

City of Piedmont
COUNCIL AGENDA REPORT

DATE: February 20, 2024

TO: Mayor and Council

FROM: Rosanna Bayon Moore, City Administrator

SUBJECT: Public Hearing: Consideration of: (1) Certification of the 2023-2031 Housing Element Implementation EIR, and Adoption of Required Findings, a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program; (2) Adoption of General Plan Amendments in Conformance with the City's 6th Cycle Housing Element; and (3) Introduction and First Reading of Ordinance No. 772 N.S. Adding Divisions 17.52 Density Bonus, and 17.54 Urban Lot Splits and Two Unit Housing Developments (SB 9) to Chapter 17 of the Piedmont Municipal Code; Amending Divisions 17.02, 17.20, 17.22, 17.24, 17.26, 17.28, 17.30, 17.90, 17.40, 17.67 to Implement the 2023-2031 Housing Element Implementation Project.

RECOMMENDED ACTION

1. Adopt the attached Resolution, Attachment A, to certify the 2023-2031 Housing Element Implementation Project EIR for the 6th Cycle Housing Element Implementation project, make required CEQA findings, adopt a Statement of Overriding Considerations, and adopt a Mitigation Monitoring and Reporting Program; and
2. Adopt the attached Resolution, Attachment B, to approve amendments to the City of Piedmont General Plan, including amendments to the following elements: Land Use; Transportation; Natural Resources and Sustainability; Environmental Hazards (Safety and Noise); Parks, Recreation, and Open Space; Design and Preservation; and Community Services and Facilities; and
3. Introduction and First Reading of Ordinance No. 772 N.S., Attachment C, adding divisions 17.52 Density Bonus and 17.54 Urban Lot Splits and Two-Unit Housing Developments (SB 9) to Chapter 17 of the Piedmont Municipal Code, and amending divisions 17.02 Title; Intent; City Charter, 17.20 Zone A: Single Family Residential, 17.24 Zone B: Public Facilities, 17.24 Zone C: Multi-Family Residential, 17.26 Zone D: Commercial And Mixed-Use Commercial/Residential, 17.28 Zone E: Single Family Residential Estate, 17.30 Parking, and 17.90 Definitions & Measurements, and sections of divisions 17.40 Residential Rentals, and division 17.67 Ministerial Design Review Permits, to implement the 2023-2031 Housing Element Implementation project.

EXECUTIVE SUMMARY

This agenda item implements the City's Sixth Cycle Housing Element. The City's 2023-2031 Housing Element, which is part of Piedmont's General Plan, sets forth housing goals, policies, and objectives, and provides actions and programs to achieve these objectives.

Environmental Impact Report (EIR):

An EIR has been prepared by the City of Piedmont, entitled the 2023-2031 Housing Element Implementation Project Environmental Impact Report (State Clearinghouse No. 2022020362 dated November 2023), pursuant to the California Environmental Quality Act (CEQA). The 2023-2031 Housing Element Implementation EIR consists of the DEIR and the FEIR, combined. The EIR evaluates environmental impacts associated with construction facilitated by the proposed project, including construction facilitated by a program to prepare and adopt a specific plan in the Moraga Canyon Specific Plan (MCSP) Area, and implementation of the Housing Element programs. The 2023-2031 Housing Element Implementation EIR is a Program EIR.

The EIR studied the potential impacts in State-defined topic areas. The City Council is asked to certify the EIR and make required findings. In addition, because the EIR has determined that potential impacts of the proposed project related to cultural resources, historical resources, greenhouse gas emissions, noise, wildfire, transportation, utilities, and service systems, including cumulative impacts, would be significant and unavoidable, the City Council is asked to consider a Statement of Overriding Considerations ("SOC"), discussed in the Environmental Review (CEQA Analysis) section below, as recommended by the Planning Commission.

Draft General Plan Amendments:

State law and the Housing Element policies and programs require consistency within the elements of the General Plan and consistency between the City's General Plan and the Zoning Ordinance. To accomplish this end, draft amendments have been prepared for the following General Plan Elements: Land Use; Environmental Hazards; Transportation; Design and Preservation; Community Services and Facilities; Natural Resources and Sustainability; and Parks, Recreation, and Open Space. Many of the amendments were drafted with the assistance of the City's environmental consultants and are intended to manage and mitigate the impacts associated with growth facilitated by the 2023-2031 Housing Element. The City Council is asked to take an action to approve the amendments to the General Plan, as recommended by the Planning Commission.

