

**City of Piedmont
COUNCIL AGENDA REPORT**

DATE: November 29, 2004

FROM: Kate Black, City Planner

SUBJECT: Further Discussion of Second Story Additions

RECOMMENDATION:

1. Direct staff to prepare an amendment to Chapter 17 to require specific findings for approval of all new upper level stories and upper level expansions to be required in addition to the findings already required under Section 17.20.9 (a), (b) and (c). The findings would be similar to the findings below:

- a. The distance between the proposed upper level addition/expansion and adjacent residences is reasonable and appropriate due to the existing topography and neighborhood development pattern. Upper level setbacks greater than the setbacks required for the lower level were considered in order to reduce losses of ambient and reflected light;
- b. The upper level construction has been designed in a way to minimize impacts on adjacent residences, including the location of the addition, and modifications such as lowering the height of the addition, and changing the ridge direction;
- c. The upper level construction will not create a significant loss of direct sunlight to one or more primary living space of an adjacent residence for most hours of the day, most days of the year, especially primary living spaces that have no other source of light (such as skylights or windows on another wall);
- d. The upper level construction will not create a major intrusion into a significant distant view (such as a view of the bay or Lake Merritt); and
- e. Other means of achieving the applicant's requested addition have been evaluated and determined to be infeasible because they would result in poor quality space or are unreasonably costly to construct. The size of the addition is commensurate with the size of the lot, and is in keeping with the existing neighborhood development pattern.

2. Direct staff to develop a sun study policy that will enable the Planning Commission or staff to require a professionally prepared study in the event that a proposed second story is likely to have an impact on the amount of direct sunlight of an adjacent residence.

BACKGROUND:

The issue of how to address impacts resulting from new second story additions was discussed at the joint meeting of the City Council and Planning Commission on July 19, 2004, and further discussed by the City Council at the October 4, 2004 City Council meeting. The staff report for the July meeting provided relevant background text from the General Plan Housing Element, the Zoning Ordinance, and the Residential Design Guidelines and is attached as Exhibit E, page 15, and the staff report for the October meeting provided a quantitative comparison analysis of recently approved second story additions, and is attached as Exhibit D, page 14 for reference. The meeting minutes from both meetings are attached as Exhibits B and C.

INTRODUCTION:

At the October meeting, the Council concluded that the code changes suggested by staff to reduce the floor area ratio for small lots and/or increase setbacks for upper story additions were too limiting, and instead directed staff to return with more flexible criteria that could guide second story addition decisions and minimize adverse impacts on adjacent properties.

One of the issues that has complicated the recent decisions on second story applications, is 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.

Because of this, staff believes that additional language in the design Guidelines will not solve the problem well. The Guidelines are broad-based, having to do with general architectural and neighborhood compatibility, and broad-based guidelines that address second stories might not be specific enough since individual Council Members and Commissioners are likely to interpret the language differently. Additionally, Commissioners and staff select specific relevant guidelines to reference in a decision, and never use all of them.

Instead, staff is recommending that Council Members and Commissioners consider a package of criteria that have been woven into a set of specific findings that must be affirmatively made for approval of all second story additions. It would mean that all of the potentially relevant issues will be evaluated in order for the findings to be made, and all of the findings would have to be made for approval. The issues below provide background information for the criteria in the findings which

include distances between structures, light and air, different types of views, construction alternatives, and a hierarchy of living spaces.

SPECIFIC ISSUES FOR EVALUATION:

Distances Between Structures and Building Height

As indicated in the comparison analysis of recent second story approvals, (page 14), impacts from new second stories are greater on small, non-conforming lots, especially when the setbacks of the existing and/or neighboring structures are non-conforming. Even with conforming front and rear setbacks, the distances between structures is only required by the code to be 8 feet, and thus, staff believes the distance between proposed new construction and adjacent neighboring houses is the most important factor related to potential impacts. This is especially true if the proposed second story is taller than it needs to be, and if the subject property is up-slope of the adjacent neighbors. Depending on those site specific factors, it is reasonable for applicants to propose greater second story setbacks in their plans if necessary, and for the Commission and staff to require them in order to mitigate impacts on adjacent properties. The same is true for building height: it is reasonable for applicants to design the second story to avoid impacts (changing the direction of the roof ridge, locating the second story to have the least impact, minimizing roof heights, etc.), and for the City to require such changes. It should be noted that some Piedmont neighborhoods have tighter distances between residences than other neighborhoods, and thus, the existing neighborhood development pattern should be considered as well.

