



## MEMORANDUM

DATE: March 14, 2016

TO: Planning Commission

FROM: Kevin Jackson, AICP, Interim Planning Director

SUBJECT: Introduction to Future Modifications to Chapter 17

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### AGENDA ITEM NUMBER 15

#### RECOMMENDATION:

Open the public hearing, take testimony from members of the public and provide comments and/or direction to staff concerning the scope of the City's plans to update the Chapter 17 of the Municipal Code (Zoning Code).

#### INTENT:

The intent of this report is to provide information to the Planning Commission and public on the status of planned updates to Chapter 17. Staff will outline the progress made thus far and propose an outline for making future progress toward completion of Phases III, IV and V of the project to revise the Zoning Code and Design Guidelines.

#### INTRODUCTION:

Following the adoption of the General Plan in 2009, and State certification of the Housing Element in 2011, the Planning Commission began hearings to consider changes to Chapter 17, the City's Zoning Ordinance. Because the Code amendments are extensive and complicated, the proposed changes have been divided into the following phases:

- Phase I – Complete rewrite of the Second Unit Code in compliance with Housing Element actions (**Completed in May 2012**);
- Phase II – Modifications to the Zoning Code in compliance with Housing Element actions, General Plan programs and changes in California Law (**Completed in December 2013**);
- Phase III – Modifications to Zoning Code to address resident comments, City Council and Planning Commission directives, and to clarify and streamline procedures;
- Phase IV – Reorganization of Chapter 17, including all the Phase I-III amendments, for easier navigation by staff, the Commission and members of the public; and
- Phase V – Rewrite of 1988 Design Guidelines to adjust to changes in technology and lifestyles, clarify the language (including elimination of the typos!), and to add new

guidelines for mixed uses, commercial uses, hillside developments, multi-family structures, non-residential signs, and wireless communications facilities.

The changes completed under Phase I and Phase II of the project were required in order to implement General Plan Actions and Housing Element Programs. The Phase III and Phase IV changes are intended to address comments received in the 2007 City-wide Resident Survey responses; to codify City Council and Planning Commission directives; and to make refinements to the Code provisions aimed at improving clarity and consistency, and streamlining application procedures. Phase V of the project targets the City's Residential Design Review Guidelines for an update and expansion.

Starting in 2010, the Planning Commission has held fifteen hearings concerning this project and other Zoning Code modifications:

- Four related just to Phase I second unit code changes (adopted by City Council in May 2012);
- Three related just to Phase II code changes (adopted by City Council in December 2013);
- Five to address specific topics related to Phase III code changes;
- One to consider a Bay-Friendly Landscaping Ordinance (NOT adopted by City Council in June 2012);
- One to consider a Marijuana Ordinance (adopted by City Council in February 2016); and
- One to address Phase V changes to the Residential Design Review Guidelines.

Please refer to Exhibit A, pages 9-11, for a summary of the completed Phases I and II.

In order to brief the Commission on the discussions and deliberations related to Phase III of the project, staff is providing summaries of the discussions below and the following ten exhibits.

**Staff report** to the Planning Commission, March 12, 2012, *New Technologies* (Exhibit G, separate);

**Minutes** (Abridged), March 12, 2012 Planning Commission meeting (Exhibit B, pages 11-12);

**Staff report** to the Planning Commission, June 11, 2012, *General Introduction to Phases II-V* (Exhibit H, separate);

**Minutes** (Abridged), June 11, 2012 Planning Commission meeting (Exhibit C, pages 13-15);

**Staff report** to the Planning Commission, July 9, 2012, *Private & Public Roadways* (Exhibit I, separate);

**Minutes** (Abridged), July 9, 2012 Planning Commission meeting (Exhibit D, pages 17-18);

**Staff report** to the Planning Commission, August 13, 2012, *Keeping Chickens* (Exhibit J, separate);

**Minutes** (Abridged), August 13, 2012 Planning Commission meeting (Exhibit E, pages 19-20);

**Staff report** to the Planning Commission, August 11, 2014, *Artificial Turf* (Exhibit K, separate);

**Minutes** (Abridged), August 11, 2014 Planning Commission meeting (Exhibit F, pages 21-22);

### Vision for Successful Completion

To achieve the goal of completing the Zoning Code revisions, staff will request that the City Council approve a contract with attorney Judith Robbins for the purpose of assisting staff in this task. Ms. Robbins has served as Deputy City Attorney in years past, assisted with the Phase I and Phase II code changes, knows Piedmont and its Code well, and has expertise in writing municipal codes. Staff plans to take that request to Council on March 21, 2016. Should Council award that contract, staff will ask the Planning Commission to discuss a variety of code changes during its regularly scheduled meetings in the months that follow. Ultimately, and if things go as envisioned, the Planning Commission will be asked to make a recommendation to the City Council to adopt Zoning Code changes before the end of the year.

### PHASE III – CHANGES TO ADDRESS RESIDENT COMMENTS, CITY COUNCIL AND PLANNING COMMISSION DIRECTIVES, AND TO CLARIFY AND STREAMLINE PROCEDURES (To Be Considered):

As summarized below, the Planning Commission held five hearings in 2012 and 2014 to discuss topics related to clarifying and streamlining the Zoning Code and to address new technologies and planning practices.