Draft Zoning Ordinance Amendments:

The Housing Element has a total of 77 programs that include modifications to regulations and procedures to comply with State law and align with other General Plan goals through Zoning Ordinance updates, public information updates, new policies, and maintaining current policy practices. The proposed amendments to the Zoning Ordinance codified in Piedmont City Code Chapter 17 (Planning and Land Use) implement the first tranche of 18 programs from the Piedmont's 2023-2031 Housing Element. The proposed revisions encompass updated standards, rules, procedures, special use regulations, development standards, and performance criteria to

guide housing development projects throughout the City. The draft amendments include updates to existing planning and land use divisions in Chapter 17; and new Chapter 17 planning and land use divisions 17.52 and 17.54. The specific amendments are described in detail in the Planning Commission report for the January 29, 2024, public hearing. If approved, the proposed amendments would formally update local regulations to comply with State law and facilitate the production of housing developments, clarify residential development standards, and safeguard the production of affordable housing units in the City.

DISCUSSION

Public meetings and community engagement for the preparation of the 2023-2031 Housing Element extended over a three-year period, concluding in March 2023. The City received a letter of substantial compliance for its 6th Cycle Housing Element from HCD in November of 2023. Since the Council adopted the 6th Cycle Housing Element in March of 2023, City staff have been working to implement programs with completion deadlines required by early 2024, including updates to the City's Zoning Ordinance and General Plan to conform to the City's 6th Cycle Housing Element.

Over the past four months, the Planning Commission and City Council held six in-depth study sessions on proposed amendments to the City's Zoning Ordinance and General Plan, which also included discussion of the EIR. These study sessions were held on October 9, 2023, November 13, 2023, November 20, 2023, December 11, 2023, December 18, 2023, and January 8, 2024. The discussions and public comments informed the development of the amendments. The meeting videos and staff reports of these sessions are linked at the end of this report.

The General Plan is the guiding document, and the Zoning Ordinance is a tool to implement the General Plan goals, policies, actions, and programs. The environmental review considers the potential environmental impacts associated with the proposed General Plan and Zoning Ordinance changes. The amendments to the General Plan and Zoning Ordinance, and details regarding the EIR are discussed, herein.

A. GENERAL PLAN AMENDMENTS

The proposed amendments to the General Plan ensure that all elements of the General Plan are consistent with the Housing Element and its programs and ensure that the amendments remove language inconsistent with State law. The amended General Plan Elements include: Land Use; Environmental Hazards; Transportation; Design and Preservation; Community Services and Facilities; Natural Resources and Sustainability; and Parks, Recreation and Open Space.

The amendments to the General Plan span the following topic areas discussed at the January 29, 2024 Planning Commission public hearing and in earlier briefings to the Planning Commission and City Council:

- Amendments to the Land Use Element to support proposed increases to permitted residential density in all areas of Piedmont and changes to the Land Use Diagram of the Land Use Element to establish a Moraga Canyon Specific Plan designation and accurately show multi-family development areas.

- Amendments to the Transportation Element to shift traffic analysis from a Level of Service (LOS) standard to a Vehicle Miles Traveled (VMT) standard and to make amendments to correct road widths and locations of pedestrian paths (locating Spring Trail)
- Changes to the Environmental Hazards Element in conformance to State law, including Senate Bill (SB) 1035, SB 99, SB 379, and SB 1241, regarding wildfires and emergency preparedness.
- Changes to the Natural Resources and Sustainability Element to protect special status species in Piedmont and revise the Element in conformance to State law, including Government Code section 65302(d) to anticipate growth under the Housing Element, and Assembly Bill 162, regarding floodwater accommodation.
- Changes to the Parks, Recreation, and Open Space Element to anticipate land use changes pursuant to a future Moraga Canyon Specific Plan, which is still in the planning stages.
- Changes to the Design and Preservation Element to protect valuable historical resources and cultural resources.

A summary list of proposed new General Plan policies is included as a hyperlink (Attachment I).

