

City of Piedmont  
COUNCIL AGENDA REPORT

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DATE: February 18, 2020

TO: Mayor and Council

FROM: Sara Lillevand, City Administrator

SUBJECT: Consideration of Updates to the Piedmont Design Guidelines to Establish Objective Standards for Accessory Dwelling Unit and Junior Accessory Dwelling Unit Ministerial Review

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**RECOMMENDATION:**

Adopt the resolution (Attachment A, pages 5-12) entitled “A Resolution Adopting Amendments to The Piedmont Design Guidelines for Accessory Dwelling Units.”

**EXECUTIVE SUMMARY:**

In September 2019, Governor Newsom signed AB 68, AB 881, and SB 13 into law, all of which made changes to state law regarding accessory dwelling units, particularly Government Code Sections 65852.2 and 65852.22. Changes to state law modified the standards and procedures that the City may impose for accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs).

On January 3, 2020, the Planning and Building Department distributed a staff report which outlined comprehensive amendments to the City Code to implement state law requirements for ADUs and JADUs. The City Council approved the first reading of the ordinance on January 21, 2020, and the second reading, on February 3, 2020. The new ordinance will take effect March 4, 2020.

City staff has developed amendments to the design standards for ADUs and JADUs in the Piedmont Design Guidelines, consistent with new state law. These amendments support the non-discretionary and ministerial permit process established with the ADU zoning changes approved on February 3, 2020. The draft ADU and JADU design standards were released for public comment on January 29, 2020. The Planning Commission held a public hearing on February 10, 2020 and voted to recommend adoption of the attached resolution (Attachment A) amending the ADU Design Guidelines.

**BACKGROUND:**

State law mandates that cities with ADU ordinances apply certain state standards and procedures for ADU and JADU approval, including applying a ministerial and nondiscretionary approval process. State law also authorizes local agencies to enact certain standards of approval for ADUs and JADUs, giving local cities the ability to control the exterior appearance of ADUs and JADUs.

On February 10, 2020, the Planning Commission held a public hearing to consider the draft ADU and JADU design standards developed by staff. The ADU and JADU design standards replace more discretionary design guidelines for ADUs in the Piedmont Design Guidelines. At the close of the public hearing, the Planning Commission voted to recommend City Council adoption of the ADU and JADU design standards in the draft resolution (Attachment A) with modifications added by the Planning Commission.

### **City of Piedmont General Plan Housing Element**

The majority of the General Plan Housing Element for 2015-2023 (separately available on the City's website) is devoted to ADUs (referred to as *second units* in the Element) because, as a built-out city, Piedmont relies on ADUs as the main means by which the City is able to provide new housing units, either market rate or affordable. Housing Element policies and programs that relate to ADUs and JADUs include the following:

**Policy 1.2: Housing Diversity.** Continue to maintain planning, zoning and building regulations that accommodate the development of housing for all income levels.

**Policy 1.5: Second Units.** Continue to allow second units (in-law apartments) “by right” in all residential zones within the City, subject to dimensional and size requirements, parking standards, and an owner occupancy requirement for either the primary or secondary unit. Local standards for second units may address neighborhood compatibility, public safety, and other issues but should not be so onerous as to preclude the development of additional units.

**Policy 3.3: Conversion of Unintended Units to Rentals.** Encourage property owners with “unintended second units” to apply for City approval to use these units as rental housing. “Unintended” second units include spaces in Piedmont homes (including accessory structures) with second kitchens, bathrooms, and independent entrances that are not currently used as apartments.

**Policy 4.4: Updating Standards and Codes.** Periodically update codes and standards for residential development to reflect changes in state and federal law, new technology, and market trends.

**Policy 5.2: Second Units, Shared Housing, and Seniors.** Encourage second units and shared housing as strategies to help seniors age in place. Second units and shared housing can provide sources of additional income for senior homeowners and housing resources for seniors seeking to downsize but remain in Piedmont.

### **PROPOSED AMENDMENTS TO PIEDMONT DESIGN GUIDELINES:**

City staff has developed amendments to the standards for ADUs and JADUs in the Piedmont Design Guidelines, consistent with new state law. The proposed design standards describe and clarify requirements for ADUs and JADUs for property owners, architects, and designers, as well as inform the larger Piedmont community of the City requirements. The design standards do not change the zoning regulations for ADU and JADUs in the City Code. The proposed design standards are intended to maintain the quality of architectural design in Piedmont and maintain neighbor privacy and the quiet enjoyment of residential property, while complying with restrictions on the City's

authority under state law.