#### **New Technologies – March 12, 2012**

As noted in the staff report (Exhibit G, separate) and meeting minutes (Exhibit B, pages 11-12), the commission was presented information on four different modern technologies. During their discussion, the Commission provided the following directives:

- **Grey Water & Rain Water Systems** should be considered accessory structures and encouraged, but be visibly unobtrusive and be screened from view and be prohibited in front yard locations. Design review should not be required if the systems are located and screened under deck areas or if the system is in the range of 50 gallons or less.
- **Light-Colored & Reflective Roofs** should not be encouraged since evidence indicates that there are no energy saving benefits in climates similar to Piedmont and they can be visually intrusive to neighbors. Rubberized roof material should not be allowed on sloped roofs and should not be required to be painted a dark color because of maintenance issues. Make PVC type roofing exempt from design review provided that the roof is a dark color and there is visual concealment, e.g., behind a parapet. Staff should examine the feasibility/desirability of establishing a standard rating system to quantitatively differentiate between what constitutes "light" and "dark" colored roofs.
- **Tankless Water Heaters** should continue to be regulated under the existing City policy that makes exempt from design review installations in the interior of buildings and installations in enclosed exterior wall cavities, and discourages installations on exterior wall surfaces.
- **Electric Vehicle (EV) Chargers** should be encouraged to be located within garages and carports, and prohibited in locations within front yard setbacks and public right-of-ways.
- **Compressed Natural Gas (CNG) Chargers** should be differentiated from EV chargers.
- **Artificial Turf & Permeable Non-Vegetative Surfaces** (e.g.: pea gravel, decomposed granite, grass-crete or permeable pavers) should be considered Hardscape Surfaces (§17.2.35) and count toward Hardscape Surface coverage regulations.

#### **General Introduction to Phases II through V – June 11, 2012**

As noted in the staff report (Exhibit H, separate) and meeting minutes (Exhibit C, pages 13-15) the Commission and members of the public that addressed the Commission discussed various

generalized planning topics as well as specific code revisions. In sum the Commission provided the following directives:

- **The City's Design Review Guidelines** should include a photographic library of good designs to help applicants and architects understand what constitutes acceptable projects. The Guidelines should also include better illustrations and "before and after" design photos. The Guidelines should also clarify that the Housing Element's Program 2.C *Use of Original Materials and Construction Methods* does not apply to toxic materials (e.g.: asbestos).
- **Awnings, trellises, flower boxes and planters** should be exempt from coverage calculations, especially if they are located in rear yards.
- **Fees** for Variance and Design Review should be reduced or eliminated for one resubmitted application that follows a denial by the Planning Commission.
- **Additional Sidewalks** should be prioritized in the City's CIP Budget. The City should consider requiring applicants proposing construction projects exceeding a certain cost threshold to be required to install a sidewalk in locations where none exist.
- **Parking Space Dimensions** should be maintained at 9 feet by 20 feet for new house construction. However, conforming parking spaces for existing residences that have garages that accommodate two cars might be reduced to 8 feet by 17 feet.
- **Tandem Parking** might be considered as conforming if it results in less Hardscape Surface coverage.
- **Coverage and Floor Area Ratio** percentages that exceed Zoning Code limits should be allowed for the addition of modern living Space amenities to homes on small lots that are already in excess of these limits.

#### **Private and Public Roadways – July 9, 2012**

As noted in the staff report (Exhibit I, separate) and meeting minutes (Exhibit D, pages 17-18) the Commission and members of the public that addressed the Commission discussed proposed changes to the definitions and regulations of public and private vehicular roadways under the City's Zoning Code (Chapter 17), especially secondary vehicular accessways such as alleys, lanes and driveways that serve three or more properties. As part of her presentation the City Planner recommended that the current 20 foot side/rear street setback requirement should be reduced to 4 feet when secondary roadways are adjacent to rear or side yards. This would modification would:

1. Allow property owners the same opportunity to construct fences and garages in locations utilized by other properties that do not border secondary roadways (on the property line for fences and 4 feet from the property line for structures);
2. Reduce the need and expense for variance applications; and
3. Provide the standard 4 foot setback protection to neighboring properties. The 20 foot setback requirement would be retained for properties that "front" on a secondary passageway to preserve the City's open streetscapes.

In response the Commission provided the following directives:

- **The City's driveway and turnaround policies** should apply to proposed garages adjacent to secondary passageways to insure safe and functional garage ingress and egress.
- **The legal difference in code applicability** between private driveways and public alleyways should be determined and clarified by the City Attorney.
- **The burden of proof** must be provided by the applicant in demonstrating that his/her project is consistent with the development and aesthetic standards of the neighborhood.

- **The number of variance applications** that were required in connection with proposed construction adjacent to secondary roadways should be provided to the City Council in connection with the presentation of this matter.
- **The definition of fences** should clarify that fences adjacent to vehicle access passageways are rear or side yard fences.
- **The storage and placement of trash and recycling containers** off of secondary roadways should be addressed in the City's Design Review Guidelines.

