

**CITY OF PIEDMONT
COUNCIL AGENDA REPORT**

MEETING DATE: October 18, 2010

FROM: Barry Miller, Planning Consultant
 Kate Black, City Planner

SUBJECT: Housing Element Update

RECOMMENDATION:

Accept this informational report on the Piedmont Housing Element, and provide feedback to Staff on possible responses to the comment letter from the State Department of Housing and Community Development.

INTRODUCTION:

The City of Piedmont has updated the Housing Element of its General Plan. Pursuant to State law, an Administrative Draft of the Housing Element was submitted to the State Department of Housing and Community Development (HCD) on March 25, 2010 for their preliminary review. Comments from the state were received on May 25, 2010. An Addendum to the Element was prepared in response to the State comments. The Draft and the Addendum were considered by the Planning Commission at two hearings (July 12 and August 7 2010) and by the City Council at one hearing (September 7, 2010). The Council continued the September 7 hearing to a future date, pending receipt of HCD's response to the City's revisions.

HCD COMMENTS

The City received the State's comments on the Addendum on October 7, 2010, 60 days after the Element was submitted. In addition, the State reviewer contacted the City's Planning Consultant (Barry Miller) to discuss the comment letter and advise the City on next steps.

The State's letter commends the City for the proposed revisions, but indicates that there are additional revisions necessary to receive a compliance determination. The specific concerns are articulated in the attached letter. To summarize:

- The State believes the City has not sufficiently demonstrated its intent to comply with SB 2, a State law effective January 1, 2008) which requires all cities to allow emergency shelters as a permitted use (e.g., no use permit required) somewhere within the jurisdiction. The City has proposed allowing such uses in Zone B (the Public Facilities Zone). The City had added several paragraphs of narrative to the Draft Housing Element (through the Addendum) explaining why Zone B was a suitable and viable location. The State would like additional

data on the characteristics of parcels in this zone and the character of existing uses in this zone.

Proposed Approach: City Staff is confident we can address this objection by providing additional data on the characteristics of parcels and existing uses in Zone B.

- The State believes the City has not made a strong enough commitment to encourage multi-family housing, and is asking the city to provide additional incentives to multifamily development. They have suggested the City add programs such as relaxing lot coverage requirements (something Piedmont already does for projects with affordable units in Zone C) and prohibiting single family homes in Zones C and D (the multi-family and commercial zones).

Proposed Approach: City Staff believes it can address this objection through additional policy and program language, although such changes are not entirely consistent with the emphasis of the Element on second units as Piedmont's affordable housing resource. Staff does not believe that prohibiting single family homes in Zones C and D is a practical solution, and moreover could violate the City Charter. As an alternative, the City could consider a new program to establish minimum density standards for Zones C and D (for example, this could ensure that any new development or subdivision in these two zoning districts would be at least 12 units per acre).

- The State believes that the City should “include actions that monitor and maintain the availability of second unit development opportunities such as lots with capacity for second units.”

Proposed Approach: Staff found this comment to be unclear. In our phone conversation with HCD, the State reviewer indicated the City should add a program to monitor development on large lots, since they believe such lots offer greater opportunities for second units than small lots. The City can add language to address this issue, although we do not believe this will have any practical effect on housing opportunities.

- The State indicates that the City should edit Program 5.E to be consistent with State law (SB 2). SB 2 stipulates that wherever transitional and supportive housing are allowed, they must be subject to the same permitting processes as other housing in the subject zone without undue special regulatory requirements.

Proposed Approach: This concern can be easily addressed through an edit to Program 5.E.

- The State believes the City should take additional steps to encourage housing for extremely low income households, including families. While they recognize the City's efforts to provide second units for such households, they suggest the city expand opportunities for multi-family rental housing developments. The State also suggests revising two of the existing action programs in the Element to indicate that they will assist Extremely Low Income households.

Proposed Approach: This is the most problematic HCD comment. The Housing Element concluded that there were very few opportunities for multi-family rental housing development in Piedmont, and that a strategy encouraging multi-family rentals would be impractical. This is the underlying basis for the affordable second unit program. Staff will continue to work with the State to develop language that is acceptable without compromising the overall spirit and intent of the Housing Element.