Light and Air

In general, light and air have long been considered important in the evaluation of potential impacts of all construction, including second story additions. The real issue is light, since it is very rare that reasonable air flow is restricted to an unacceptable level as a consequence of new construction. Light can be categorized as direct sunlight, and ambient/reflected light. The loss of both types of light can be considered as impacts, but it is generally a greater impact if a neighbor loses a significant amount of direct sunlight, than if the ambient light or light that is reflected from a neighboring wall is reduced. The loss of direct sunlight only occurs when an applicant's property is in a southerly direction of a neighbor's property. Impacts on ambient and reflected light can occur in many instances, but are almost always affected by the distance between structures. Staff is recommending that a "significant loss of light" be defined as when the existing amount of direct sunlight in one or more primary living space would be lost due to a new upper level addition for most of the day, most days of the year.

Different Views

Although "view" has not been a major point of design review considerations, it has been a more frequent issue recently, due to the increased number of second story additions. View impacts can generally be categorized three ways. Adjacent sky view is the view of the sky above the roofline of an applicant's house as seen through the windows of a neighbor's house. Local neighborhood view

is the view of trees, yards and houses of the immediate neighborhood as seen through a neighbor's windows. Significant distant view is a long-range view of one or more significant features, such as Lake Merritt, the bay and the bridges. In general, significant distant views are not common, but are important to preserve as much as possible because they are often directly related to property values. However, staff believes minor intrusions into the view should be permitted as a natural consequence of the dynamic nature of the City, and since such intrusions rarely have a negative quantitative impact on property values. Staff believes that local neighborhood views should be less important, because not permitting reasonable intrusions would severely limit numerous property owners from making otherwise reasonable changes to their properties, and because these intrusions do not generally have a negative quantitative affect on property values. Staff believes that a neighbor's loss of an adjacent sky view is not a reason to deny an otherwise compliant application, since to do so would prevent most property owners from making second story changes to their properties. However, there can be a fine line between a second story that intrudes into a neighbor's sky view and one that unreasonably blocks direct sunlight or ambient/reflected light.

Primary and Secondary Living Spaces

Living rooms, dining rooms, family rooms, and kitchens are usually considered primary living spaces, because they are frequently used, and are used during daylight hours. Bathrooms, hallways and stairs are usually considered secondary spaces. Bedrooms are used more in the evenings, and are thus lower in the hierarchical scale than primary living spaces. Staff believes that to most people, loss of light to a primary living space is more important than a loss to a secondary space or bedroom, or loss of light into a yard, and that this hierarchy of adjacent living spaces could be considered in the evaluation of applications. It is also useful to consider whether or not a primary living space has another source of light, such as a skylight or window on another wall.

Alternatives to Upper Level Construction

Although the question about whether or not the applicant can reasonably achieve the desired addition without adding an upper level addition has been asked in every recent second story application, staff is recommending that a finding be made that affirmatively concludes that there is not another reasonable way to achieve the addition. Issues such as whether the alternative construction creates poor quality space or is excessively expensive should be considered against the cost and impacts of the upper level addition, and it is appropriate to consider whether or not the addition is commensurate with the size of the lot, and the existing neighborhood development pattern.

ISSUES REGARDING SUN STUDIES:

At the October 4, 2004 City Council meeting, the Council specifically asked staff to examine whether sun studies should be at the discretion of the Commission and staff on a case-by-case basis, or be required for all second story applications; and if required, whether they should be submitted by the applicant or by an independent third party.

At the October 11, 2004 Planning Commission meeting, the Planning Commission reviewed a draft policy regarding site visits, and the topic of sun studies was discussed. The Commission wished to note for the record that they believe sun studies and photographs can be very misleading and biased and therefore are frequently of little value in evaluating project impacts.

