity of many of the impacts that would result from the proposed project, it is the environmentally superior alternative.

Public testimony was received from:

Ellen Greenberg submitted a letter on behalf of the Piedmont Racial Equity Campaign & Housing Committee. She stated they reviewed the General Plan Amendment document to support the City’s desire to create a document that will embed the City’s new policies throughout the General Plan. The intent is to support clearer communication with the Piedmont community with an internally consistent document that fully supports the Housing Element implementation. Ms. Greenberg stated that they have three concerns which include the narrative and policies relating to Moraga Canyon, narrative and policies relating to surplus land, and narrative language that may create conflict or confusion relative to the Housing Element and Moraga Canyon Specific Plan. They would like a clear statement that affordable housing is the priority in the Moraga Canyon Specific Plan policies.

Garrett Keating addressed the Planning Commission and asked if SROs and duplexes are allowed in Zone A. He also asked about conditional use permits and language regarding neighborhoods. He suggested adding CAP greenhouse gas reduction targets to the General Plan. Mr. Keating stated greenhouse gas emissions are a significant impact and unavoidable, and he does not agree that the benefits of the Housing Element will offset that. He asked for clarification on the greenhouse gas emissions calculations in the appendices of the EIR.

Ms. Kaufman stated that greenhouse gas emissions impacts were found to be unavoidable because there has been recent litigation preventing cities from banning natural gas connections. The Bay Area Air Quality Management District thresholds that were used for the analysis, require new development to be all electric in order to have a less significant impact. There is a proposed General Plan policy that encourages new development to be all electric without natural gas connections.

Director Jackson stated that SB 9 allows property owners to do a parcel split and develop at least two housing units on each of the parcels or (without a parcel split) to develop an additional duplex up to four units on a lot in a single-family zone.

Director Jackson noted that PREC's recommended changes to the General Plan amendments need to be reviewed but that several of their recommended revisions make assumptions about the Moraga Canyon Specific Plan, which has not been drafted.

Commissioners Batra and Zucker thanked staff, the consulting team, and the community for their hard work in preparing the amendments and EIR and noted the demonstration of care, expertise, experience, and engagement shown by the small community of 11,270 residents.

Resolution 03 -PL-24

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the motion to (1) adopt Attachment A recommending that the City Council certify the 2023-2031 Housing Element Implementation Project EIR for the 6th Cycle Housing Element Implementation project, make required CEQA findings, adopt the statement of overriding and considerations and adopt the mitigation monitoring and reporting program; (2) adopt the attached Resolution Attachment B, recommending that the City Council adopt amendments to the City of Piedmont General Plan including the amendments to the following elements Land Use: Transportation (including amendments to Figure 4.2 and 4.4 and Table 4.4, presented at the public hearing by City staff), Natural Resources and Sustainability, Environmental Hazards (Safety and Noise), Parks, Recreation and Open Space, Design and Preservation, and Community Services & Facilities; and (3) adopt the attached Resolution Attachment C, recommending that the City Council adopt an ordinance adding Division 17.52 Density Bonus and Division 17.54 Urban Lot Splits, and two-unit housing developments SB 9 Chapter 17 of the Piedmont Municipal Code and amending Division 17.02 Title, Intent, City Charter, 17.20 Zone A Family Residential, 17.24 Zone B Public Facilities, 17.24 Zone C Multi-Families Residential, 17.26 Zone D Commercial and Mixed-Use Commercial Residential, 17.28 Zone E Single-Family Residential Estate, 17.30 Parking, 17.90 Definitions and Measurement, and sections of Division 17.40 Residential Rentals, and Division 17.67 Ministerial Design Review Permits to implement the 2023-2031 Housing Element Implementation Project.

Moved by Strout, Seconded by Zucker
Ayes: Batra, Jajodia, Rowland, Strout, Zucker
Noes: None
Absent: None

ADJOURNMENT

There being no further business, Chair Strout adjourned the meeting at 6:55 p.m.