### **The Keeping of Chickens – August 13, 2012**

As noted in the staff report (Exhibit J, separate) and meeting minutes (Exhibit E, pages 19-20) possible changes related to the keeping of chickens. Following the submittal of a petition signed by 26 Piedmont residents and requesting that the Commission develop code amendments aimed at regulating the keeping of chickens within City limits, the Planning Commission received testimony from members of the public and engaged in a discussion of the issue and possible code changes relating to chickens and provided the following directive:

- **Chicken-related regulations** should not be incorporated into Chapter 17 because the City's current animal control related laws are sufficient to address complaints. However, individual commissioners provided the following related comments:
  - The number of chickens that can be housed on a property and the location of coops and runs should be regulated by Animal Control. Residents who desire more than 5 to 8 chickens should be required to obtain a permit from the City and the consent of adjoining neighbors.
  - A record of chicken-related incidents and complaints should be maintained by the City's Animal Control Officer.
  - This matter might be revisited in the future if more public input is received.

### **Artificial Turf – August 11, 2014**

As noted in the staff report (Exhibit K, separate) and meeting minutes (Exhibit F, pages 21-22) the Commission received testimony from members of the public and engaged in a discussion regarding artificial turf, including the advantages, disadvantages and current technologies as well as aesthetic and environmental considerations. Staff provided samples of the various artificial turf products as well as copies of the Commission's March 12, 2012 consideration of the subject. By unanimous resolution, the Planning Commission provided staff with the following directives:

- **The existing policy and regulations regarding artificial turf should remain unchanged**, with the acknowledgement that since advancements in product quality and technology can be expected in the future, the Commission might revisit this issue in two years or when the City's Design Review Guidelines (City Code Phase III) are updated.
- **The prohibition of artificial turf within front yards** regardless of the setback should be considered during the upcoming City Code Phase III review.
- **The installation of artificial turf in rear yards** that are not visible from the street should be allowed, with such installations subject to the Code's hardscape limitations and building permit requirements but without requiring design review;
- **The Planning Commission's full discretionary approval or disapproval** over the use of artificial turf should be retained.

## Additional Topics for Consideration in Phase III Revisions

In addition to the topics it has already discussed as outlined above, the Commission might also want to consider other revisions to the Code. Some suggested topics include:

### Short Term Rentals

In September 2015 the City Council unanimously determined that Short Term Rentals should be prohibited in Second Units and apartments and that home swaps not be regulated. The Council also directed the Planning Commission to make a recommendation regarding the regulation of both hosted and unhosted Short Term Rentals in primary residences. In November 2015, the Commission made a recommendation to Council that all Short Term Rentals in Piedmont be prohibited due to the adverse impact such rentals have on neighboring properties. Once the Council receives the Commission's recommendation and directs staff to incorporate regulations into the Zoning Code per its instructions. This very well may occur during the same time period that the Commission is considering the Phase II revisions. If it does, staff will fold the regulations for Short Term Rentals into this project.

### Wireless Communication Facilities

Staff has been working with the City Attorney to revise Chapter 17G of the Municipal Code, which governs Wireless Communications Facilities. The intent is to better address the processing of such applications in response to recent federal and state regulations, current technologies including small cell sites in the public rights-of-way, and to develop better criteria for the review of the facilities. It is staff's intent to include these proposed revisions in the other Phase III updates and move the regulations from Chapter 17G to Chapter 17 as part of Phase IV revisions.

### Secondary Structures

These subordinate elements are practically never disapproved by the Planning Commission. The Commission may want to consider redefining them as "landscape or site elements" that, depending on their location relative to the street and setbacks, would only require staff or administrative design review or be exempt from design review. Defining them as something other than structure could eliminate them from being counted toward coverage calculations.

### Setbacks

Currently setbacks are measured to the closest point of a structure, including eaves, awnings, entry steps and other similar features. Rarely is a variance from setback requirements for such a feature disapproved by the Planning Commission. The Commission may want to consider modifying the Code so that setbacks are measured to the exterior wall, so that eaves and other features that project a maximum distance from the wall (e.g.: 3 feet) or steps and landings that stand a maximum dimension from grade (e.g.: 3 feet) could be located within setback areas. This change might better fit with the current built environment in Piedmont.

### For-Profit Enterprises in Zone B

Currently only public agencies and nonprofit enterprises are permitted in City buildings in Zone B. The Commission may want to consider allowing for-profit enterprises that provide a valuable service to City residents to be located in Zone B as a Conditional Use. A local newspaper or child care center might fit this criteria.

### Compact Parking Spaces in Zone E

Currently, in Zone A one of every three required parking spaces may be for a compact car and in Zones B, C and D one of every four required parking spaces may be for a compact car. Conforming compact parking spaces measure 7.5 feet by 16 feet. The Commission may want to consider allowing the third required parking space in Zone E to be for a compact car.

### Features Exempt from Design Review

Currently, there are 22 categories of features that are exempt from design review. Features that are almost always approved by staff and the Planning Commission that the Commission might want to consider making exempt from design review are: cementitious wall materials that match the original wood materials; automatic pool covers that are less than 12 inches above the pool patio surface;

### “Retrofit” Windows

Currently, frame-inside-frame “retrofit” window replacements are allowed but oftentimes the result is an obvious inconsistency with the original architecture or a window that does not match adjacent original windows, in that the window sits closer to the exterior wall surface (no “reveal”) and/or the frame appears unusually thick. The Commission may want to consider revising the City’s Window Replacement Policy to discourage this type of window replacement. Alternatively, the Commission might consider a minimum “reveal” dimension.

