

**City of Piedmont  
COUNCIL AGENDA REPORT**

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DATE: June 6, 2005

FROM: Kate Black, City Planner

SUBJECT: **Ord. 656 N.S. Amending Chapter 17 related to Upper Level Additions and New Multi-Level Structures**

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RECOMMENDATION:

Approve a first reading of Ord. 656 N.S. (Exhibit A, page 7) amending sections of Chapter 17 to add a new definition and to require specific findings for approval of all new upper level additions and new multi-level structures.

BACKGROUND:

The issue of how to address impacts resulting from new upper level 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 H, page 26, and the staff report for the October meeting provided a quantitative comparison analysis of recently approved second story additions, and is attached as Exhibit G, page 21 for reference. The meeting minutes from all related City Council and Planning Commission meetings are attached as Exhibits C through F.

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

The City Council and Planning Commission jointly met again on November 29, 2004. At that meeting, staff presented a package of criteria that was woven into a set of specific findings that could be applied to the approval of all upper level additions and new multi-level structures. The criteria included distances between structures, light and air, different types of views, construction alternatives, and a hierarchy of living spaces. The Council and Commission generally indicated support for the concept of a series of findings to be applied to the review of design review applications for upper level additions and new multi-level structures. However, there were many different opinions between individual Council and Commission members on the criteria behind the findings and what constituted “impact”, and there seem to be some differences in total between the Council and Commission.

Staff conducted more research on the various related issues that were discussed at the public meetings. They are summarized below along with staff recommendations about how these issues may best be addressed.

### OVERVIEW OF ISSUES:

**Sun Studies:** Generally, Council and Commission members were split on the value of sun studies. Some thought that the studies provided useful information about the potential impacts on adjacent properties, and some found that they did not. It is staff's recommendation that consistent with current practice, applicants and neighbors may choose to submit a sun study if they think it will support their application or objection to an application, but that sun studies should not be a required element of upper level application submittals.

**Site Visits:** One of the concerns that was expressed by objecting neighbors of several recent applications, was that site visits to subject properties or objecting neighbors' properties were not properly made, resulting in decisions that were not as well informed as they could be. On March 7<sup>th</sup> of this year, the City Council adopted the Site Visit policy, which sets forth specific procedures for Commissioners, staff, applicants, and objecting neighbors to follow. Staff believes that in addition to providing guidance to everyone involved, new requirements (i.e. leaving a business card when a site visit has been made) will eliminate misunderstandings. Staff is not recommending further changes to the site visit policy at this time.

**Amendments to Residential Design Guidelines:** Staff is not recommending amendments to the City's Design Guidelines. The Guidelines are broad-based, and selectively applied, having to do with general architectural and neighborhood compatibility. Broad-based guidelines that address upper levels or new multi-level structures 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.

**Preservation of Small Houses:** A program objective in the City's Housing Element of the General Plan is to ensure a range of housing types, including the preservation of some small residences. Generally, the interaction between the size of the lot and the development controls (minimum setbacks, maximum coverage limits, maximum floor area ratio, maximum building height, and parking requirements), work to ensure that the size of the residence is in balance with the size of the lot. However, in a city like Piedmont, which has significantly varied topography and unusually configured lots, these quantitative controls are not adequate by themselves to maintain a balanced neighborhood development pattern. For example, a number of properties have a large portion of the lot that is for all practical purposes "unbuildable" because it is too steep or inaccessible, which forces the construction to be overloaded on the remaining "buildable" portion of the lot. While the overall quantitative limits (such as floor area ratio) are met, the effective floor area ratio is significantly exceeded on the "buildable" portion of the lot, and the structure may not work from a qualitative perspective.

Without further quantitative limits, the application of the existing Design Guidelines are the next best layer of protections to ensure the preservation of some small residences. However, staff

believes that the proposed findings that are specific to upper level additions and new multi-level structures, will add another layer that should help ensure the preservation of some small residences while at the same time protecting adjacent properties.