The standards for ADUs and JADUs in the Piedmont Design Guidelines must be objective and prescriptive, rather than discretionary or flexible, to be consistent with the ministerial entitlement process for ADUs and JADUs in the City Code that is required by state law. “Objective” means that the standards are quantifiable, measureable, and compliance can be determined at the time an application is made. Standards for new construction in the Building Code and Fire Code are also objective and prescriptive.

The amendments to the Piedmont Design Guidelines include the following new features:

1. Objective Standards for Architecture and Landscape in General
2. Objective Standards for On-site Architectural Design Compatibility
3. Fire Safe Construction and Fire Marshal Review
4. Building Permit Procedure and Conditions of Approval

#### PLANNING COMMISSION RECOMMENDATION:

On February 10, 2020, the Planning Commission recommended City Council adoption of the proposed amendments to the Piedmont Design Guidelines with the following changes:

1. Add a purpose statement to the ADU and JADU design standards to encourage thoughtful design and cooperation between neighbors.
2. Add an option to accept a 6-foot-tall dense vegetative screen, as well as the 6-foot-tall solid wood fence recommended by staff, to maintain privacy between properties.
3. Add a design standard for the construction of the fence.
4. Remove a requirement for fixed sash windows adjacent to side or rear property lines.
5. Clarify the standards for the entry door to an ADU or JADU.
6. Clarify the standard for parking adjacent to an ADU or JADU, particularly for garage conversion applications.

On February 10, 2020, members of the public addressed the Planning Commission and suggested that possible HCD guidelines for local ADU ordinances, expected in the spring or early summer, could benefit the development of the City’s design standards. Commissioners discussed the reasons to adopt design standards before the release of HCD guidelines and discussed options to amend the Piedmont Design Guidelines in the future. Commissioners discussed the refinements to the City’s ADU and JADU design standards that will come forward as new ADU and JADU applications are reviewed by City staff. Commissioners discussed the proposed limits on mechanical equipment mounted to exterior walls of an ADU or JADU and new Building Code requirements for solar systems. Commissioners discussed the height limit for ADUs and suggested that staff study changes to the ADU Ordinance that would allow new ADUs to be built above garages in a manner that mitigates adverse impacts on neighboring properties.

The draft resolution in Attachment A has been marked up to indicate the Planning Commission’s recommendation, including recommended changes. Correspondence about the proposed design standards is included as Attachment C to this staff report. Video of the Planning Commission meeting on February 10, 2020, is available at:

[https://piedmont.ca.gov/services\\_departments/kcom-tv/live\\_content\\_and\\_video\\_archive](https://piedmont.ca.gov/services_departments/kcom-tv/live_content_and_video_archive)

**CALIFORNIA ENVIRONMENTAL QUALITY ACT:**

The adoption of the proposed amendments to the Piedmont Design Guidelines is exempt from the California Environmental Quality Act (CEQA) because the proposed action is not a project, as defined in Public Resources Code section 21065 and CEQA Guidelines, 14 Cal. Code of Regulations section 15378, also is also exempt under CEQA Guidelines section 15061(b)(3), because it can be seen with certainty that there is no possibility that the adoption of Piedmont Design Guidelines may have a significant effect on the environment. In the alternative, this action would also be exempt under CEQA Guidelines sections 15301(e) and 15303(a), because the proposed Piedmont Design Guidelines relate to the creation of design regulations to address the construction of accessory dwelling units and junior accessory dwelling units (second units) which are themselves projects subject to exemption.

**REVIEW BY CITY ATTORNEY:**

The proposed modifications to the Piedmont Design Guidelines and the CEQA determinations have been reviewed by the City Attorney.

**CONCLUSION AND NEXT STEPS:**

Staff recommends that the City Council adopt the resolution approving the proposed amendments to the Piedmont Design Guidelines with the modifications recommended by the Planning Commission. The proposed design standards will bring the City’s regulations for ADUs and JADUs into compliance with state laws, while preserving – to the extent possible – the City’s ability to maintain community aesthetics by imposing reasonable and objective regulations on the design of ADUs and JADUs.