### PHASE IV – REORGANIZATION OF CHAPTER 17 (To Be Considered):

As noted on page 1 of this report, Phase IV of the project is the reorganization of Chapter 17, including all the Phase I-III amendments, for easier navigation by staff, the Commission and members of the public. As part of this phase of the project, staff has the following recommendations:

- To complete the Phase IV reorganization simultaneously with Phase III revisions.
- Institute an entire reorganization of the zoning related provisions of the Municipal Code, including Chapters 17, 17B (Home Occupation), 17E (Development Agreements), 17F (Disclosure Statement, perhaps), and 17G (Wireless Communication Facilities). These will be integrated into a newly revised Chapter 17.
- Other Code Chapters may be evaluated for incorporation into other appropriate chapters, such as Ch. 17A (Building Sewers), Ch. 17C (Public Safety Service Charge); or for elimination, such as Ch. 16 (private schools).
- Institute an updated numbering system to reflect the style used in most modern codes. This updated numbering and reorganization will make the zoning provisions more readable, user friendly, and will facilitate the logical placement of future amendments.
- Where appropriate, the Phase IV revisions will also include non-substantive changes to update the language of the code, using less legalese and more plain English.

PHASE V – UPDATE AND EXPAND DESIGN REVIEW GUIDELINES (To Be Considered):

Concurrent with the Phase III and IV revisions to the Zoning Code, staff is proposing to revise and update the City’s *Residential Design Review Guidelines*, which were adopted in 1988 and have remained unchanged since then. A number of the Code changes will be dependant on the Guidelines, including the changes to address multi-use construction and wireless communications facilities. Thus, there is the need for project synchronicity. More information about Phase V of the project is included in the separate report provided to the Commission during tonight’s meeting.

CONCLUSION:

There are many reasons to make amendments to Chapter 17. Some revisions are mandatory in order to stay in compliance with the General Plan and Housing Element. Other revisions are voluntary but equally important to improving planning services in the city. In the preparation of this report, staff wished to remind the Commission and public of the objectives that have been previously stated, published and/or completed; summarize the directives provided by the Commission during past discussions; encourage the identification of new objectives that may not have been previously identified and discussed; and outline a path to achieve the objectives before us.

During the coming months there will be multiple opportunities for public input, and staff will continue to try to reach out to as many Piedmonters as possible. Staff has already assembled a list of residents who wish to receive notices and staff reports directly via email. Anybody who wishes to be added to the list may contact the planning office by calling 510-420-3039 or by emailing me at [kjackson@ci.piedmont.ca.us](mailto:kjackson@ci.piedmont.ca.us). As this project gets underway once again, there will be a specific link on the City’s website.

It is anticipated that the hearings related to this project will occur at regularly scheduled Planning Commission meetings, but it may not be discussed at each monthly Commission meeting due to fluctuations in planning application volumes, other large projects that demand staff attention, and/or staffing levels.

ATTACHMENTS:

Exhibit A	Pages 9-10	Summaries of Completed Phases of the Project.
Exhibit B	Pages 11-12	Abridged Minutes, March 12, 2012 Planning Commission Meeting
Exhibit C	Pages 13-15	Abridged Minutes, June 11, 2012 Planning Commission Meeting
Exhibit D	Pages 17-18	Abridged Minutes, July 9, 2012 Planning Commission Meeting
Exhibit E	Pages 19-20	Abridged Minutes, August 13, 2012 Planning Commission Meeting
Exhibit F	Pages 21-22	Abridged Minutes, August 11, 2014 Planning Commission Meeting
Exhibit G	Separate	<i>New Technologies</i> Staff Report, March 12, 2012
Exhibit H	Separate	<i>General Introduction to Phases II-V</i> Staff Report, June 11, 2012
Exhibit I	Separate	<i>Private and Public Roadways</i> Staff Report, July 9, 2012
Exhibit J	Separate	<i>Keeping Chickens</i> Staff Report, August 13, 2012
Exhibit K	Separate	<i>Artificial Turf</i> Staff Report, August 11, 2012



## Summaries of the Completed Phases of the Project

### PHASE I – CHANGES TO SECOND UNIT PROVISIONS (COMPLETED):

One of the first and most important actions required to be made were changes to the Second Unit Code (previously Chapter 17D) in order to implement several Housing Element and General Plan Actions. The Planning Commission and City Council held a sequence of hearings that resulted in a completely new Section (17.40) in Chapter 17 related to second units and rented rooms<sup>1</sup>.

Some of the more substantive changes include provisions aimed at encouraging more units at the extremely low income and low income levels (since there were no units at those levels in the City); re-allowing exempt units constructed prior to 1930 and relaxing the standards of proof; permitting owners to rent rooms; and eliminating the need for a parking variance if the parking spaces for the main residence are substandard in size. Since the ordinance went into effect in May of 2012, twenty-four new second units have been approved:

- Two very low income units with unit size and parking exceptions;
- Three very low income units with parking exceptions;
- Two low income units (directly resulting from the Code changes);
- Six exempt units (directly resulting from the Code changes); and
- Eleven ministerial units (including two that took advantage of the Code change permitting a FAR exemption for second units approved in connection with an approval of a new residence).

### PHASE II – CHANGES FOR GENERAL PLAN, HOUSING ELEMENT AND LEGISLATIVE COMPLIANCE (COMPLETED):

In addition to the second unit changes, the General Plan and Housing Element contain other mandatory programs and actions not related to second units that needed to be addressed through modifications to the Zoning Code. Separately, several changes in California law needed to be addressed through Code changes. The Planning Commission and City Council held a sequence of hearings that resulted in revisions to Chapter 17 related to the Phase II Code changes<sup>2</sup>. The adopted Code changes include the following:

**Reasonable Accommodation** (required by California law) – The elimination of barriers to property improvements necessary to accommodate individuals with disabilities.