There are many different ways of preparing sun studies (sometimes referred to as shadow studies), including everything from simple photographs that show shadows cast by story poles on one day of the year, to comprehensive computer-modeled studies that evaluate the impacts on a daily basis throughout the year. No doubt it is these wide differences in assumptions and methodology that have led to confusing conclusions and uneven results that are difficult to use to make consistent decisions.

When prepared by professionals, sun studies are expensive to produce. However, it is staff's opinion that they can be of value when a proposed second story is south of an adjacent neighbor, and is in close proximity to the neighbor. This is particularly true if the property of the proposed second story is upslope of the neighboring property. Staff believes it would be possible to develop a policy that governs the preparation of the studies by professionals so that the information is more uniform. However, staff is recommending that the studies be required on a case by case basis only when the above conditions exist, in order to avoid unnecessary added time and cost to a project application.

CONCLUSION:

Staff believes the above-recommended findings will help provide guidance in the review of upper level construction applications. The findings do not include new "hard and fast" development controls (such as the previously suggested FAR limit and upper level setback increases), but should provide a consistent framework for making findings to approve or disapprove all upper level applications. Staff believes this is a more precise approach compared to the selective application of design guidelines, and believes this is an appropriate approach given Piedmont's varied topography and neighborhood development patterns, which are not suited for one-size-fits-all development controls.

The need to carefully evaluate every application and its very site-specific conditions and potential impacts on adjacent properties, will be as important as before; but every approval will require affirmative findings that the project will not have a significant impact on adjacent properties using several different standards of review. It will not eliminate differences in opinion, but should provide appropriate criteria to help resolve the differences, and result in fair and consistent decisions.

Date Report Prepared: November 23, 2004

EXHIBITS:

Exhibit A, page 6, October 11, 2004 Planning Commission Meeting Minutes
Exhibit B, page 7, October 4, 2004 City Council Meeting Minutes
Exhibit C, page 8, July 19, 2004 Joint City Council and Planning Commission Meeting Minutes
Exhibit D, page 10, October 4, 2004 City Council Staff Report
Exhibit E, page 16, July 19, 2004 Joint City Council and Planning Commission Staff Report

PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, October 11, 2004

A Regular Session of the Piedmont Planning Commission was held October 11, 2004, 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 September 27, 2004.

CALL TO ORDER

Chairman Hege called the meeting to order at 5:00 p.m.

ROLL CALL

Present: Commissioners Arleta Chang, Marty Greenman, Tamra Hege, Fred Karren, Suzanne Summer and Alternate Commissioner Jonathan Levine

Staff: City Planner Kate Black, Assistant Planner Linda Ajello, Planning Consultant Elizabeth Watty, Planning Technician Kevin Jackson and Recording Secretary Chris Harbert

Proposed Policy Amendment

In response to a July 19 joint meeting with the City Council, the City Planner submitted for Commission review a proposed policy governing Commission site visits. The Commission discussed the proposed policy at length. The Commission requested that the policy be revised to: (1) require that written requests for site visits from objecting neighbors be submitted to the City no later than *noon* on the Thursday prior to the Monday meeting; (2) indicate that Commissioners shall leave their business cards at homes when a site visit has been made and no one was home; (3) indicate that is standard Commission practice that Commissioners who were unable to visit an applicant's property, will recuse themselves from discussion and action on the application; (4) clarify that the definition of a "site visit" does not necessarily mean that a Commissioner *physically* entered an applicant's or objecting neighbor's property – it is often possible to evaluate potential construction impacts from the street, sidewalk, car or other locale;

In addition, the Commission noted its position that (1) the Commission should not be required to view a proposal from the *interior* of an objecting neighbor's home; (2) that sun studies and photographs can be very misleading and biased and therefore are frequently of little value in evaluating project impacts; and (3) objecting neighbors who do not make their property conveniently available for Commission site visits should not be able to later claim as a basis for appeal that the Commission failed to visit their property.

The City Planner agreed to redraft the policy per Commission input. She noted that the City Council has tentatively scheduled Monday, November 29 as the date for a joint meeting to discuss second story additions.

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, October 4, 2004

A Regular Session of the Piedmont City Council was held October 4, 2004, 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 September 30, 2004.

