

**City of Piedmont
COUNCIL AGENDA REPORT**

Date: October 4, 2004

From: Geoffrey L. Grote, City Administrator

Subject: **Report on Options Related to Second Story Additions**

Recent appeals of planning commission decisions to the city council have raised two separate but related issues. *What is the standard of review to be applied to appeals from the planning commission?* In other words, is the standard a de novo hearing? The city attorney has been asked to respond to this issue and it will be scheduled for council discussion when he returns from vacation.

The effect of second story additions is the second issue. *What is an acceptable impact on direct light, privacy and view? How does this relate to the General Plan provision regarding preservation of small houses?* City Planner Kate Black has prepared the attached report which offers some possible answers to these questions and proposes some solutions. This report is intended as a beginning of a public dialogue about this issue.

Although there are many ways of developing public input, I would ask the city council to consider holding a joint public hearing with the planning commission to listen to public opinion about the second story additions, staff's proposals and any alternative ideas which the public would like to present. Based on this public input, the planning commission can develop its recommendations to the city council at subsequent meetings. Finally, the city council will consider the matter, decide what changes to the city code are necessary and give direction to the planning commission on implementation of the new policies.

It is important that the city council move expeditiously to clarify its view on these issues and communicate its conclusions to the planning commission. Personal interpretation of standards cannot be eliminated entirely and subjective evaluation will lead to a variety of viewpoints. However, to the extent that standards can be clearly defined and adequately measured, results will be more consistent.

**City of Piedmont
COUNCIL AGENDA REPORT**

MEETING DATE: October 4, 2004

FROM: Kate Black, City Planner

SUBJECT: **Introduction of Possible Changes to City Code and Residential Design Guidelines to Address Impacts Resulting from Second Story Additions**

RECOMMENDATION:

Direct the Planning Commission and staff to pursue one or more of the following options to address impacts resulting from second story additions:

1. Develop code amendments to Section 17.22.2 (a) of the City Code to decrease the Floor Area Ratio limit for lots with fewer than 5,000 square feet;
2. Develop code amendments to Sections 17.10.7 and 17.14.7 of the City Code to increase the side yard setbacks for second stories;
2. Develop findings or amendments to the Residential Design Review Guidelines to provide further clarity and guidance in the discretionary application of design criteria related to projects that propose second stories.

INTRODUCTION:

In Piedmont, each planning application is reviewed using two concurrent but separate processes: compliance with the development controls of the zoning ordinance and compliance with the design review guidelines.

The development controls of setbacks and lot coverage ratios limit the size and scope of development, and are applied equally and ministerially; the application either complies or does not comply with the controls. However, the *character* of the application - the architectural compatibility with the site and relationship with the neighborhood context - is reviewed through the discretionary application of the Design Guidelines. In Piedmont, each application must comply with both the quantitative and qualitative criteria in order to be approved, although it should be noted that the Guidelines by their nature are inherently subjective, and thus, prone to individual interpretation.

Staff is introducing for the Council's discussion, two different ways of addressing the review of second story additions, involving possible changes to the development controls

and possible changes to the Design Guidelines. Staff believes that code amendments will be more effective and equitable in addressing the issues, but would be supported by new findings that would need to be made or new language in the Guidelines that would need to be applied. However, the Council may find one approach is preferable over the other.

POSSIBLE AMENDMENTS TO THE ZONING ORDINANCE

One of the issues frequently discussed by the Council and Commission over the past few months is Housing Element Policy 2.3, which encourages the preservation of Piedmont's existing stock of small houses. In general, the most effective way to limit the size of a house is the floor area ratio limit of Section 17.22.2 of the Zoning Code, which is a relationship between the size of the lot and the total amount of habitable square footage in the house. While the development controls that limit structure coverage and impermeable surfaces coverage work together to limit the amount the lot can be covered by building footprints and paving, the floor area ratio (FAR) limits the three-dimensional size and mass of the house, counting all stories.

As you know, Piedmont has a sliding scale of three floor area ratio limits that are related to the size of the lot: lots that are greater than 10,000 square feet permit an FAR ratio of 45%, equivalent to 4,500 square feet of building or more; lots that are between 5,000 and 10,000 square feet are permitted an FAR of 50%, equivalent to 2,500 to 5,000 square feet of building; and lots that have fewer than 5,000 square feet, are permitted an FAR of 55%, equivalent to 2,749 square feet or less.