**Parking** (required by GP and HE) – Permit one parking space for dwelling units that are 700 square feet or less in Zones B, C and D, in addition to Zones A and E. The change extended this provisions to all zones in Piedmont.

**Mixed Use Residential and Commercial Uses** (required by GP and HE) – The revision added a

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1. 11/14/11 - Introduction and history of second unit codes and approval procedures; 12/12/11- Analysis of Alameda County income levels, and characteristics of existing second units (size, type and rent); 1/9/12 - Conflicts between second units, rented rooms and rooming houses; 2/13/12 - Review and recommendation on proposed Code changes; 3/19/12 - City Council action and first reading of proposed Code changes; 4/2/12 - City Council second reading of proposed Code changes
  2. 9/9/13 - Introduction to Phase II revisions; 9/30/13- Special Session of Planning Commission to discuss Phase II revisions; 10/11/13 – Planning Commission makes recommendation to City Council regarding Phase II revisions; 11/18/13 - City Council action and first reading of proposed Phase II Code changes; 12/2/13 - City Council second reading of proposed Phase II Code changes

definition of Mixed Use Commercial/Residential category to the Code and added it as a conditionally permitted use in the City's commercial zone (Zone D).

**Multi-Family Residential Incentives** (required by GP and HE) – The Code was revised to encourage multi-family housing in three ways:

1. In Zone D, the structure coverage limit was increased from 25% to 50% for two story mixed use residential and commercial buildings;
2. In Zone C, the structure coverage limit was increased from 40% to 50% for all multi-family residential developments, regardless of the affordability of the units; and
3. A minimum density standard of 12 units per net acre for new multi-family developments in Zone C and mixed use residential and commercial developments in Zone D was adopted.

**Conditional Use Permits (required by California law)** - The CUP provisions in the Code were modified to eliminate the automatic expiration provision and be replaced with a “review” process that enables the City to schedule a future CUP revocation hearing if the business is violating one or more of the terms of their application (such as the hours of operation, number of employees, etc.), or is violating one or more of the conditions of approval.

**Emergency Shelter and Supportive and Transitional Housing** (required by California law; GP and HE) – The Code was modified to define transitional housing and allow transitional housing, emergency shelters and supportive housing as a permitted use in Zone B, rather than as a conditional use.

**Lot Sizes** (required by GP and HE) – The Code was changed in two ways regarding lot sizes: The Code was changed to permit 8,000 square foot lots with 60 feet of frontage in lieu of the Zone A requirement of 10,000 square feet and 90 feet of frontage if the prevailing lot size within 500 feet is 8,000 square feet or less.

To preserve a few of Piedmont's smaller residences so that the City has a range of housing sizes and prices, the Code was changed to state that variances for floor area ratio, lot coverage and parking should be “discouraged” for residences with 1,800 square feet or fewer.

**Bicycle Racks** (Pedestrian and Bicycle Master Plan and Climate Action Plan) – The Code was revised to permit bike racks in the non-single-family residential zones without counting toward the lot coverage standards of those zones.

**Security Cameras at Residences** (Multiple Resident Requests) – The Code was amended to make the installation of security cameras on the exteriors of residences exempt from design review.

## PIEDMONT PLANNING COMMISSION

### Special and Regular Meeting Minutes for Monday, March 12, 2012 - ABRIDGED

A Special and Regular Session of the Piedmont Planning Commission was held March 12, 2012, 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 March 2, 2012.

#### CALL TO ORDER

Chairman Henn called the regular session to order at 6:05 p.m.

#### ROLL CALL

Present: Commissioners Michael Henn, Jim Kellogg, Melanie Robertson and Alternate Commissioner Tom Zhang

Absent: Commissioners Phillip Chase and Clark Thiel (both excused)

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

#### REGULAR CALENDAR

The Commission considered the following items of regular business:

##### **Consideration of Possible Changes to Chapter 17 and Residential Design Guidelines**

In accordance with recommendations and program objectives contained in the City's Climate Action Plan as well as recommendations by the City's Environmental Task Force, the City Planner requested the Commission to initiate a series of public hearings and discussions on possible revisions to Chapter 17 and the City's Residential Design Guidelines to bring these regulations into compliance with the aforementioned recommendations. She suggested that tonight's consideration focus on new "green" construction technologies that are not specifically addressed under the current code or design guidelines. The Commission provided the following input:

##### Grey Water & Rain Water Systems

- should be encouraged;
- such installations should be visibly unobtrusive if they are located within setbacks or visible to neighbors;
- should be screened from view;
- if rain collection devices are located and screened under deck areas, they should be exempt from design review;
- a minimum size threshold should be set wherein no City approvals are necessary, e.g., 50 gallons or less;
- treat such installations like accessory structures;
- front yard locations should be prohibited;

##### Light Colored & Reflective Roofs

- don't encourage light colored roofs since evidence indicates that there are no energy saving benefits in climates similar to Piedmont and they can be visually intrusive to neighbors;
- don't require rubberized roof material to be painted a dark color because of maintenance issues;
- exempt PVC type roofing on flat and low-sloping roofs from design review, provided that the roof is a dark color and there is visual concealment, e.g., behind a parapet;