CALL TO ORDER Following a 7:00 p.m. Closed Session regarding litigation matters held pursuant to Government Code Sections 54956.9(b)(1) and (c), Mayor Bruck called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

ROLL CALL Present: Mayor Michael Bruck, Vice Mayor Nancy McEnroe and Councilmembers Dean Barbieri, Abe Friedman and Jeff Wieler

Staff: City Administrator Geoff Grote, Deputy City Attorney Judith Robbins, Fire Chief John Speakman, Public Works Director Larry Rosenberg, City Clerk Ann Swift, City Planner Kate Black and Recording Secretary Chris Harbert

REGULAR CALENDAR The Council considered the following items of regular business:

Second Stories The City Planner recommended that the Council hold a joint public meeting with the Planning Commission to discuss issues of concern regarding appeal hearings and second story addition applications in light of the recent number of appeal hearings regarding second story applications. She suggested that this joint hearing consider, among other things, possible amendments to the City Code to decrease FAR limits and increase side yard setback distances for second story proposals and possible revisions and refinements of the City's Residential Design Review Guidelines to clarify design criteria and better define *significant adverse impact* and reasonable mitigation measures related to affected neighbors' light, view and privacy concerns.

Tam Hege, Planning Commission Chairperson, endorsed staff's joint meeting recommendation.

In discussing certain specifics of the recommendation, the Council requested staff to examine further the suggestion that sun studies be *required* for all second story applications and make a recommendation as to whether sun studies should be submitted by the applicant or by an independent third party. The Council was divided with regard to the desirability of automatically requiring sun studies for all second story applications, with dissenting Councilmembers preferring that the submission of such studies be at the discretion of the Planning Commission and/or planning staff to request on a case by case basis. The Council endorsed the concept of a joint public meeting to receive input as to desirability of amending the City Code as well as other issues related to second story additions. The City Administrator agreed to schedule the joint meeting for early December.

Special and Regular Meeting Minutes for Monday, July 19, 2004

A Special and Regular Session of the Piedmont City Council was held July 19, 2004, in the EOC Room at 403 Highland Avenue and 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 15, 2004.

CALL TO ORDER

Mayor Bruck called the special session with the Piedmont Planning Commission to order at 6:05 p.m. for the purposes of discussing design review criteria for second story additions, consideration of a construction and demolition debris ordinance and an update of the City's e-waste program.

ROLL CALL

City Council: Mayor Michael Bruck, Vice Mayor Nancy McEnroe and Councilmembers Dean Barbieri, Abe Friedman and Jeff Wieler

Planning Commission: Chairman Tam Hege and Commissioners Arleta Chang, Marty Greenman, Fred Karren, Suzanne Summer and Alternate Commissioner Jonathan Levine

Staff: City Administrator Geoff Grote, City Attorney George Peyton, Public Works Director Larry Rosenberg, City Planner Kate Black, Assistant Planner Linda Ajello, Planning Consultant Robin Stark, Planning Technician Kevin Jackson, Building Official Chester Nakahara, City Clerk Ann Swift and Recording Secretary Chris Harbert

SPECIAL SESSION

The Council considered the following items during the special session:

Second Story Additions

The Council voiced its concern that the recent number of appeals and Council overrides of Planning Commission decisions regarding construction of second story additions indicate a lack of consensus between the two bodies as to what constitutes an unacceptable degree of adverse impact pursuant to the City's design review guidelines and building code. The Council and Commission discussed the major types of issues and impacts associated with most second story proposals and the basis used for reaching project approval or denial decisions. During discussion, the Council reiterated its position that its appeal hearings are de novo in nature and that Commission site visits of neighboring properties which have indicated view, privacy and sunlight concerns/objections are essential. The Council requested planning staff and the Commission to consider preparing for Council review and approval:

- proposed changes to the code and Residential Design Review Guidelines to clarify language relating to loss of *light, view or air* to be more specific/descriptive, e.g., direct sunlight, ventilation, sky view, shadowing, etc.
- The Council discussed, but no consensus was reached, as to the desirability of having a City policy governing Commission site visits. Policy issues raised during the discussion included: (1) the minimum number of Commissioners necessary per application to fulfill this obligation; (2) the types of projects which require Commissioners to view potential impacts from the interior rooms of objecting neighbor homes; (3) a set of guidelines for objecting neighbors to follow in requesting site visits, e.g., site visits requested in writing, specific issues of concern delineated, from what places on their property they wish the Commission to view potential impacts, prohibitions against lobbying or engaging Commissioners in lengthy conversations during site visits, etc.