Thus, the smaller lots in town are permitted to have proportionally larger houses than the larger lots, and staff is recommending the option of reducing the FAR for lots with fewer than 5,000 square feet.

Moreover, it should be noted that the small-sized lots also tend to have existing houses with non-conforming side and rear yard setbacks, and much tighter distances between adjacent residences. A 500 square foot second story addition on a small house that is only 8 feet away from its adjacent neighbors is likely to have a greater visual impact on the adjacent residences than the same 500 square foot second story on a house that is 15 feet from its adjacent neighbors. This issue has also been discussed over the past few months, and in general, applications for second stories that have greater distances between adjacent neighbors are more likely to be approved. Staff is also recommending that the Council consider an increase in the setbacks for second stories.

Attached as Exhibit A, is a comparison of second story applications that have been approved in the past few years. They are arranged by lot size (smallest to largest), but the size of the second story, the FAR and the side yard setbacks are also provided. In general, the smaller lots have higher FARs and tighter existing and proposed side yard setbacks. Additionally, smaller lots with existing non-conforming setbacks tend to be adjacent to properties with the same conditions, and are more likely to be opposed.

Staff is recommending following code amendments be further evaluated and developed:

1. Consider requiring all non-conforming lots (those that have fewer than 10,000 square feet) to be limited to a floor area ratio of 50% (lots with 5,000 to 10,000 would remain at an FAR of 50% and lots with more than 10,000 square feet would still have an FAR of 45%); and
2. Consider requiring 8' side yard setbacks for second stories (4' more than the existing 4' setbacks for first floors).

CREATION OF NEW FINDINGS OR AMENDMENTS TO THE RESIDENTIAL DESIGN GUIDELINES

In general, it is staff's opinion that the Design Guidelines do a good job of ensuring that second story additions are architecturally compatible and in balance with the existing residence. The Guidelines also provide reasonable standards so that the character of an addition is in keeping with the existing neighborhood character.

However, as previously mentioned, the distance between adjacent residences and a proposed new second story can be significant to a determination about whether or not the new second story will create an adverse impact. Tall and close buildings block access to light and air, create cast shadows, increase privacy impacts, and block long range and short range views. These problems can be more significant when topographical conditions increase the impact, or when a second story is proposed adjacent to a single story residence. Moreover, the location of the proposed addition relative to the sun can make a significant difference.

These site-specific issues can be addressed in two different ways: the development of findings that would to the approval or denial of every second story application, or new design guidelines to preserve privacy and prevent adverse impacts. Either way, the development of this qualitative language would help define a hierarchy of impacts. For example, loss of direct sunlight into the primary living areas (living room, dining room and kitchen) of an adjacent residence that is 8 feet away from a proposed second story, for a majority of the day, for most of the year, obviously creates an impact that is greater than the intrusion of a second story into a local down-sloping view of a neighboring house that is 40 feet away.

New findings language or amendments to the Guidelines could include the following:

1. Requiring sun/shadow studies for neighboring properties that are located to the south of a proposed second story, and language that more narrowly defines an acceptable loss of direct light (such as a percentage);
2. Requiring massing models that show the proposed project and all adjacent structures that are less than 15-20 feet away so that the potential impacts and topographical context can be better understood;
2. Language that defines "view" in a more meaningful way, and which views are more important to preserve (the adjacent sky view over the roof of a nearby house

- vs. localized neighborhood tree and rooftop views vs. long-range views of the bay, etc.);
4. Language that more narrowly defines which portions of a neighboring property are more important to protect (primary living rooms vs. secondary living rooms vs. outdoor spaces, etc.); and
 5. Language that provides some possible mitigation measures to protect privacy, such as landscape treatments, window location and/or glazing treatments.

CONCLUSION

Over the past few months, it has become clear that individual Commissioners view “impact” differently, as do individual Council members, and there seem to be some differences in total between the Council and Commission. Since these differences are fundamental to how each individual views a project, it is not likely that those differences will disappear. Thus, is it appropriate to develop some additional parameters to help focus the decision-making process.