**ATTACHMENTS:**

<b>#</b>	<b>Pages</b>	<b>Description</b>
A	5-12	Resolution Adopting Amendments to the <u>Piedmont Design Guidelines</u>
B	13-14	Design Guidelines for Accessory Dwelling Units (current Chapter 5.03, excerpt)
C	15-20	Public Correspondence

Separate and available on the City website:

Piedmont General Plan Housing Element available at:

[http://piedmont.hosted.civillive.com/UserFiles/Servers/Server\\_13659739/File/Government/Projects/General%20Plan%20and%20Housing%20Element/housing\\_element.pdf](http://piedmont.hosted.civillive.com/UserFiles/Servers/Server_13659739/File/Government/Projects/General%20Plan%20and%20Housing%20Element/housing_element.pdf)

Piedmont City Code Chapter 17, Planning and Land Use available at:

[https://piedmont.ca.gov/government/charter\\_city\\_code](https://piedmont.ca.gov/government/charter_city_code)

By: Kevin Jackson, Director of Planning and Building Department  
Pierce Macdonald-Powell, Senior Planner

**RESOLUTION No. \_\_\_\_\_****A RESOLUTION ADOPTING AMENDMENTS TO  
THE PIEDMONT DESIGN GUIDELINES FOR  
ACCESSORY DWELLING UNITS**

WHEREAS, Division 17.38 of the Piedmont Municipal Code requires that an accessory dwelling unit or junior accessory dwelling unit comply with the Piedmont Design Guidelines; and

WHEREAS, the City Council initially adopted Design Guidelines in 1988 to provide criteria for the applicant and the appropriate hearing body to determine whether a specific project conforms to the City's design standards; and

WHEREAS, the Piedmont Design Guidelines were last updated by the City Council following a public hearing on June 3, 2019; and

WHEREAS, the City will benefit from objective standards specific to the design of accessory dwelling units and junior accessory dwelling units in Piedmont in conformance with Government Code sections 65852.2 and 65852.22 and the ; and

WHEREAS, the 2014-2023 Piedmont Housing Element included policies 1.5, 1.6, and 5.2 and program 1.C which support the construction of accessory dwelling units (second units) to provide housing affordable to a range of income levels; and

WHEREAS, the City Council adopted an update of the Design Guidelines in 2019 as part of a five-phase process to update and modernize the City's land development regulations, including zoning and design review; and

WHEREAS, public input on the Guidelines for Accessory Dwelling Units, including Junior Accessory Dwelling Units, was solicited through public hearings at the Planning Commission and City Council; and

WHEREAS, the revised Guidelines for Accessory Dwelling Units, including Junior Accessory Dwelling Units, were published for public review on January 29, 2020, and have been available for public comment for approximately 21 days; and

WHEREAS, the Planning Commission convened public hearings on the Guidelines on February 10, 2020, and provided an opportunity for public and Commissioner comments at that time; and

WHEREAS, the draft document has been revised to incorporate and respond to public comments; and

WHEREAS, City Council approval of the new Guidelines for Accessory Dwelling Units, including Junior Accessory Dwelling Units, is required before they become effective; and

WHEREAS, after reviewing the revised document, and the testimony and documents received, the Piedmont Planning Commission voted to recommend that the City Council adopt the revised Design Guidelines, finding that:

1. The proposed Guidelines for Accessory Dwelling Units, including Junior Accessory Dwelling Units, are consistent with and will advance the policies and actions of the Piedmont General Plan;
2. The proposed Guidelines for Accessory Dwelling Units, including Junior Accessory Dwelling Units, are consistent with Chapter 17 of the Piedmont Municipal Code;
3. The proposed Guidelines for Accessory Dwelling Units, including Junior Accessory Dwelling Units, will support and improve the City's ability to promote orderly, attractive, safe, and harmonious development that upholds the aesthetic values of the community and ensures excellence of architectural design;

**NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Piedmont does hereby resolve, declare, determine and order as follows:**

**SECTION 1.** The above recitals are correct and are incorporated into this Resolution as findings of the City Council.

**SECTION 2.** The Design Guidelines specific to Accessory Dwelling Units and Junior Accessory Dwelling Units dated February 18, 2020, and attached as Exhibit A, are adopted.