The Commission requested from the Council clarification as to what types of “views” warrant full protection and from which types of rooms/property areas should views be considered of utmost importance.

Public Forum

Jim Soper urged the Council to conduct de novo appeal hearings.

Bob Firth urged that Commission site visits be mandatory upon request of objecting neighbors.

Garrett Keating noted that the City Code requires the Council to give considerable weight to Planning Commission decisions when deliberating planning appeals.

There were two other speakers. One noted that Section 17.16.1 of the City Code allows the Commission to consider off-street parking issues when substantial additional square footage is being proposed, even if this additional footage does not include a room eligible for use as a bedroom. Another speaker agreed with Mr. Soper that Council appeal hearings should be de novo in nature.

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, it is 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% |

CITY OF PIEDMONT
JOINT CITY COUNCIL AND PLANNING COMMISSION
AGENDA REPORT

DATE: July 19, 2004

FROM: Kate Black, City Planner

SUBJECT: Discussion Related to Second Story Additions

INTRODUCTION:

In order to provide parameters to the discussion of the issues and impacts of second story additions to existing single-family residences, staff has compiled background information on the various City documents that are intended to guide land use decisions in Piedmont. The information has been organized to provide the documents that establish the underlying policies first, followed by the documents that are intended to implement the policies.

GENERAL PLAN:

In California, State law requires each city to adopt a General Plan, which serves as the City's "constitution" for the development and use of land within the City's boundaries. The City's General Plan was updated in 1996, and it serves as the long-term policy "road map" that defines how the City believes the physical development of the City should occur. The General Plan is divided into specific topics called elements, including the Land Use Element, the Open Space, Recreation and Conservation Element, the Safety Element, the Noise Element, the Community Design Element, the Public Utilities & Facilities Element, and the Housing Element. Each element contains general goals, policies and implementation programs. The most important elements that relate to housing development are the Land Use, Community Design and Housing Elements.

Exhibit A, page 8, provides more detailed information on the goals, policies and implementation programs of the Land Use Element. Exhibit B, page 11, provides more detailed information on the goals, policies and implementation programs of the Community Design Element.

The most important General Plan element related to residential developments is the Housing Element. It is required to be updated approximately every 5 years, and Piedmont's Housing Element was recently updated and conditionally approved by the State in November of 2002. The State's

primary interest in the Housing Element - and the reason the State requires regular updates - is related to the goal of increasing the Bay Area's supply of housing. However, there are several goals, policies and programs that are related to the character and density of development. Exhibit C, page 15, is the chapter of the Housing Element that defines all of the goals, policies, and programs of the Housing Element, but the specific goals, policies, and programs of the Housing Element that are most directly related to the issue of second story additions include the following:

Related Text from Housing Element

Goal 1 (page 16): Provide a range of new housing options in Piedmont to meet the needs of all household types in the community.

Goal 2 (page 21): Promote the conservation and maintenance of Piedmont's housing stock.

Policy 2.1: Strongly encourage private property owner reinvestment in the City's housing stock.

Policy 2.3: Encourage the preservation of Piedmont's existing stock of small homes and historic homes.

Policy 2.5: Allow the use of original materials and methods of construction when alterations to homes are proposed, unless a health or safety hazard would occur.

Program 2.2: Preservation of Small Homes. Maintain zoning and design review regulations that protect the existing supply of small (less than 1,800 square feet) homes in Piedmont. Explore other incentives to protect small homes, including design awards for exemplary small home improvement projects.

Description: The City's existing supply of small homes is currently protected by:

- Floor Area Ratio and Lot Coverage requirement which limit the square footage and coverage of structures.*
- Requirements to provide conforming off-street parking in the event that bedrooms are added (creating a disincentive to the expansion of two and three bedroom homes with one-car garages).*
- Design Review Guidelines which strive to maintain the scale and mass of existing homes.*

(Additional text indicated on page 23)

Goal 4 (page 30): Minimize constraints to the development of additional housing without compromising the high quality of Piedmont's neighborhoods

Policy 4.2: Encourage that planning and building standards, development review procedures, and fees do not form a constraint to the development, conservation, and rehabilitation of housing, or add unnecessarily to the cost of building or improving housing.