- don't allow rubberized roof surfaces to be applied to sloped roofs;
- examine the feasibility/desirability of establishing a standard reflectivity percentage or number by which to quantitatively differentiate between what constitutes "light" and "dark" colored roofs;

Tankless Water Heaters & EV/CNG Vehicle Charging Stations

- existing tankless water heating regulations are fine as written;
- encourage EV chargers to be located within garages;
- don't allow EV chargers within front setbacks or in-ground within public right-of-ways;
- differentiate between EV and CNG chargers

Artificial Turf & Permeable Non-Vegetative Surfaces

- count as hardscape

There was no **public testimony** on this matter. **Correspondence** was received from: Margaret Ovenden

**PIEDMONT PLANNING COMMISSION**

Regular Meeting Minutes for Monday, June 11, 2012 – ABRIDGED

A Regular Session of the Piedmont Planning Commission was held June 11, 2012, 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 June 1, 2012.

**CALL TO ORDER**

Chairman Chase called the meeting to order at 5:00 p.m. It was noted that Agenda Item #6 (Variance/Design Review, 120 Ronada Avenue) had been withdrawn from tonight's consideration.

**ROLL CALL**

Present: Commissioners Phillip Chase, Michael Henn, Jim Kellogg, Melanie Robertson, Tom Zhang and Alternate Commissioner Susan Ode

Staff: City Planner Kate Black, Assistant Planner Kevin Jackson, Planning Technicians Sylvia Toruno and Jennifer Feeley and Recording Secretary Chris Harbert

City Council Liaison: Councilmember Robert McBain

**REGULAR CALENDAR**

The Commission considered the following items of regular business:

**Chapter 17  
Rewrite**

The City Planner presented an introduction to a comprehensive set of revisions to Chapter 17 (the City's Zoning Code) that will be considered in upcoming Planning Commission and City Council hearings. The purpose of the proposed revisions is to:

- implement General Plan Actions and Housing Element Programs;
- address comments received in the 2007 General Plan Survey;
- codify City Council and Planning Commission directives;
- include certain refinements to the Code provisions aimed at improving clarity and consistency; and
- streamline application procedures

**Public testimony** was received from: William Blackwell, Margaret Ovenden, Justis Fennell, Rick Schiller, John Malick

The Commission and speakers discussed various planning topics in general as well as specific code revisions in a work session format. The following suggestions from speakers were made during the session:

**Bay-Friendly Landscaping:**

- should be adopted as a "guideline" rather than an ordinance;
- include provisions to prevent developers from artificially setting project boundaries different from site boundaries so as to avoid compliance thresholds;
- clarify the differences pertaining to properties in Zone B from other property zones

**General Issues:**

- the Zone B section of the code should more clearly delineated "permitted uses;"
- specify in Zone B minimum sidewalk and driveway widths and number and sizes of off-street parking spaces;
- the statement "ADA compliance is required for all public facilities" should be included in the code;
- the need for the proposed new Zone F should be explained;
- the impact from "noise" should be specifically added to the Design Review Guidelines' current statement regarding *neighboring properties' existing views, privacy and access to direct and indirect light*;
- support and encourage green building technologies;
- encourage and support convenient locations for electric car charging stations;
- encourage "constructive dialogue pre-meetings" with staff (as opposed to a pro forma recitation of the design review guidelines) prior to applications being considered by the Commission to increase the likelihood that applications can be approved at the first hearing -- collaborative efforts between applicants, staff & Commission produce the best designs. The Commission's practice of one hearing and "you're denied" is both frustrating and expensive for homeowners and discourages remodeling;
- exempt awnings and flower boxes from coverage calculations;
- exempt tankless water heaters from being considered as "exterior plumbing"
- allow duplexes on lots with over 10,000 sq. ft. in Zone A to help meet the City's housing requirements;

**Parking:**

- allow second unit parking exemptions to be granted when there are no adverse impacts on neighbors;
- reconsider the effectiveness and appropriateness of connecting bedroom counts to off-street parking numbers -- zoning should not be used to solve traffic/parking management problems.
- consider instituting an on-street parking permit fee program as a means of encouraging residents to use garages as well as generate a source of additional revenue to the City;

**General Plan Action Items:**

- focus attention on implementing *Safe Routes to School* now that seismic upgrades to school facilities has been completed. Develop a systematic plan for designating safe routes to each school site (Action 10.D).
- combine efforts related to *Safe Routes to School* with *Additional Sidewalks* (Action 10.B) and *Bicycle Plan* (Action 10.E) as a means of improving pedestrian safety in Piedmont and reducing greenhouse gas emissions by encouraging more residents to walk or bike to destinations;

**Commission Suggested Revisions:**

- expand the City's photographic library of good designs to help applicants/architects understand what constitutes acceptable projects;
- include better illustrations as well as "before and after" design photos in the City's Design Review Guidelines;
- exempt awnings, trellises and flower boxes/planters from coverage calculations, especially if located in rear yards;
- if an application is denied, allow one resubmittal to be filed with a no or reduced fee;
- put a high priority on *Additional Sidewalks* (Action 10.B) in the City's CIP Budget and consider requiring applicants proposing construction projects exceeding a certain cost threshold to be required to install a sidewalk;
- maintain the existing parking dimension of 9 by 20 ft. for new house construction but accept as "conforming parking" compact spaces measuring 8 ft. by 17 ft. for existing residences that have garages that accommodate two cars;
- consider allowing tandem parking if it results in less property hardscape
- allow the addition of modern living space amenities to homes on small lots that already exceed coverage and floor area ratio limits (Action 28.3(b));
- clarify in the Design Review Guidelines that the Housing Element's Program 2.C *Use of Original Materials and Construction Methods* does not apply to toxic materials, such as asbestos, etc.;

In addition, Commissioner Zhang recommended the establishment of a task force to address issues/concerns raised in the 2007 *Citywide Residential Survey* and propose recommendations to the Commission.