**Expansion and Parking:** Over the past few years, Piedmonters have proposed larger and larger expansions to their residences. In many cases, the applicants do not propose to upgrade their non-conforming (or non-existent) parking because they technically are not proposing to add any new bedrooms, even though they sometimes propose to double the size of their residence with new family rooms, media rooms, recreation rooms, play rooms and multiple studies/libraries. Both Council and Commission members have expressed concern that such expansions, without bringing the parking into conformity, intensify the use of the property, and thus, the parking impact on the neighborhood. Increasingly, the Planning Commission has been requiring upgrades to the non-existent or non-conforming on-site parking for applications that seek large additions (including new upper levels), despite the technical bedroom count. They have been using the Zoning Code language in the Home Expansion and Construction section (17.22.1) which states:

*“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.”*

Additional related language in the Zoning Code is found in the Single Family Residential Zone Parking section (17.16.1) which states:

*“There shall be a minimum of one off-street covered non-tandem parking space per dwelling unit in Zone A and Zone E for each dwelling unit which is 700 square feet or less. Otherwise, there shall be a minimum of two off-street covered non-tandem parking spaces per dwelling unit in Zone A and Zone E. If the number of rooms eligible for use as a bedroom exceeds four, the minimum number of conforming parking spaces per dwelling unit shall be as follows: a third parking space shall be required for the fifth such room and another conforming parking space for every two of such rooms in excess of five. Each parking space must be located outside the front setback area and off any street, public or private. More than two off-street parking spaces shall be required for a lot where necessary under the circumstances to ensure adequate traffic circulation, on-street parking space and public safety. When more than two off-street parking spaces are required for a parcel, the design of parking spaces in excess of two shall be determined by the decision-making body according to the criteria in § 17.20.7. The design of additional required parking spaces shall comply with the requirements of this section 17.16.*

*When approvals under this chapter or any other chapter of the Piedmont City Code are sought for an improvement or change which will affect the need for parking, including but not limited to an increase in the number of rooms eligible as a bedroom, the requirements of this section shall apply to existing parking on the site which is nonconforming under section 17.32. (Ord. No. 516 N.S., 5/90, Ord. No. 550 N.S., 12/93)”*

Staff has proposed a new finding in support of the above-referenced code language for properties that propose to significantly increase the house size to address the concerns expressed by the Commission and Council members. Additionally staff believes that requiring conforming parking (or at least improved non-conforming parking) on applications that propose upper level expansions or new multi-level structures/additions on properties with non-conforming on-site parking, will indeed help preserve some small residences. Some of these small properties are configured so that they simply cannot accommodate more on-site parking, and some applicants may chose to move to a larger residence rather than pay the cost to expand the parking, or forgo their expansion plans altogether due to the increased costs.

**View:** This is the most difficult issue to address because it is highly subjective and discretionary. As you can see by Exhibit B, page 10, staff reviewed the codes of numerous Bay Area and California cities to evaluate how other cities are addressing view impacts from upper level additions and new multi-level structures. It is not surprising that most other cities do not have residential design guidelines that are as extensive and specific as Piedmont's guidelines, if they have guidelines at all. However, it was surprising that most cities did not have clear quantitative code criteria or guidelines that address view impacts on private properties resulting from residential construction. A number of cities protected public views from new residential construction, and the few that did address private view impacts from new residential construction, did so with broad, generalized code criteria or guidelines that are applied in a discretionary manner. No city surveyed had specific protections of a neighbor's immediate, close-range view of trees or sky. It is staff's understanding that the Council and Commission members expressed an interest in preserving significant views, and thus, staff is proposing a definition of that type of view, and findings to help protect it.