CHAPTER 17: ZONING ORDINANCE:

The Zoning Ordinance is the document that is intended to implement the goals, policies, and programs of the General Plan. It provides the “speed limits” that define acceptable parameters of development, such as minimum setbacks, maximum lot coverage limits, maximum building height and floor area ratio, and parking requirements. Several areas of the Ordinance are provided below that address the general intent of the Ordinance, the intent of development within Zone A, the intent of design review, the intent of the home expansion provisions, and the criteria and standards for design review approval.

General Intent – Section 17.1

The City of Piedmont consists primarily of unique single family residences set among mature trees and other vegetation. The residents of Piedmont believe it to be in the welfare of all residents to preserve the beauty and architectural heritage of the City's housing stock, the mature vegetation, and the tranquility and privacy which now exist. The residents also desire to reduce on-street parking and traffic in the neighborhood streets and to avoid overcrowding and its detrimental effects on City schools and other services and facilities. The residents of Piedmont also wish to promote improvements to single family residences without sacrificing the goals already mentioned. The regulations which follow are designed to implement these purposes.

Zone A Intent – Section 17.51

Zone A is established to regulate and control development in appropriate areas of single-family residential development in harmony with the character of existing and proposed development in the neighborhood and to assure the provision of light, air, privacy, and the maintenance of usable open space in amounts appropriate to the specific types and numbers of dwellings permitted.

Design Review Intent – Section 17.20.1

Design Review is intended to

- (a) promote orderly, attractive, safe and harmonious development;*
- (b) recognize environmental limitations on development;*
- (c) promote the general welfare by preventing development having qualities which do not meet the specific intent clauses or performance standards of this Chapter, or which are not properly related to their sites, surroundings, traffic circulation, or their environmental setting;*
- (d) maintain and enhance the residential character of the City;*
- (e) preserve the architectural heritage of the City;*
- (f) protect the natural beauty and visual character by insuring that structures, signs, and other improvements are properly related to their own site and to the surrounding sites and structures with due regard to the aesthetic qualities of the surrounding area, natural terrain, and landscaping, and to the exterior appearance of the structures, signs, and other improvements;*
- (g) improve property values and prevent blighted areas; and*
- (h) uphold the aesthetic values of the community.*

Where necessary to meet this intent, the City may impose conditions in addition to those otherwise specified in this Chapter.

Intent of Home Expansion and Construction – Section 17.22.1

The City of Piedmont desires to permit construction of new homes and reasonable residential expansions to adapt older homes to modern lifestyles, while at the same time preserving those elements which make Piedmont a desirable place to live: visual open space, bounteous trees and landscaping, and residential privacy and tranquility. Furthermore, the City desires to permit such improvements so long as they do not increase traffic and parking problems in the neighborhood, or increase the burden on city facilities and schools. For these reasons, any improvement to property requiring prior city approvals, permits or both under this Code shall meet the criteria set forth in section 17.22.2, unless exempt under section 17.22.3.

17.22.4: Limitation on Approval

(a) Legislative Intent. The City of Piedmont recognizes the diversity and historical value of existing residences and encourages improvements of such homes. The City of Piedmont recognizes that remodeling an existing residence may require variances and design compromises which would not be necessary if the parcel were undeveloped and a new residence were proposed. Findings of hardship concerning design and construction are much more likely for a remodel of an existing residence in order to (1) accommodate the existing orientation of the house on the lot, (2) preserve the architectural heritage of the house and its compatibility with surrounding structures and (3) incorporate existing nonconformities into a reasonable adaptation to present-day residential patterns. On the other hand, if an undeveloped lot exists or is created by demolition, the opportunity is much greater, because of the lack of physical constraints, to design and construct a residence which will comply with existing regulations without the need for variances and design compromises.

Criteria and Standards of Design Review – Section 17.20.9.

The Planning Commission or Director of Public Works shall not approve any projects subject to design review unless the design of the project conforms to the following criteria and standards;

(a) The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the facade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment.

(b) The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light.

(c) The safety of residents, pedestrians, and vehicle occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress.