**SECTION 3.** The City Council finds the adoption of these Design Guidelines for Accessory Dwelling Units, including Junior Accessory Dwelling Units, is exempt from the California Environmental Quality Act (CEQA) because the proposed action is not a project, as defined in Public Resources Code section 21065 and CEQA Guidelines, 14 Cal. Code of Regulations section 15378, also is also exempt under CEQA Guidelines section 15061(b)(3), because it can be seen with certainty that there is no possibility that the adoption of Design Guidelines may have a significant effect on the environment. In the alternative, this action would also be exempt under CEQA Guidelines sections 15301(e) and 15303(a), because the proposed Design Guidelines relate to the creation of design regulations to address the construction of accessory dwelling units and junior accessory dwelling units (second units) which are themselves projects subject to exemption.

**SECTION 4.** All portions of this resolution are severable. If an individual component of this Resolution is adjudged by a court to be invalid and unenforceable, then the remaining portions will continue in effect.

[END OF DOCUMENT]

# 5.03 ACCESSORY DWELLING UNITS

## DESIGN STANDARDS:

1. Accessory Dwelling Unit and Junior Accessory Dwelling Unit Regulations  
*Ref: Zoning Ordinance, Sec. 17.38*

### 5.03.00 PURPOSE AND INTENT

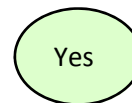
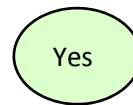
The intent of these design standards is to maintain privacy and support thoughtful design and site planning, as well as encourage coordination and cooperation between neighbors.

### 5.03.01 ARCHITECTURAL AND LANDSCAPE DESIGN STANDARDS GENERALLY

1. A solid fence or vegetative screen, at least 6 feet tall, shall be ~~constructed~~provided by the developer of any detached ADU or ADU residential addition along the property lines adjacent to the ADU and path of travel from the public right-of-way exclusive of the street yard setback. No street tree may be removed and no new sidewalk curb cut is permitted as part of an ADU or JADU construction.
2. Construction of any new balcony, patio, and/or deck greater than 30 inches above grade is not permitted. Entrances closer than 10 feet measured to a side or rear property line shall be located on a wall facing the public right-of-way or a wall facing the interior of the property, unless the entrance is on an existing structure. ~~New windows within 10 feet of, and on a wall facing, an adjacent dwelling shall have fixed sashes.~~ New windows within 10 feet of, and on a wall facing, an adjacent dwelling shall have frosted and translucent glazing, unless a window is installed so that the height at the top is less than the height of required fencing or screen.
3. Exterior lighting shall be shielded, directed downward, and located only at exterior doors and along the path of travel from the public right-of-way.
4. Mechanical equipment and plumbing, conduit, or cabling for utilities is not permitted on exterior walls of an ADU or JADU, with the exception of meters, electrical panel, and solar installations.

### DESIGN COMMENT:

- A. The ADU to the right follows existing grade with minimal retaining walls. The porch is 30 inches above grade. Windows and entrance face the interior of the property.
- B. This lighting example includes a shielded design so that the source of the light (light bulb) is not visible from 4 feet.



## 5.03.02 ON-SITE AESTHETIC DESIGN COMPATIBILITY

1. The architecture of an ADU or JADU must match the existing architectural style of the primary residence. The following building elements shall be replicated to the greatest extent possible:
  - a. use of the same wall material, or wall material that visually appears the same as the existing primary residence, including color and texture;
  - b. use of same trim material and trim profile;
  - c. use of same roof form, roofing material and roof slope to the extent practicable as determined by the Director of Planning & Building;
  - d. use of the same window size, proportion, operation, recess or reveal, divided light pattern (true divided lights or 3-dimensional simulated divided lights), and spacing distance between placements of windows;
  - e. use of same building ornamentation, including exterior trim and porches;
  - f. use of the same foundation materials and foundation appearance above grade;
  - g. use of the same wall plate height and roof eave height, projection, and materials;
  - h. use of same railing design and material; and
  - i. use of an entry doorway that is not located on the same façade as the entry door to the primary residence and use of an entry door that is the same material, proportion, operation, recess or reveal, and divided light pattern as an original door on the primary residence.
  - j. An ADU garage conversion shall maintain the garage door design on the exterior if adjacent to a driveway or garage apron. Alternatively, if the garage door is to be eliminated and a double door for entry is to be installed, then the driveway shall be maintained for on-site parking except for a 36-inch planting area between the driveway and the side of the converted garage, and except for a maximum 60-inch-wide path to the entry door.  
~~use of the same street yard landscape, and any garage apron shall be replaced with landscaping in cases where a garage door is removed.~~