- The State would like the City to add an action program to monitor the effects of the Piedmont City Charter on the cost and supply of multi-family housing, and to commit to taking action in the event the Charter is determined to be a constraint in the future.

Proposed Approach: Staff can add a program to the Element in order to satisfy the State reviewers. However, we do not believe such a program would have any material benefit since it was previously concluded that the City Charter is not a development constraint given Piedmont's built out character.

PLANNING COMMISSION INPUT

The Planning Commission was briefed on the HCD letter and the status of the HCD review at its regular meeting on October 11. The Commission indicated it was comfortable with Staff making the final revisions and bringing these to the Council for consideration as part of the adoption process. No further briefings to the Planning Commission are anticipated.

NEXT STEPS

HCD has indicated that the City does not need to resubmit the entire Element, and feels that the changes it has requested are small enough to be reviewed on an informal "ad hoc" basis. The HCD reviewer has suggested that the City send proposed revisions to the State in the next few weeks, and has promised a quick turn-around to indicate whether the changes are satisfactory. Additional minor edits will be made as needed through this process.

Once the State determined the edits are satisfactory, it will issue a "precertification letter" to the City. At that time, the Element will be brought back to the City Council for adoption. Staff expects this to occur during November 2010.

CITY COUNCIL ACTION:

No action is required at this time.

Date report prepared: October 13, 2010

ATTACHMENTS:

- A. October 11, 2010 Planning Commission Meeting Minutes
- B. October 7, 2010 Letter from State HCD

DRAFT**PIEDMONT PLANNING COMMISSION**

Regular Meeting Minutes for Monday, October 11, 2010

A Regular Session of the Piedmont Planning Commission was held October 11, 2010, 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 October 1, 2010.

CALL TO ORDER Chairman Robertson called the meeting to order at 5:00 p.m.

ROLL CALL Present: Commissioners Jim Kellogg, Melanie Robertson, Bobbe Stehr and Alternate Commissioner Michael Henn

Absent: Commissioners Jonathan Levine and Clark Thiel (both excused)

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

City Council Liaison: Councilmember Jeff Wieler

Draft Housing Element The City's Housing Element Consultant, Barry Miller, updated the Commission on the status of the City's attempt to have its General Plan Housing Element Update certified by the California Department of Housing and Community Development (HCD). Mr. Miller referenced the state's latest letter, dated October 7, requesting several additional revisions. Mr. Miller explained the process and the outstanding issues, voicing confidence that the City can comply with the state's requests and receive a pre-certification letter prior to requesting City Council adoption of the Housing Element Update. The Commission agreed that in order to expedite the process and given the Commission's August 9 approval of the Draft, it is not necessary for the Commission to review the remaining minor changes to the Draft Addendum that are being requested by HCD.

Public testimony was received from:

Rajeev Bhatia, an urban planner and new Piedmont resident, offered his expertise and experience in dealing with HCD in matters of Housing Element certification and submitted a memo from his firm outlining the consequences for cities which fail to receive housing element certification. The Commission thanked Mr. Bhatia for his input and offer of assistance.

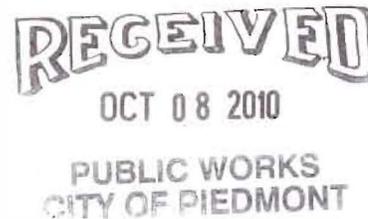
**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
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October 7, 2010

Mr. Chester Nakahara
Interim Director of Public Works
City of Piedmont
120 Vista Avenue
Piedmont, CA 94611



Dear Mr. Nakahara:

RE: Review of the City of Piedmont's Revised Draft Housing Element

Thank you for submitting Piedmont's revised draft housing element received for review on August 10, 2010. The Department is required to review draft housing elements and report the findings to the locality pursuant to Government Code Section 65585(b). A telephone conversation on September 29, 2010 with Mr. Barry Miller, the City's consultant, facilitated the review.