B. ZONING ORDINANCE AMENDMENTS

As noted above, study sessions provided an opportunity for the Planning Commission and City Council to discuss all of the proposed amendments to the Piedmont City Code Chapter 17, Planning and Land Use (Zoning Ordinance) to implement the Housing Element programs, which are described in the hyperlinked Attachment H. The proposed amendments to the Zoning Ordinance are limited to changes required by Housing Element programs, changes necessary for conformance with State law, and best practices to ensure consistency throughout the Zoning Ordinance. A version of the amendments with redline edits of the Zoning Ordinance are provided through a hyperlink, Attachment D. The list below provides a high-level summary of the proposed amendments:

- **New Divisions.** Two new divisions implementing the State Density Bonus Law and SB 9 are added.
- **Permitted and Conditional Uses.** Several permitted and conditional uses are added to all the zoning districts. These are required by State law, including but not limited to Assembly Bill (AB) 1851, AB 2244, Government Code §65852.3, AB 2634, and the Housing Element law and Affirmatively Furthering Fair Housing (AFFH) requirements. The new permitted uses also include emergency shelters affiliated with a religious facility in Zone A to facilitate the development of emergency shelters in more than one zoning district. The amendments also include adding development standards for the newly added permitted and conditional uses.
- **Development Standards and Regulations.** Significant amendments are proposed to the development standards for zones B, C and D, that are intended to encourage multi-family and mixed-use developments. These regulations and standards guide development, protect

and promote public health, safety, and general welfare, reflect the Housing Element's goals, and comply with State law. The changes include: reducing side and rear yard setbacks to 4 feet, increasing maximum allowable height to 45 feet, reducing street yard setbacks, eliminating FAR standards, adding a density standard, requiring a mix of unit types, and relaxing lot and landscape coverage standards.

- **Housing Element Program 1.E.** Consistent with Housing Element program 1.E, proposed amendments include requiring an ADU when a new residence is proposed on a vacant property and when a remodel of an existing residence is proposed where 70% or more of the structure is demolished, unless the remodel or reconstruction is required due to an accident or a natural disaster. This applies to all of the zoning districts.
- **Single-family Parking.** The parking regulations and standards for single-family residential use have been amended to be consistent with the Housing Element programs and State Law. A recent change to State law, AB 1308, requires amendments to the City code to eliminate bedroom-based parking regulations and add new regulations that require parking when a residential project as defined in AB 1308 exceeds the maximum floor area ratio (FAR), lot coverage or structure height of the underlying zone.
- **Multi-family Parking.** The parking regulations and standards for multi-family residential use have also been amended to be consistent with the Housing Element programs and State Law, including: adding parking standards for disabled persons and senior housing, allowing for a parking reduction if housing low income households, eliminating non-tandem parking requirement and adding guest or management parking.
- **Other Revisions.** To provided consistency throughout the Zoning Ordinance and for consistency with State law, staff recommends amending other sections and divisions (including division 17.90 Definitions and Measurements).

C. ENVIRONMENTAL REVIEW (CEQA ANALYSIS)

An EIR, entitled the 2023-2031 Housing Element Implementation Project Environmental Impact Report, has been prepared by the City of Piedmont pursuant to the California Environmental Quality Act (CEQA). As discussed above, the Housing Element Implementation Project ("proposed project") includes amendments to the City of Piedmont's General Plan, amendments to Piedmont City Code Chapter 17, Planning and Land Use, implementation of State density bonus law and State SB 9 law, and future changes to implement the City's 2023-2031 Housing Element. The EIR evaluates potential environmental impacts associated with the proposed project, including construction facilitated by the proposed project, as well as construction facilitated by a program to prepare a specific plan in the Moraga Canyon Specific Plan (MCSP) Area.