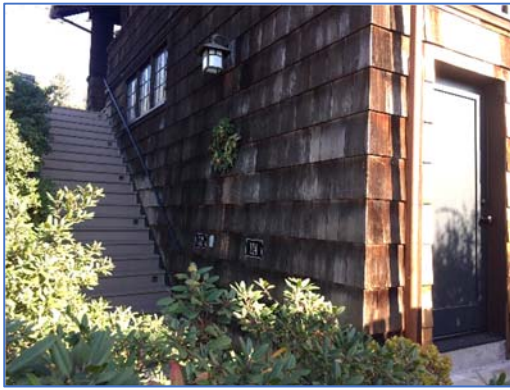
### DESIGN COMMENTS:

A. This horizontal extension to the primary residence uses the same exterior wall material and ornamentation to unify the ADU with the main building

Yes







Yes



Yes

B. Existing space can be converted to either an ADU or JADU, taking advantage of existing walls, windows, and doors. The egress for this studio ADU is the front door which was widened to meet Building Code requirements.

C. This ADU constructed below the porch matches the building style and ornamentation. The entrance is greater than 10 feet from the shared property line and does not duplicate the house's entry.



Yes



Yes

D. A new patio beside the new entrance for the ADU (inside the existing house) in the example above is limited to 30 inches high. The railing at the new steps matches the existing railing design and materials.

E. In the example above, the ADU below the kitchen of the primary residence replicates the building's architecture and takes advantage of the existing plumbing layout.



Yes

F. In the photo above, the new ADU window (lower level) matches the placement, proportions, and divided lights of the existing corner window on the upper floor.



No

G. The outline of the previous garage door remains as incongruous exterior trim in the example above. Previous garage driveway apron must ~~be replaced~~ have a 3-foot-wide landscape strip along the wall of the ADU if the garage door is removed. Windows and doors must use 3-dimensional simulated divided lights. ADU walls must match the existing house's wall material and color.



Yes

H. A 6-foot-tall, solid wood fence with top and bottom rails, with the same appearance on both sides (or an equivalent landscape screen), is a requirement for any newly constructed detached ADU or ADU in a new residential addition.



~~H. The previous garage apron in the ADU garage conversion example, above, has been replaced with pathway, landscaping, and fence, set 20 feet back from the street yard property line.~~

I. The ADU to the right, created by the conversion of an existing detached garage, maintains the exterior appearance of a garage door and maintains the parking area in the driveway to the previous garage.

Yes



### 5.03.03 FIRE SAFE CONSTRUCTION

1. Construction of any ADU or JADU shall be designed to meet fire safe construction and vegetation requirements as determined by the Piedmont Fire Marshal.

### 5.03.04 STANDARD CONDITIONS OF APPROVAL

1. Prior to the start of construction, the developer shall obtain a Building Permit issued by the Building Official. A list of standard conditions of approval required for construction will be maintained by the Planning & Building Director and will be provided with Accessory Dwelling Unit and Junior Accessory Dwelling Unit application forms.





## 5.03 ACCESSORY DWELLING UNITS

### DESIGN STANDARDS:

1. Accessory Dwelling Unit Regulations  
*Ref: Zoning Ordinance, Sec. 17.38*

### 5.03.01 NEIGHBORHOOD AND CONTIGUOUS PARCEL COMPATIBILITY

#### DESIGN GUIDELINE:

1. The siting of a new attached or detached accessory dwelling unit should be visually integrated with the neighborhood and respect adjacent properties.

#### DESIGN COMMENT:

- A. The design and location of a new detached or attached accessory dwelling unit should be sensitive to view, access to sunlight, a feeling of openness and other amenities enjoyed by residences on contiguous parcels. The example at right is set back from side property lines, placing it well within the rear yard landscaping.