It is staff’s opinion that the objective application of development controls - a reduced FAR for small lots, and/or increased second story setbacks - is the most effective way of achieving the Housing Element policy of preserving existing small housing stock. It would apply to all properties in an equitable manner, and is not influenced by differing opinions among Planning Commission and City Council members. Additionally since these new development controls will result in smaller additions, it will have the added benefit of reducing impacts on adjacent properties.

However, the qualitative application of the existing Design Guidelines has been a very effective, *flexible* way of insuring that new additions, including second stories, are well designed to fit the neighboring context, the site and the existing architecture. The application of these guidelines has been important to Piedmont’s design review process, since due to our topographically varied city, no site is the same as any other. While the Guidelines are much less effective at preserving small housing stock than zoning controls, they do help promote qualitatively better-designed projects. The creation of new findings or new language to amend the Design Guidelines could compliment the new development controls.

Date report prepared: September 29, 2004

Exhibits:

Exhibit A Comparison of Second Story Applications

**COMPARISON OF SECOND STORY APPLICATIONS
(LOTS WITH < 10,000 SQUARE FEET)**

Address & PC/CC Date	Lot Size	Right Side Setback	Left Side Setback	2 nd Story Size	Change in FAR
56 Manor Drive 7/14/04 PC Approved	3,200 sf	E 1 st = 4' P 2 nd = 9'6"	E 1 st = 5'6" P 2 nd = 9'	480 sf	E = 40% P = 55%
1071 Harvard Ave. 9/9/02 PC Approved	4,040 sf	E 1 st = 3' P 2 nd = 4'	E 1 st = 6'10" P 2 nd = 6'10"	762 sf	E = 32.5% P = 51.3%
1069 Harvard Ave. 3/8/04 PC Approved	4,040 sf	E 1 st = 1'4" P 2 nd = 9'4"	E 1 st = 5'4" P 2 nd = 9'4"	567 sf	E = 40.4% P = 54.5%
1131 Harvard Ave. 9/7/04 CC Denied	4,054 sf	E 1 st = 5'5" P 2 nd = 5'5"	E 1 st = 4' P 2 nd = 4'	697 sf	E = 31.4% P = 48.54%
1067 Ranleigh Way 6/21/04 CC Approved	4,416 sf	E 1 st = 2'10" P 2 nd = 4'1"	E 1 st = 2'1.5" P 2 nd = 7'1"	1,070 sf	E = 38.8% P = 54.1%
115 Wildwood Ave. 10/8/01 PC Approved	4,500 sf	E 1 st = 9'2" P 2 nd = 8'9"	E 1 st = 4' P 2 nd = 4'	854 sf	E = 34.5% P = 53.5%
1135 Harvard Ave. PC Approved	4,823 sf	E 1 st = 13'4" P 2 nd = 12'4"	E 1 st = 9'6" P 2 nd = 9'6"	870 sf	E = 32.2% P = 43%
148 Ricardo Ave. 9/7/04 CC Approved	5,000 sf	E 1 st = 7'6" P 2 nd = 8'4"	E 1 st = 8" P 2 nd = 2'	432 sf	E = 26% P = 43%
922 Rose Ave. 8/31/01 PC Approved	5,052 sf	E 1 st = 0'0"?? P 2 nd = 5'	E 1 st = 3'8"??? P 2 nd = 4'	655 sf	E = 37% P = 50%
2015 Oakland Ave. PC Approved	5,400 sf	E 1 st = 2' P 2 nd = 2'	E 1 st = 1'5" P 2 nd = 2'	883 sf	E = 24.5% P = 42.2%
70 Pacific Ave. PC Approved	5,920 sf	E 1 st = 6'6" P 2 nd = 4'	E 1 st = 3'7" P 2 nd = 3'7"	818 sf	E = 30.3% P = 49.4%
310 San Carlos Ave. 8/9/04 PC Approved	6,850 sf	E 1 st = 10'1" P 2 nd = 10'1"	E 1 st = 1' P 2 nd = 4'1"	726 sf	E = 23.4% P = 44.5%