The 2023-2031 Housing Element Implementation EIR consists of the Draft Environmental Impact Report (DEIR) published in November 2023, and the Final Environmental Impact Report (FEIR) published in January 2024. The FEIR is included as Attachment E and hyperlinked at the end of this report. The EIR is a Program EIR that studied maximum build-out of new housing units anticipated by the Housing Element. The Environmental Impact Analysis section examined potential impacts in State-defined environmental topic areas. Many of the proposed new and

amended General Plan policies and actions (summarized in the section above) address environmental impacts and effectively mitigate the impacts of the proposed project. A number of these new policies and actions were developed with the assistance of the DEIR consultants. The DEIR presented the following conclusions:

- No impacts related to agriculture, forestry, and mineral resources;
- Less than significant impacts related to aesthetics, air quality, biological resources, energy, hydrology, water quality, land use, planning, population, housing, public services, recreation, and tribal cultural resources;
- Potentially significant but mitigatable impacts related to geology and soils, and hazards and hazardous materials; and
- Significant and unavoidable impacts related to cultural resources, historical resources, greenhouse gas emissions, noise, wildfire, transportation, utilities, and service systems.

Under CEQA, prior to approving a project with a significant and unavoidable impact, the public agency must make specific CEQA findings and adopt a Statement of Overriding Considerations (“SOC”), finding that the overall benefits of the project outweigh the unavoidable impacts. In accordance with this requirement, staff has prepared CEQA findings, and a SOC, included as Exhibit A to the draft resolution to certify the EIR (Attachment A).

The SOC includes findings that support adoption of the 2023-2031 Housing Element Implementation project. The SOC determines that the significant unavoidable impacts are outweighed by the proposed Housing Element Implementation project’s benefits and are acceptable in light of the benefits of the proposed project, based on the findings below:

- The project fulfills the project objective to amend the General Plan for consistency with the adopted 6th Cycle 2023-2031 Housing Element and to accommodate the growth required by the State-mandated Regional Housing Needs Assessment (RHNA).
- The project would allow for the creation of a specific plan for the City-owned parcels in the Moraga Canyon area which would improve pedestrian, bicycle and vehicular safety in the Moraga Avenue roadway, improve wildfire safety related to access and evacuation planning, and facilitate the development of below-market-rate housing.
- The project would meet the state-mandated RHNA for the 6th Cycle Housing Element planning period of 2023-2031.
- The project would increase housing supply and mix of housing types, with the goal of improving housing affordability and equity in accordance with RHNA requirements.
- As noted in the Piedmont Housing Element, approximately 21.29 percent of Piedmont homeowners and 21.08 percent of renters are cost burdened, meaning they spend 30 percent or more of gross income on housing costs. Additionally, 12.5 percent of renters spend 50 percent or more of their income on housing, compared to about 8.4 percent of homeowners. The cost burden increases the vulnerability of residents. The project would contribute to the inclusive and equitable growth of the Bay Area region by promoting more housing, and more affordable

housing within the City, which would help reduce the percentage of cost burdened homeowners and renters within Piedmont.

- The project would promote the development of housing to accommodate projected economic and population growth in the region.
- The project would allow Piedmont to help combat (by promoting the development of affordable housing options within the City) the housing crisis in the Bay Area which, according to ABAG¹, has led to increased risk of displacement for hundreds of thousands of lower-income households across the Bay Area region.
- The project would promote the development of affordable housing which would have direct economic and public health benefits to low-income individuals within the city.
- The project reflects current community goals and preferences as identified during the public outreach process. The Housing Element Update was shaped by an extensive public outreach process that engaged the community and decision-makers. The Housing Element Update was developed with public input and consideration. According to former PUSD School Superintendent Randall Booker, "The cost of living in the Bay Area continues to burden teachers and School District staff, turning away new teachers, coaches and staff just starting their careers and leading experienced educators to leave the District for opportunities in places where their salaries go farther. Housing affordability is the largest cost of living burden (PUSD) teachers, coaches and other staff face every day." The project would increase the amount of affordable housing within the City so that District employees within Piedmont can afford to live in Piedmont.
- As reported in the San Jose Mercury News², in Alameda County, the number of unhoused people grew by 22 percent to 9,747 people between 2017 and 2022, the majority of whom live in or outside cars. The project would encourage additional housing development within the City which would help reduce the unhoused population within Piedmont and the greater Bay Area region.
- The project would further fair housing in Piedmont through new and amended General Plan goals, policies, and actions, and new and amended City Code regulations.
- The project would bring the General Plan and Zoning Ordinance into conformance with established and recently enacted State laws.
- The project will facilitate the development of housing with access to transit, jobs, services, and community benefits in a manner that distributes affordable and special needs housing, including housing in high resource neighborhoods, and affirmatively furthers fair housing.