Yes

### 5.03.02 ON-SITE AESTHETIC DESIGN COMPATIBILITY

#### DESIGN GUIDELINE:

1. An accessory dwelling unit may be free standing or attached to the primary residence, such as a horizontal addition to the primary residence or a vertical addition above a garage. The style of the accessory dwelling unit should be compatible with the building style of the main residence. In each case, the accessory dwelling unit should have an entry that is compatible with the entry to the primary residence.

DESIGN COMMENTS:



Yes

A. A horizontal extension to the primary residence uses the same exterior wall material and ornamentation to unify the main building with the accessory dwelling unit.



Yes

B. The accessory dwelling unit above a garage respects the building style and roof profile of the existing primary residence. The side stair entrance is visible, but does not compete with the house's entry.



Yes

C. An accessory dwelling unit above a detached garage located within the street yard setback area creates an entry point for the property.



Yes

D. An accessory dwelling unit above a detached garage within the interior of the lot uses contemporary building elements, yet is compatible with the original mid-century modern style primary residence.

**From:** Kevin Jackson  
**Sent:** Monday, February 10, 2020 9:04 AM  
**Subject:** comments on ADU design guidelines  
**Attachments:** IMG\_1224.jpg

Commissioners,

These two comments on the ADU design guidelines came in over the weekend. Mr. Keating's came with the attached photo.

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Feb 10, 2020

Piedmont Planning Commission  
c/o Kevin Jackson

re: Design Review Guidelines Revisions for Accessory Dwelling Units

Dear Chairman Levine and Planning Commissioners,

Process: The new State legislation concerning ADUs took effect January 1 and our City Code is already changed without the State issuing guidelines. Now new Design Guidelines are before you. Throughout this process Commissioners have been provided no options or alternatives. As Commissioners you are presented with a large amount of material to digest in one meeting; the public is given a three day notice for what is a complex and important issue. Insufficient time has been allowed for a thoughtful community discussion and hoped for broader resident involvement in this process.

I commend the intent of 5.03.02 Architectural Compatibility in that "ADUs and JDUs must match the existing architectural style of the primary residence" and an effort to protect close neighbor privacy. But I am concerned about:

Windows: Requiring frosted and translucent glazing for viewable windows 10' from a neighbor is too close a distance. The distance should be increased to 20'. Presumably to protect neighbors from noise, new windows within 10 feet of a neighbor are also required to be non-openable. (5.03.01-2). Most ADUs will be small and JADUs will be studios. Is an openable bedroom window required by fire-safety rules? And how will ventilation needs of a small one bedroom or JADU studio be adequately provided?

Driveways. Many garages in Piedmont are used as storage areas; the driveways are off street parking sites. Eliminating the driveways forces more cars on the street and creates undesirable street congestion. A driveway stopping at front entrance is unsightly and I suggest retaining off-street parking in existing driveways by requiring a fence or minimal architectural features six feet into the driveway from the front of the ADU. This will make for a more pleasing appearance and still leave driveways intact.

Curb-cuts. Coupled with converting driveways to landscaping, the prohibition of additional curb-cuts eliminates off-street parking opportunities. Streets will be more congested.

Sincerely,

Rick Schiller



Hello Planning Commissioners:

I plan to attend Monday's discussion and share with you an email I sent to Council for the first reading of the ADU ordinance. I'll address this in more detail in my comments but ask you to consider the hypothetical I proposed. Specifically, how would a proposal to convert this garage into an ADU be noticed to the neighbors and what restrictions would be applied to the design? The draft ADU design review guidelines refer to light and view, two of the pillars of Piedmont residential design review, but make no mention of privacy. Instead the design comment reads:

The design and location of a new detached or attached accessory dwelling unit should be sensitive to view, access to sunlight, a feeling of openness and other amenities enjoyed by residences on contiguous parcels.

I think a stronger acknowledgement of privacy is needed in that comment and recommend you have the word privacy inserted into that comment.

A second change I recommend is that you strike the the requirement that the garage apron be replaced with landscape in cases where the garage door is removed. Parking is increasingly becoming impacted by development in Oakland and we should not be adding development to Piedmont that takes away off-street parking. Perhaps staff will offer a rationale for this.