**Distances Between Structures and Building Height:** As indicated in the comparison analysis of recent second story approvals from the October staff report, (Exhibit G, page 25), impacts from new upper levels 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 or consider expansions within the existing building envelope if necessary, and for the Commission and staff to require them order to mitigate impacts on adjacent properties. The same is true for building height: it is reasonable for applicants to design the upper level 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. Staff is recommending a finding that requires these alternatives to be considered.

## PLANNING COMMISSION DELIBERATIONS:

It became clear that there is no single set of development controls that would address each Council or Commission member's perspective about upper level additions and impacts to neighboring properties. Therefore, staff prepared refinements to the findings proposed in November, in an attempt to make sure that all of the issues identified over the last year are considered in every upper level and new multi-level structure application.

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 and new multi-level structure applications. As indicated in the proposed code amendments, the Planning Commission and staff are required to consider numerous criteria when reviewing such applications, and must be able to make an affirmative statement to each of the findings as it relates to the subject application. 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. It is hoped that the discretionary application of these findings will help provide a common framework that will knit the different perspectives into consistent and equitable decisions, even if they are not always unanimous.

On May 9, 2005, staff presented the Planning Commission with the proposed findings refinements, and a new definition of the term "view". In general, the Commission supported the concept of having separate findings for the review of new upper level additions and new multi-level structures, noting that while the impacts from both types of projects are the same, they are quite different from other types of design review applications, and thus, applying more specific criteria is appropriate. As indicated in the meeting minutes (Exhibit C, page 14), the Commission requested some text modifications to the code language for clarity. At the end of the hearing, the Commission voted to unanimously recommend approval of the code amendments as revised.

## CONCLUSION:

The differences in interpretation about what constitutes "impact" are fundamental to how each individual views a project, and it is not likely that the differences will disappear. It was not surprising that the public comments made at the three public meetings also represented a wide range of opinions on what was reasonable for upper level additions and new multi-level structures and what constituted an unacceptable amount of impact.

It is staff's opinion that these interpretive differences are at the heart of many discretionary decisions made by Council and Commission members, and that these different perspectives are beneficial to the public process. Rather than leaving all complicated design review decisions to a single individual, such as a Zoning Administrator, Piedmont has chosen to have such decisions made by members of the community, who reflect differences within the community, and who voluntarily try to apply the values they represent in an equitable manner to each decision that must be made. It sometimes means that votes are not unanimous, but they are always made after a thorough analysis of the competing objectives, and always reflect the values held by the each person

who casts a vote. On balance, the 5 votes cast by Planning Commission members and the 5 votes cast by Council members do arrive at well-reasoned decisions that reflect the majority of the community.

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: May 25, 2005

EXHIBITS:

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|---------------------|--|
| Exhibit A, page 7,  | Ordinance 656 N.S.   |
| Exhibit B, page 10, | Comparison of California Cities' Codes/Guidelines Related to Views           |
| Exhibit C, page 14, | May 9, 2005 Planning Commission Meeting Minutes                              |
| Exhibit D, page 15, | November 29, 2004 Joint City Council and Planning Commission Meeting Minutes |
| Exhibit E, page 18, | October 4, 2004 City Council Meeting Minutes                                 |
| Exhibit F, page 19, | July 19, 2004 Joint City Council and Planning Commission Meeting Minutes     |
| Exhibit G, page 21, | October 4, 2004 City Council Staff Report                                    |
| Exhibit H, page 26, | July 19, 2004 Joint City Council and Planning Commission Staff Report        |

ORDINANCE NO. 656 N.S.

AN ORDINANCE OF THE CITY OF PIEDMONT AMENDING  
SECTIONS OF CHAPTER 17 RELATING UPPER LEVEL ADDITIONS/EXPANSIONS  
OR NEW MULTI-STORY CONSTRUCTION

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The City Council of the City of Piedmont does hereby ordain as follows:

SECTION 1.

The intent of the City Council in enacting this Ordinance is to implement criteria and standards for upper level additions or remodels and new multi-story construction which impact the view of adjacent neighbors.