After balancing the specific economic, legal, social, technological, and other benefits of the project alternatives, the proposed SOC determines that the unavoidable adverse environmental impacts identified may be considered acceptable due to the specific considerations listed above which outweigh the unavoidable, adverse environmental impact that will be caused by implementation of the proposed Housing Element Implementation project.

1 Association of Bay Area Governments (ABAG). 2021. Final Plan Bay Area 2050.

https://www.planbayarea.org/sites/default/files/documents/Plan_Bay_Area_2050_October_2021.pdf.

2 McCarthy, Will. 2023. "As Homelessness Grows, Alameda County Declares a State of Emergency".

<https://www.mercurynews.com/2023/09/22/as-homelessness-grows-alameda-county-declares-a-state-of-emergency/#:~:text=%E2%80%9CWe%20can't%20just%20allow,live%20in%20or%20outside%20cars.>

PUBLIC ENGAGEMENT AND CORRESPONDENCE

The 6th Cycle Housing Element adopted on March 20, 2023, was the culmination of 3 years of public engagement and public comment. In addition, in the months following March 2023, the City held six study sessions and staff briefings at public meetings of either the Planning Commission or City Council as described in an earlier section within this report. Public correspondence related to the 2023-2031 Housing Element Implementation project includes public comments received on the DEIR, public comment on proposed amendments to the General Plan and Zoning Ordinance, and public comments about the preparation of the Moraga Canyon Specific Plan (program 1.L of the 6th Cycle Housing Element). Public correspondence has been compiled and hyperlinked to this staff report as Attachment F, with the exception of comments on the DEIR which are included in the Final Environmental Impact Report, Attachment E. Comments about the Moraga Canyon Specific Plan have been forwarded to the Specific Plan consultants and decision-makers, and are provided for the reference to the City Council as the comments relate to the proposed General Plan and Zoning Code amendments also.

PLANNING COMMISSION DISCUSSION AND RECOMMENDATION

On January 29, 2024, the Planning Commission held a public hearing on the EIR, General Plan amendments and Zoning Ordinance amendments in compliance with State law and with the Piedmont City Code. The Planning Commission staff report and meeting minutes are posted to the City of Piedmont website and included in the staff report as hyperlinks. The Planning Commissioner received a presentation by City staff and consultants. Two members of the public addressed the Commission. After the close of the public comment portion, the Commissioners discussed permitted uses allowed by State law and those required by the City's Housing Element programs, proposed amendments to the parking regulations, duplexes and SB 9, short-term rentals, and the implication of the significant and unavoidable GHG impacts from future developments.

At the end of the discussion, the Commission unanimously approved a motion to (1) adopt a resolution to recommend that the City Council certify the 2023-2031 Housing Element Implementation Project Environmental Impact Report, make CEQA findings and adopt the SOC and mitigation monitoring and reporting program; (2) adopt a resolution to recommend that the City Council adopt the draft General Plan amendments with additional amendments to Figure 4.2 (map entitled "Road Widths"), Figure 4.4 (map entitled "Pedestrian Paths"), and Table 4.4 (list entitled "Piedmont's Pedestrian Paths") of the Transportation Element recommended during the staff presentation; and (3) adopt a resolution to recommend that the City Council adopt an ordinance amending the Piedmont City Code Chapter 17, Planning and Land Use ("Zoning Ordinance"). The meeting minutes is hyperlinked as Attachment J.

In addition to the Planning Commission recommendation, after further review of Zoning Ordinance division 17.30, Parking, staff recommends deleting section 17.30.010.B.3, to be consistent with Assembly Bill 1308 (AB 1308). Section 17.30.010.B.3, Single-Family Residential Use [All Zones] allows the addition of bedrooms so long as an applicant provides required parking spaces, including tandem and uncovered parking spaces. Implementation of AB 1308 supersedes the City's parking allowance in section 17.30.010.B.3. Furthermore, staff recommends a further amendment to the Parks, Recreation, and Open Space Element to note in the description of

Coaches Field / Kennelly Skate Park in the “Piedmont Parks in a Nutshell” section the following text “*Areas such as Blair Park Open Space and Coaches Field / Kennelly Skate Park are expected to change in the future pursuant to Housing Element program 1.L, Moraga Canyon Specific Plan.”