Finally, on a whole other matter, the city is considering requiring that new construction be all electric - no natural gas usage allowed for home and water heating or cooking. This is not a design review element but to the extent that the guidelines constrict electrical equipment and conduit you may want to think on this some more.

Garrett Keating  
148 Ricardo Ave

Kevin Jackson, AICP  
Planning & Building Director  
City of Piedmont  
120 Vista Avenue  
Piedmont, CA 94611  
Tel: (510) 420-3039  
Fax: (510) 658-3167





From:

James Kellogg  
110 Highland Ave  
Piedmont, ca 94611

Subject: Recommended Design Standards for Accessory Dwelling Units (ADU and JADU).

Dear Piedmont Planning Commission Members:

This letter covers my thoughts and recommendations regarding the draft Design Standards for Accessory Dwelling Units, under consideration by the Planning Commission.

First, I am in favor of revisions to the Design Guidelines that support prescriptive standards for ADU and JADU units in compliance recently enacted State Legislation.

However, I think that the draft Design Guidelines have several inconsistencies and omissions that should be addressed.

Here's an outline of the points I think should be addressed:

- Clarify in the Design Guidelines that the new Design Guidelines for Accessory Dwelling Units supplement other current Residential Design Guidelines and Chapter 17 Municipal Code regulations that relate to submittal and review of building addition and remodeling applications. This includes: guidelines for format and content of application documents, design standards for additions and remodeling, notice to neighbors, and appeal process.
- Clarify that the State Legislation documents indicate that a new detached ADU/JADU unit would be approved if it not more than 800sf, 16ft in height, and setback 4 ft from side and rear property lines applies to new detached building construction. An ADU created by a second story addition to an existing residence, or garage, would need to comply with height, design, and setback regulations covered in the current Residential Design Guidelines.
- The proposed requirements for fixed non-operable windows and restriction to the ADU entry door located within 10 ft of a side or rear property line, are both unreasonable restrictions on the design of an ADU/JADU. I recommend that operable windows should be allowed, and entry doors may be located with 10 ft of a side or rear property line if the door is positioned perpendicular to the property line (this can be done by locating the door within an entry landing adjoining the side yard).
- I also am concerned that the State Legislation requiring ministerial review of compliance with prescriptive standards, without public hearing, does not provide a reasonable process for the applicant to appeal if their application is denied. This does not stand to reason, and is inconsistent with applicable Municipal Code regulations. In addition, the proposed process puts an onerous authority and responsibility on Planning Staff to be solely responsible for approval of ADU/JADU applications. Therefore, I believe an appeal process must be addressed.

Thank you for considering my recommendations.

Sincerely,

James Kellogg

**RECEIVED**

FEB 10 2020

PLANNING & BUILDING DEPT.  
CITY OF PIEDMONT

February 10, 2020

226 Wildwood Avenue  
Piedmont CA 94610

Subject: Revisions to Design Review Guidelines- Accessory Dwelling Units

Dear Members of the Piedmont Planning Commission

Since the City Council has passed the revisions to the Zoning Ordinance in regard to Accessory Dwelling Units (ADUs), staff has very quickly created draft Design Review Guidelines and is proposing unusually rapid adoption (PC this week, CC next week). Because of changes in state law, as well as potential unwanted attention placed on Piedmont by housing advocacy groups, moving ahead with appropriate speed is understandable. However, when complex documents are created too quickly, errors, ambiguity and inappropriate policy directives may become incorporated into future regulations. Taking a little more time to do it right seems like a better policy,

The State law that preempted local zoning in regard to approving ADUs does allow cities some latitude in regard to design review. However, the allowed design review process must be objective rather than discretionary. The currently proposed draft guidelines seem to have sections that are mandatory and other sections which are merely recommendation. There are “shall” or “must” sections (5.03.01 & 02), and “should” sections (5.03.04). It may not be initially clear to a first-time applicant or to an outside observer, what value the “should” sections have, or their role should be explained. Presumably, there would be no ability to deny an ADU for being inconsistent with a “should” section. We can’t call these issues “discretionary” however.