SECTION 2.

Section 17.2.70 of the Piedmont City Code is hereby amended to read as follows:

*“17.2.70: VIEW. “View” means an existing significant view of any one or more of the following including Lake Merritt, the San Francisco Bay, the Bay Bridge or Golden Gate Bridge or Richmond Bridge, and the Oakland or San Francisco skylines.”*

Section 17.2.70 shall be renumbered to Section 17.2.71.

Section 17.20.9 shall be amended as follows:

*“17.20.9: CRITERIA AND STANDARDS. 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) Projects generally subject to design review pursuant to Section 17.20.2.*

*(a)(i) 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 façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment-;*

*(b)(ii) The design is appropriate, considering its effect on neighboring properties’ existing views, privacy and access to direct and indirect light-; and*

façade(iii) 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.

(b) *Upper level additions (new upper levels or expansions) and new multi-level structures.*

- (i) *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 façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment. The distance between the proposed upper level addition/expansion or new multi-level structure 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 have been considered and are/are not necessary to reduce losses of ambient and reflected light;*
- (ii) *The proposed upper level addition/expansion or new multi-level structure has been designed in a way to minimize view (as defined in Section 17.2.70) and light impacts to adjacent residences, including the location of the new construction, lowering the height of the addition, expansions within the existing building envelope (with or without excavation), lower level excavation for new multi-level structures, and changing the roof slope or ridge direction;*
- (iii) *The size and height of the addition is commensurate with the size of the lot (excluding the portions of the lot that cannot reasonably be built on), and is in keeping with the existing neighborhood development pattern; and*
- (iv) *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. In accordance with Sections 17.16.1 and 17.22.1, the existing or proposed on-site parking is appropriate to the size of the new upper level or upper level expansion, and no adverse impact will occur to the neighborhood.*

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 17.20.7. (Ord. 494 N.S., 6/88)”.

### SECTION 3.



This ordinance shall be posted at City Hall after its second reading by the City Council for at least thirty (30) days and shall become effective thirty (30) days after the second reading.

**COMPARISON OF CALIFORNIA CITIES  
REGULATIONS/GUIDELINES RELATED TO VIEWS**

<b>City</b>	<b>Private</b>	<b>Public</b>	<b>Tree</b>	<b>None</b>
<p><b>Atherton</b> No specific view protection ordinance, and view is considered only when an applicant is requesting an exception to the 34’ maximum building height (although view is not defined).</p>				X
<p><b>Belvedere</b> No specific view protection ordinance, but view is considered when an applicant is requesting an exception to the FAR from the PC. One of the findings that must be made in order to grant the exception is that “primary views from adjacent properties, as well as from the street, are not significantly impaired by the additional square footage requested”.</p>	X			
<p><b>Berkeley</b> No specific view protection ordinance. Design review is not required for most residential projects. For residential projects &gt;500 s.f.: “To deny a Use Permit for a major residential addition, the Zoning Officer or Board must find that although the proposed major residential addition satisfies all other standards of this Ordinance, the addition would unreasonably obstruct sunlight, air or views.”</p>	X			
<p><b>Beverly Hills</b> Structures in the Hillside Area cannot be taller than 14 feet if the additional height would substantially disrupt a view of the Los Angeles area basin from the level pad of a residence within three hundred feet (300’) of the subject property, and such view would not have been substantially disrupted by development of a fourteen foot (14’) structure. "Height of building" is the measurement of the height of the building or structure to be constructed at any point (the vertical distance between that point and the point below it on a plane defined by ground level as it existed on September 4, 1992, at all points along the building or structure perimeter).</p>	X			
<p><b>Carmel</b> Guidelines that encourage applicants to maintain view opportunities to natural features through properties and outside the properties including: the location of buildings “so they will not substantially block view enjoyed by others”, locating “major building masses to maintain some views through the site from</p>	X	X		