FISCAL IMPACT

Cities are obligated to expend resources needed to regulate development in compliance with both local goals and State law. Since May 2021, the City has expended approximately \$755,451 of General Fund revenues to the consultant team that completed the 6th Cycle Housing Element update and amendments to the Land Use Element, Natural Resources and Sustainability Element, and Environmental Hazards Element, and expended approximately \$402,758 of General Fund revenues to prepare the Housing Element Update Initial Study and Housing Element Implementation Project EIR. In addition to consultant costs, City staff including the Planning & Building Director, Senior Planner, and Associate Planner have focused staff time and resources on preparing the remaining General Plan amendments, preparing the Zoning Ordinance amendments, and reviewing the consultant team’s work products. Fiscal impacts to the General Fund have been offset by the following State and regional grants that were directed toward the Housing Element update: SB 2 award of \$160,000; Local Early Action Planning (LEAP) award of \$65,000; and Regional Early Action Planning (REAP) award of \$20,000. Going forward, the fiscal impacts of Housing Element Implementation, will be evaluated and presented to City Council as proposals and drafts are brought forward for City Council consideration on a project-by-project basis.

REVIEW BY CITY ATTORNEY

The proposed amendments to the City Code, the General Plan amendments, the ordinance, the resolutions, the EIR, and CEQA determinations have been reviewed.

CONCLUSION AND NEXT STEPS

Updating the General Plan and Zoning Ordinance is necessary to implement the 2023-2031 Housing Element. This update will ensure Piedmont provides housing options that meet the diverse needs of a welcoming and inclusive community, while also aligning with new State laws and providing greater clarity for residents, developers, and builders.

The City Council is the decision-making body for the adoption of amendments to the General Plan and City Code and for certification of the EIR. Should the Council approve a first reading of the recommended ordinance on February 20, 2024, a second reading could occur as soon as March 4, 2024, and the Code amendments would go into effect thirty days after that.

The proposed amendments to the General Plan and the Zoning Ordinance, and the associated EIR are critical milestones that fulfill the City's obligation to meet both Regional Housing Needs Allocation (RHNA) goals and State mandates within the stipulated timeframe set by the City’s Housing Element. These deliverables enable the City to responsibly plan for growth.

Staff recommends that the City Council receive the Planning Commission's recommendation and certify the 2023-2031 Housing Element Implementation Project Environmental Impact Report for the 6th Cycle Housing Element Implementation project, adopt CEQA findings, the SOC mitigation monitoring and reporting program, and amendments to the General Plan and Zoning Ordinance.

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ATTACHMENTS

Links Only

[A: Draft Resolution Certifying 2023-2031 Housing Element Implementation EIR, including Statement of Overriding Considerations \(Exhibit A\), CEQA findings, and mitigation monitoring and reporting program](#)

[B: Draft Resolution Approving Amendments to the General Plan \(Exhibit A- Redline Edits of the Draft General Plan Amendments\)](#)

[C: Draft Ordinance Amending Piedmont City Code Chapter 17, Planning and Land Use](#)

[D: Redline Edits of the Zoning Ordinance Amendments](#)

[E: Final Environmental Impact Report \(FEIR\)](#)

[F: Public Correspondence](#)

[G: CalFIRE Approval of Amendments to Environmental Hazards Element](#)

[H. Housing Element Programs associated with the Draft Zoning Ordinance Amendments](#)

[I. Summary List of New General Plan Policies](#)

[J. Meeting Minutes of the Planning Commission public hearing on January 29, 2024](#)

Links to Staff Reports, Meeting Videos and Other Associated Documents:

- [The Draft Environmental Impact Report for the 2023-2031 Housing Element Implementation Project](#)
- The City of Piedmont's [6th Cycle Housing Element](#)
- Study Session and Staff Briefings Reports: [October 9, 2023, Planning Commission;](#) [November 13, 2023, Planning Commission;](#) [November 20, City Council;](#) December

11,2023, Planning Commission ([Zoning Amendments](#) and [General Plan Amendments and DEIR](#)); [December 18, City Council](#); and [January 8](#) and [January 29, 2024, Planning Commission](#).

- Link to access the [meeting videos](#) of all study sessions and Planning Commission public hearing.