**ADJOURNMENT**

There being no further business, Chairman Chase adjourned the meeting at 10:10 p.m.

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PIEDMONT PLANNING COMMISSION

Regular Meeting Minutes for Monday, July 9, 2012 – ABRIDGED

A Regular Session of the Piedmont Planning Commission was held July 9, 2012, 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 August 31, 2012.

**CALL TO ORDER**

Chairman Chase called the meeting to order at 5:00 p.m. He announced that Agenda Item #8 (Conditional Use Permit, 1345 Grand Avenue) has been withdrawn from tonight's consideration.

**ROLL CALL**

Present: Commissioners Phillip Chase, Michael Henn, Jim Kellogg, Melanie Robertson, Tom Zhang and Alternate Commissioner Susan Ode

Staff: City Planner Kate Black, Assistant Planner Kevin Jackson, Planning Technicians Sylvia Toruno and Jennifer Feeley and Recording Secretary Chris Harbert

**REGULAR CALENDAR**

The Commission considered the following items of regular business:

**Chapter 17  
Rewrite**

As introduced at the Commission's June meeting, the City Planner requested public and Commission input regarding proposed changes to the definitions and regulations of public and private vehicular roadways under the City's Zoning Code (Chapter 17), especially secondary vehicular accessways such as alleys, lanes and driveways that serve three or more properties. She provided a location map of the 24 public/semi-public and private accessways identified by staff, noting the possibility that there may be more. The City Planner outlined staff's opinion that the current 20 ft. street-side setback requirement should be reduced to 4 ft. when secondary passageways are adjacent to rear or side yards. This would modification would: (1) allow property owners the same opportunity to construct fences and garages in locations utilized by other properties that do not border secondary passageways (on the property line for fences and 4 ft. from the property line for structures); (2) reduce the need and expense for variance applications; and (3) provide the standard 4 ft. setback protection to neighboring properties. The 20 ft. setback requirement would be retained for properties that "front" on a secondary passageway to preserve the City's open streetscapes.

**Correspondence** was received from: Linda Roodhouse

**Public testimony** was received from:

Grier Graff supported staff's recommendation. He also suggested that Chapter 17 be modified to provide for a lower variance fee in instances wherein proposed construction is consistent with the neighborhood's standard setback alignment, stressing that the City's variance fee can be quite onerous on applicants.

The Commission supported staff's recommendation, requesting that proposed code amendments consider the following:

- proposed garages adjacent to secondary passageways be required to comply with the City's driveway/turnaround radius template to insure safe and functional garage ingress/egress;
- request the City Attorney to determine if there is any legal difference in code applicability to private driveways versus public alleyways;
- require the applicant to provide the burden of proof that his/her project is consistent with the development and aesthetic standards of the neighborhood;
- provide in connection with the presentation of this matter to the City Council, the number of variance applications that were required in connection with proposed construction adjacent to secondary passageways;
- include appropriate definitions to clarify that fences adjacent to vehicle access passageways are rear or side yard fences;

As a side issue, the Commission suggested that the City's Design Review Guidelines be revised to address issues relating to the storage and placement of trash and recycling containers off of secondary passageways.

**ADJOURNMENT**

There being no further business, Chairman Chase adjourned the meeting at 9:15 p.m.

## PIEDMONT PLANNING COMMISSION

### Regular Meeting Minutes for Monday, August 13, 2012 – ABRIDGED

A Regular Session of the Piedmont Planning Commission was held August 13, 2012, 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 August 3, 2012.

**CALL TO ORDER**

Vice Chairman Zhang called the meeting to order at 5:05 p.m.

**ROLL CALL**

Present: Commissioners Michael Henn, Jim Kellogg, Melanie Robertson, Tom Zhang and Alternate Commissioner Susan Ode

Absent: Chairman Phillip Chase (excused)

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

City Council Liaison: Councilmember Robert McBain

**REGULAR CALENDAR**

The Commission considered the following items of regular business:

**Chapter 17  
Rewrite**

As introduced at the Commission's June meeting and discussed at the July meeting, the City Planner requested public and Commission input regarding proposed changes to Chapter 17, with tonight's focus on possible changes related to the keeping of chickens. She stated that Ms. Martha Bureau of 140 Wildwood Avenue has submitted a petition signed by 26 residents and neighbors supporting her request that the Commission develop code amendments aimed at regulating the keeping of chickens within City limits.