other properties”; “consider keeping the mass of a building low in order to maintain views over the structure”; and “also consider using a compact building footprint to maintain view along the sides of a structure”.				
<b>Lafayette</b> “It is the intent of this requirement to protect views of the open and highly visible portions of the scenic hillsides and ridgelines so that they will appear essentially undeveloped as viewed from below the dwelling. On file in the office of the planning director is a map entitled “viewing evaluation,” dated March 1, 1993 and prepared by the planning department which is intended as a guide to establish locations from which views will be determined.”	X	X		
<b>Larkspur</b> For major new construction, findings specific to “preserving significant views (Mt. Tam, San Francisco Bay)” are required	X	X		
<b>Los Altos Hills</b> Language to insure that the site, location and configuration of structures is unobtrusive when viewed from off-site; that scenic views are retained; that buildings do not dominate the natural landscape; that ridgelines and hilltops are preserved; “Single story buildings and height restrictions may be required on hilltops, ridgelines, and highly visible lots.”	X	X		
<b>La Jolla/San Diego</b> Only as may affect a significant public view from identified public vantage points		X		
<b>Monterey</b> “The Appropriate Authority shall consider such plans and submittals to determine that such structures, or other improvements shall be designed and constructed so that they will not create a substantially adverse visual impact when viewed from a common public viewing area. “		X		
<b>Moraga</b>				X
<b>Oakland</b> Only specific areas: “The following height restriction shall apply to each lot which abuts Grizzly Peak Boulevard, Skyline Boulevard, or Tunnel Road and which has an average elevation of finished grade less than the average elevation of the nearest edge of the paved	X	X		

<p>roadway of such boulevard or road. Except for the projections allowed by Section 17.108.030, no building or other facility or portion thereof shall extend above any line beginning three feet above any point on the nearest edge of the aforesaid roadway and extending outward at right angles to said edge and downward over the lot at an angle of six degrees to the horizontal.”</p>				
<p><b>Orinda</b> Tree viewshed only</p>			X	
<p><b>Rancho Palos Verdes</b> “Near” and “Far” Views regulated. “A ‘near view’ is defined as a scene located on the peninsula including, but not limited to, a valley, ravine, equestrian trail, pastoral environment or any natural setting; and/or a ‘far view’ is defined as a scene located off the peninsula including, but not limited to, the ocean, Los Angeles basin, city lights at night, harbor, Vincent Thomas Bridge, shoreline or offshore islands. “A ‘view’ which is protected by this section shall not include vacant land that is developable under this code, distant mountain area not normally visible, nor the sky, either above distant mountain areas or above the height of offshore islands. A view may extend in any horizontal direction (three hundred sixty degrees of horizontal arc) and shall be considered as a single view, even if broken into segments by foliage, structures or other interference. ‘Viewing area’ means that area of a structure (excluding bathrooms, hallways, garages or closets) or that area of a lot (excluding the setback areas) where the owner and city determine the best and most important view exists. In structures, the finished floor elevation of any viewing area must be at or above existing grade adjacent to the exterior wall of the part of the building nearest to said viewing area.”</p>	X			
<p><b>Ross</b> “Hillside designs shall protect views to the site and those viewsheds of neighboring property owners. No building shall be located on a ridge. Dedication of ridgetop land may be required as a condition of approval of a development plan.”</p>	X			
<p><b>Sausalito</b> “For the purposes of this title a view shall mean any view of the Sausalito Waterfront, San Francisco Bay, Mt. Tam, Strawberry Point, Tiburon, Belvedere, Angel Island, East Bay, and/or the City of San Francisco or any view greater than 300 feet distance and/or including significant aesthetic, cultural, natural, or historical features. The term "view" does not mean an unobstructed panorama of all or any of above. <u>View, primary.</u> Any view</p>	X			