The following points may be of concern to the Commission and should be considered for modification to the current draft:

**Fixed-sash, i.e. non-openable windows:** Presumably to protect neighbors from noise emanating from inside the new ADUs, new windows within 10 feet of a neighbor are prohibited from being openable (5.03.01-2). Most ADUs will be small and often studio units. As such, a bedroom window is required by fire-safety rules to be openable. Also, many in Piedmont do not have air conditioning. Non-openable windows would deprive future ADU residents of air and ventilation.

**Balcony prohibition:** Section 5.03.01 (2) prohibits decks or balconies over 30 inches off the ground. However, the photo example of what is preferred on Page 5-15 shows a second-story ADU with a second-story balcony.

**Entrance of ADU must face public street or into interior of the lot:** It’s not clear what the objective is here, (5.03.01 (2)), but with much of lower Piedmont having relatively small lots (40’ width is not uncommon), and assuming an attached ADU is placed at the rear of the existing house, both side yards might be prevented from having an entrance. Requiring the entrance to be at the rear of the house seems unjustified.

**Unrealistic detached building height restriction for ADU above a detached garage:** With the necessary framing (floor and ceiling joists) and normal ceiling heights, it would be difficult if not impossible, to provide an ADU above a garage within the 16' height restriction contained in the recently adopted ordinance. Yet the preferred example pictured on Page 5-15 shows an apparently taller than 16' ADU above a garage. Even with a flat roof, it would be tight, but Section 5.03.02-c says that the roof form shall follow the roof form of the primary residence.

**Elimination of existing paved parking space in front of converted garage:** If an existing attached garage at the front setback is converted to an ADU, the draft (5.03.02-j) requires that the existing paved driveway in front of the garage be removed and the area landscaped. While the state law does provide that a city cannot require off-street parking for the new ADU, the law does not require the removal of existing accessible, paved parking in front of the garage. Given that the principal residence would be losing its parking, and the ADU would not be providing any parking either, what purpose is there in forcing the parking of both units onto the street? Parking in the driveway in Piedmont is pretty much the norm. Why would there be any reason to prohibit such parking only in the case of a new ADU, while the neighbors, without an ADU, have the ability to keep their driveway parking?

**Elimination of the right for a new curb cut eliminates the ability to add a parking space elsewhere along the lots frontage including a corner lot:** The state law's intent was to ease the way for local ADUs approval by not requiring additional off-street parking. It was not the intent to prohibit the provision of alternate parking convenient for the existing residence and the new ADU. As proposed in Section 5.03.01-1, preventing alternate parking locations and forcing additional parking onto the street would have many negative impacts.

**Potentially impossible to meet roof eave height requirement:** If a one-story addition containing an ADU is added to the rear or side of an existing two-story house, Section 5.03.02-g would require the one-story addition's eave height to be at the same level as the eave of the two-story portion.

**Ambiguous Fire Department Requirement:** Section 5.03.03 says that the Fire Marshal's approval is required. That would seem to be discretionary unless some objective standards are set. Typically in cities, fire departments require that there be sufficient vehicular access for a fire truck to get within some designated distance of the farthest exterior wall of the new construction. The distance is set by the length of hose that a fire truck carries. The use of such a distance is objective and defensible. There are also adopted Fire Codes from the State Fire Marshal, which are then locally adopted. Requiring compliance with the applicable fire code would also be objective and defensible. The present language would seem to be discretionary and could be improved upon.

**Possible Typo:** 503.02, photo example after (j): Should say "does duplicate house's entry."

**Correction of Existing Code Violations:** As I am sure you all know, Piedmont has many historic or even recent conversions of garages to living quarters for the primary dwelling unit, often done without permits. If such a residence were now to further worsen the on-street parking demand by adding one or even 2 ADUs, that would add to the existing on-street parking

conflicts. Without violating the new law's prohibition on requiring any parking for the new ADU, the city should require that existing zoning/building code violations regarding parking be corrected. The Guidelines should expressly state that there will be a building code history requirement, at least as far as the subject of garage conversions without permits.

In conclusion, the proposed draft generally is well written and attractive and contains many desirable and expected design guidelines. However, it does not seem that the proposed, rushed timetable of getting these ADU Guideline revisions passed as currently written is necessary. The rush largely precludes the normal community discussion which we are used to. Piedmont has a great number of design professionals who could be invited to review the draft. Presumably, they could suggest other changes and improvements in addition to those that have occurred to me.

Sincerely,

Michael Henn