The revised draft element addresses most of the statutory requirements described in the Department's May 25, 2010 review (see link below). However, the following revisions are still necessary to comply with State housing element law (Article 10.6 of the Government Code):

1. *Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

Emergency Shelters: The revised element has been updated to describe the range of lot sizes within Zone B, but still does not demonstrate the suitability of the zone. As noted in the previous review, it should analyze how the characteristics of parcels are suitable to facilitate development of emergency shelters, such as typical parcel sizes and how existing uses are appropriate for conversion to emergency shelters.

2. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, and emergency shelters and transitional housing. Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential*

Mr. Chester Nakahara
Page 2

use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).

Multifamily Opportunities: While Program I.G has been added to "develop incentives which would facilitate multi-family development," it should commit to specific actions to adopt or establish incentives by a specific date. For example, the City should commit to adopting incentives such as relaxing lot coverage requirements and streamlining environmental review by 2011.

In addition, given all the housing production in the City during the previous planning period consisted of second-units and single-family homes, policies and programs must be established that encourage the development of multi-family housing and reduce or eliminate constraints to development. Facilitating the development of multi-family housing provides more compact development to address climate change objectives and maximize limited land resources. As a result, the City should analyze the impacts of permitting single-family uses by-right in Zones C and D while multi-family uses are/will be conditionally permitted in these zones. For example, the City should consider eliminating the conditional use permit for multi-family and prohibit single-family uses in these zones.

Second Units: While Program 3.C has been added to monitor unintended, illegal and suspected second-units, as noted in the prior review, it should also include actions that monitors and maintains the availability of second-unit development opportunities such as lots with capacity for second-units.

Emergency Shelters: As noted in Finding 1, the City must provide further analysis demonstrating the appropriateness of Zone B to accommodate the City's need for emergency shelters. Depending on the outcome of that analysis, the City may need to revise Program 5.E to identify alternate zones that can adequately facilitate the development of emergency shelters.

Transitional and Supportive Housing: While Program 5.E has been added to permit transitional and supportive housing in Zone B, it proposes to limit these uses to only Zone B. Pursuant to Chapter 633, Statutes of 2007 (SB 2), transitional and supportive housing must be considered a residential use subject only to the same permitting processes as other housing in the subject zone without undue special regulatory requirements. Program 5.E should be revised consistent with SB 2. Please see the Department's memorandum on SB 2 at http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf.

3. *The housing element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households (Section 65583(c)(2)).*

Mr. Chester Nakahara
Page 3

As noted in the previous review, programs should include actions to assist the development of housing for extremely low-income households. Examples of programs that should be added or revised include, but are not limited to:

Second Units (Programs 2.A, 5.A and 5.I): While the revised draft now includes Program 5.I to maintain an inventory of existing second units that are affordable to extremely low-income households, it does not include a commitment to encourage their development. For example, Programs 2.A and 5.A could be revised with actions to apply or support funding applications and offer incentives or regulatory concessions such as modifying development standards

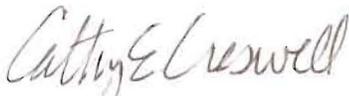
Extremely Low-Income Households: The revised draft relies solely on the availability of second-units to meet the needs of extremely low-income (ELI) households. Second-units, however, do not address the needs of families or larger ELI households. As a result, pursuant to Chapter 891, Statutes of 2006 (AB 2634), existing programs should either be expanded or new programs added to specifically assist in the development of a variety of housing types to meet the housing needs of ELI households. To address this requirement, Program 1.G (noted in Finding 2 above) could be revised to describe how the City will encourage developers to build rental housing for ELI households.

4. *The housing element shall contain programs which address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing (Section 65583(c)(3)).*

City Charter for Rezoning of Parcels: The revised draft now includes a general analysis of the City's charter for rezoning parcels and Program 1.E to conditionally permit multifamily housing in the Commercial Zone (Zone D). However, given the statutory requirement to encourage a variety of housing types including multifamily rental housing, programs should be added or revised to monitor the charters' effect on the cost and supply of housing, particularly multifamily, and commit to adopt strategies to address identified constraints such as streamlining permit procedures for multifamily uses in Zone D.

Once the element has been revised to address these requirements, it will comply with State housing element law. The Department is committed to assist the City in meeting the statutory requirements. If you have any questions, please contact Brett Arriaga, of our staff, at (916) 445-5888.

Sincerely,



Cathy E. Creswell
Deputy Director