<p>distance from primary viewing areas of a dwelling such as the living room, dining room, kitchen, master bedroom, and deck or patio spaces serving such living areas. A secondary view shall be any view from bathrooms, accessory bedrooms, passageways and utility areas. <u>View, public.</u> Any view from a public right-of-way, including from a public road, street, sidewalk, pedestrian lane or stair, trail, or pathway.”</p> <p>Findings related to view: “The proposed project has been located and designed to minimize obstruction of public views and primary views from private property. The site will be developed in a manner that minimizes the obstruction of views from surrounding properties and public vantage points, with particular care taken to protect primary views.”</p>				
<p><b>Tiburon</b> Tree viewshed obstruction only</p>			X	

**PIEDMONT PLANNING COMMISSION**  
Special and Regular Meeting Minutes for Monday, May 9, 2005

A Special and Regular Session of the Piedmont Planning Commission was held May 9, 2005, in the City Hall Conference Room and 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 April 25, 2005.

**CALL TO ORDER**

Chairman Greenman called the Special Session to order at 5:00 p.m.

**ROLL CALL**

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

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

**Proposed Ordinance Amendment**

Pursuant to City Council and Planning Commission discussions and directions emanating from joint meetings held in July, October and November 2004, the City Planner submitted proposed amendments to Chapter 17 to add a new definition of “view” as well as require specific findings for approvals of all new upper level additions and new multi-level structures. The Commission discussed the proposed revisions at length, requesting the following additional changes:

**Section 17.20.9** (first sentence should read): “. . . unless the design of the project conforms to all of the following criteria and standards: . . .”

**Section 17.20.9** – subsections (a) through (b)(iii) have semicolons after each paragraph

**Section 17.20.9(b)(i)** – reword last sentence to clarify intent (e.g. “potential upper level setbacks were evaluated and found appropriate for their impact on neighbors)

**Section 17.20.9(b)(ii)** (first sentence should read): “. . . or new multi-level structure has been designed in a way to minimize view (as defined in Section 17.2.20) and light impacts . . .”

**Section 17.20.9(b)(iii)** (last line should read): “. . . existing neighborhood development pattern; and

**Section 17.22.1** – cite the last paragraph language from Section 17.16.1 as a new last paragraph to this section in the report

**Resolution 10-PL-05**

RESOLVED, that the Planning Commission recommends City Council approval of the proposed amendments to Chapter 17 as submitted by staff and as amended herein.

Moved by Chang, Seconded by Levine

Ayes: Chang, Greenman, Hege, Levine, Summer

Noes: None

Absent: None

## PIEDMONT CITY COUNCIL

### Special Meeting Minutes for Monday, November 29, 2004

A Special Joint Session of the Piedmont City Council and Piedmont Planning Commission was held November 29, 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 November 24, 2004.

#### CALL TO ORDER

Mayor Bruck called the special session to order at 7:30 p.m. with the Pledge of Allegiance. He announced that the purpose of the joint session was to discuss proposed development criteria for the consideration of second story additions as well as receive an update concerning the pending sale of PG&E property at 408 Linda Avenue.

*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, Building Official Chester Nakahara, Assistant Planner Linda Ajello, Planning Technician Kevin Jackson, City Clerk Ann Swift and Recording Secretary Chris Harbert

#### PUBLIC FORUM

There were no speakers for the public forum.

#### SECOND STORY ADDITIONS

Per Council direction of July 19 and October 11, the City Planner submitted a proposal to require specific findings for approval of all new upper level stories and upper level expansions in addition to the findings already required under the code's residential design review guidelines. The intent of these additional approval findings is to provide for greater consistency in the evaluation and decision making process involving upper level expansion applications. Staff also requested direction as to whether professionally prepared sun studies should be routinely required for all upper level expansion projects.