The City Council has adopted illustrated Design Review Guidelines for residential projects, which may be amended from time to time by the City Council, subject to prior review and recommendation by the Planning Commission. The Residential Design Review Guidelines shall be made available by the City to persons proposing residential projects subject to design review. The Residential Design Review Guidelines are not mandatory requirements but shall be a source of reference for the Planning Commission in determining whether a specific project conforms to the standards and criteria set forth in section 17.20.9.

RESIDENTIAL DESIGN GUIDELINES:

Piedmont is unusual in that it is characterized by a non-regular development pattern of properties that vary significantly in size, shape and topography. Piedmont is very hilly, was largely built-out by the 1940s, and in general, has houses that are very large in size relative to their lots. The irregular, non-grid development pattern has resulted in a large number of non-conforming properties, and the small lots often present physical barriers to providing on-site parking or new construction without one or more variance. Each house and property is different from its neighboring properties - precisely the type of development pattern not suited to one-size-fits-all zoning controls. As a consequence, Piedmont has relied heavily on the City's Residential Design Review Guidelines. It is the discretionary application of the design principles in the Guidelines, on a case-by-case basis, that provides the flexibility needed for the types of home improvement projects desired by Piedmont homeowners that would not be possible through standard development controls alone. The Guidelines give the Council, Commission and staff the ability to evaluate each proposed addition or renovation in terms of its unique relationship to the existing structures and subject site, as well as the surrounding properties and the neighborhood in general.

The Guidelines have been prepared to discuss five different categories of development. All of the categories – including the Addition and Remodeling section which is the most relevant to second story construction - are arranged to provide the following three “factors of review”:

- a. *Aesthetic Design – relating to the construction from a purely physical perspective, including architectural character, design integrity and scale;*
- b. *Compatibility – relating to the construction according to its impacts on the intended occupants of the structure, and those residents in the vicinity of the structure expressed in terms of privacy, orientation, identity, control, convenience, and visual access to significant views;*
- c. *Safety – relating to the construction from the stand-point of public safety, including emergency access, fire protection, physical security, traffic safety and earth-quake hazards.*

Each of the above factors of review is in turn addressed at the following three different levels of context:

- a. *Neighborhood – relating to the area defined by all houses from within which it is possible to view the construction. Depending on where the construction is located on the lot, e.g. front yard, rear yard, side yard, and the topography of the lot, the neighborhood may consist of many or only a handful of houses;*
- b. *Contiguous Parcels – relating to all residential parcels touching the parcel on which the construction is located; and*
- c. *On-Site – relating to the parcel on which the construction is located.*

CITY POLICIES:

Numerous policy documents have been approved over the years that provide further refinement of the goals and provisions of the General Plan, Zoning Ordinance, and Design Guidelines, including the Story Pole Policy and Window Policy. Each policy was developed and approved to provide support to the discretionary decision-making process inherent in Piedmont's design review process.

CONCLUSION:

In the past, Piedmont has relied heavily on the General Plan, Zoning Ordinance, Design Guidelines and Planning Policies to guide development decisions, and overall, the Council, Commission and staff have worked very hard to apply the discretionary criteria of the above documents in a fair and consistent manner.

Over the long term, cities are dynamic, with changing application types and levels of proposed development in response to changes in household size, lifestyles, and the regional supply and demand of housing. By the time most of Piedmont's houses were built in 1940, the average Piedmont household had 3.7 residents compared to 2000, where the household size had declined to 2.88 residents. Despite the decline in household size (which should translate to the need for smaller houses), lifestyles have also changed, including an increase in two working-parent families, demanding more bathrooms, more bedrooms so children can have their own bedrooms, new studies/computer rooms, expanded kitchens, and new family rooms. These housing amenities resulting from lifestyle changes have also occurred concurrent with the significant increases in housing costs, and it is a likely consequence that many Piedmonters have elected to expand their existing residence rather than relocate to a larger house in a new neighborhood.

It is natural for cities to need to re-evaluate their development review procedures to address the modern amenity preferences of applicants balanced against the need to preserve light, views and privacy on adjacent properties. Given these sometimes competing objectives, it is appropriate that a discussion about how to interpret and apply the criteria in the various City documents should occur.