**Correspondence** was received from: Tom Curran; Martha Bureau; Frank & Lesley Yeary; Philip Chase; Helen Danhaki; Eleanor Gordon;

**Public testimony** was received from:

Colby Lavin, Bill Essert, Erich Horn and Jan Matsuno, all urged that Chapter 17 not be amended to include regulations/restrictions on the keeping of chickens. They stressed the benefits raising chickens can provide as pets and learning experiences/responsibilities for children, garden advantages in terms of less bugs/weeds and providing organic fertilizer components for composting and providing a more green lifestyle for residents by consuming green food waste as well as providing fresh eggs. They felt that the City's existing regulations regarding noise are sufficient to control any impacts and stressed that chickens are no more noisy or disease carriers than dogs or cats.

Stephen Lee requested that regulations be established limiting the number of chickens a resident can have as well as requiring that chicken coops/runs be at least 20 ft. away from adjoining property. He cited problems encountered with his chicken-owning neighbor in terms of smell, noise and chicken encroachment onto his property.

The Commission did not support amending Chapter 17 to incorporate chicken-related regulations, believing that the City's current animal control related laws are sufficient to address complaints. However, Commissioner Henn supported Animal Control related regulations limiting the number of chickens that can be housed on a property as well as regulating the location of coops and runs. He suggested that residents who desire more than 5 to 8 chickens be required to obtain a permit from the City and the consent of adjoining neighbors. Vice Chairman Zhang suggested that the City's Animal Control Officer be requested to keep a record of chicken-related incidents/complaints, with Commissioner Robertson suggesting that this matter be revisited in the future if more public input is received.

**ADJOURNMENT**

There being no further business, Vice Chairman Zhang adjourned the meeting at 12:20 a.m.

## PIEDMONT PLANNING COMMISSION

### Regular Meeting Minutes for Monday, August 11, 2014 - ABRIDGED

A Regular Session of the Piedmont Planning Commission was held August 11, 2014, 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 July 18, 2014.

#### **CALL TO ORDER**

Vice Chairman Theophilos called the meeting to order at 5:00 p.m. He announced that Agenda Item #5 (Design Review, 218 Bonita Avenue) has been withdrawn from tonight's consideration.

#### **ROLL CALL**

Present: Commissioners Phillip Chase, Louise Simpson, Tony Theophilos, Tom Zhang and Alternate Commissioner Eric Behrens

Absent: Chairman Susan Ode (excused)

Staff: City Planner Kate Black, Assistant Planner Kevin Jackson, Planning Technicians Jennifer Gavin, Janet Chang and Lauren Seyda and Recording Secretary Chris Harbert

#### **REGULAR CALENDAR**

The Commission considered the following items of regular business:

##### **Artificial Turf**

Per Commission direction of July 14th, the Commission engaged in a discussion regarding artificial turf, including the advantages, disadvantages and current technologies as well as aesthetic and environmental considerations. Staff provided samples of the various artificial turf products as well as copies of the Commission's 2012 consideration of the subject.

**Correspondence** was received from: Hope Salzer

**Public testimony** was received from:

Margaret Ovenden and Lori Taylor voiced their opposition to allowing artificial turf, citing the following reasons: (i) health impacts caused by the turf's toxic materials and chemical cleaning processes; (ii) the non-permeable nature of the surface; (iii) the likelihood over time that the product's infill material will eventually flow into the City's storm drain system; (iv) the elimination of natural habitat for beneficial soil microbes, insects, bees, etc.; (v) the non-recyclable nature of the product; (vi) concern over product fading and disintegration over time which would negatively impact the City's aesthetics; (vii) the existence of more preferable Bay Friendly Landscape alternatives for responding to California's drought situation; and (viii) potential injuries to children who play on such surfaces.

Jon Breslaw displayed his own sample of artificial turf in emphasizing the natural grass look of the product and voiced his support of such installations in lieu of the current unattractive appearance of brown and dying lawns. He countered that there is no evidence of health issues involved with such surfaces and stated that his sample is installed over a gravel base with holes and seams to promote water permeability into the soil.

The Commission supported retaining the City's current regulations regarding artificial turf installations, believing that the Code strikes an appropriate balance with regard to such installations by considering such products as "hardscape," limiting the amount of such coverage and prohibiting artificial turf within front

setbacks and parking strips. The Commission noted that given the wide range of product quality and the variation in appearance from very artificial-looking to natural grass-like, it would be very difficult to regulate/standardize front yard aesthetics and thus preserve Piedmont's natural beauty.

**Resolution 18-PL-14**

RESOLVED, that the Planning Commission provides staff with the following direction concerning artificial turf surfaces:

- retain the City's existing policy and regulations regarding artificial turf, with the acknowledgement that since advancements in product quality and technology can be expected in the future, the Commission revisit this issue in two years or when the City's Design Review Guidelines (City Code Phase III) are updated;
- during the upcoming City Code Phase III review, consideration be given to prohibiting artificial turf within front yards regardless of the setback;
- continue allowing the installation of artificial turf in rear yards that are not visible from the street, with such installations subject to the Code's hardscape limitations and building permit requirements but without requiring design review;
- retain Planning Commission full discretionary approval or disapproval over the use of artificial turf.

Moved by Chase, Seconded by Simpson

Ayes: Chase, Simpson, Theophilos, Zhang, Behrens

Noes: None

Absent: Ode

The Commission also suggested that since tonight's staff report was very informative on the issue of artificial turf, it be placed on the City's website to help educate residents and generate public input on this issue.

**ADJOURNMENT**

There being no further business, Vice Chairman Theophilos adjourned the meeting at 6:30 p.m.