#### **Public testimony** was received from:

Garrett Keating supported staff's recommendation in concept but suggested the following modifications: (1) *property development patterns* in addition to "neighborhood development patterns" should also be considered in evaluating the appropriateness of an upper level expansion with respect to the separation distance between the proposed addition and adjacent residences; (2) in evaluating the impact of direct sunlight loss on adjacent properties, consideration be given to the number of hours during the day that loss will occur to the principal living areas of the affected properties; (3) consideration be given to implementing a *staff level developmental review process* to assist applicants in preparing an acceptable design concept based upon the developmental history of the neighborhood; (4) primary living areas be defined; (5) the requirement for sun studies be at the discretion of staff and/or the Planning Commission; (6) lower level expansion/excavation

alternatives only be considered when there is at least 10 ft. of grade under an applicant's house; and (7) Council appeal hearings of Planning Commission decisions should be restricted to a technical review of the process rather than a de novo hearing of the application.

Grier Graff urged that the Planning Commission be granted flexibility in evaluating the appropriateness of upper level projects, stressing that communities and neighborhoods change over time. He felt that staff's proposal would increase the workload of project architects as well as City planning staff.

Robert Bradsby suggested that applicants be allowed to submit an initial development *envelope* of a proposed upper level expansion to determine if such an expansion is acceptable in concept to the City prior to undertaking the expense of detailed architectural drawings.

Tom Lister urged that in connection with expansion projects, property owners be required to insure that water run-off from their properties is properly channeled into the City's storm drain system rather than be allowed to flood adjacent downhill properties.

Karen Borrmann urged that the community's attractive architecture not be allowed to be significantly degraded as a consequence of placing more emphasis on minimizing potential impacts on neighbors than on maintaining architectural integrity with regard to the design of upper level additions. She objected to the type of *pop-up* second story boxes being added to homes in order to minimize shadowing and view impacts.

An unidentified woman urged the City to place more emphasis on requiring homeowners to adhere to approved plans and to rectify illegal construction, noting that because City planning staff is already overburdened, illegal construction is often overlooked forcing affected neighbors to seek remedy through civil lawsuits. She felt that the staff's proposal would simply add to the planning department's already burdensome workload.

The Council and Commission supported the proposed additional findings in concept; however, no general consensus was reached during the discussion regarding the particulars of each proposed finding. In general, the Council and Commission agreed that: (1) room size rather than *labeling* was the key in working within the design confines of an application; (2) upper level expansions are not always possible on every lot; (3) second story additions should not be approved if they impose a substantial adverse impact on adjacent properties; (4) sun studies are typically of little value and therefore should not be an automatic requirement for all upper level expansion projects – the requirement for such studies should remain at the discretion of staff and the Commission; and (5) while a property owner has an absolute right to *improve* his or her property, there is no absolute right to *expand*.

As part of the general discussion, the Council indicated that: (1) the next review of the City's General Plan Housing Element should include consideration of removing the current goal objective that the City's existing small housing stock be *preserved* since this goal is in conflict with another Housing Element objective of *improving existing housing stock*. It was acknowledged that upper level expansion projects are typically proposed on small houses, preserving these small houses is contrary to current housing market trends and inconsistent with the reality that Piedmont's excellent school system makes the community highly desired by families – there are other nearby communities better suited to provide affordable housing for singles and seniors; and (2) consideration be given to requiring conforming parking



for large scale expansion proposals even if these expansions do not increase the existing number of rooms eligible for use as bedrooms.

The City Planner agreed to revise her proposal and resubmit a new version to the Planning Commission for review and eventual recommendation to the City Council. The Mayor encouraged the public to provide input regarding this matter.

EXHIBIT E

**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.

EXHIBIT F

## PIEDMONT CITY COUNCIL

### 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**

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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

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

**CITY OF PIEDMONT**  
**JOINT CITY COUNCIL AND PLANNING COMMISSION**  
**AGENDA REPORT**

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MEETING DATE: July 19, 2004

FROM: Kate Black, City Planner

SUBJECT: Discussion Related to Second Story Additions

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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.