

**CITY OF PIEDMONT
COUNCIL AGENDA REPORT**

MEETING DATE: June 6, 2011

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

SUBJECT: Housing Element Update

RECOMMENDATION:

Receive additional public testimony on the Housing Element and close the public hearing. Discuss proposed edits to the July 2010 Draft Piedmont Housing Element and August 2010 Addendum. Approve the two attached resolutions (Attachment 1) adopting the Housing Element and related environmental document.

INTRODUCTION:

The City of Piedmont has updated the General Plan Housing Element as required by State law. The Planning Commission and the City Council have each held multiple public hearings on the Element. At the October 18, 2010 City Council meeting, Staff recommended that adoption of the Element be postponed until the City received confirmation from the State Department of Housing Community Development that the Element, as amended, would be found in compliance with State requirements. That confirmation was received on May 10, 2011 (see Attachment 2).

BACKGROUND:

The Housing Element is the portion of the Piedmont General Plan addressing housing production, housing conservation, affordable housing, and special housing needs in the community. The City of Piedmont adopted its last Housing Element in November 2002. State law requires the City to prepare a new Housing Element every five to eight years, in response to changing needs, conditions, and State laws.

The Housing Element is organized into seven chapters, corresponding to State requirements. These include an Introduction, an Evaluation of the Prior (2002) Housing Element, a Housing Needs Assessment, an Analysis of Housing Opportunity Sites, an Analysis of Potential Constraints to Housing Production, Housing Objectives and Policies, and a Five-Year Action Program. The contents of these chapters and an overview of “what’s new” in the Housing Element has been discussed in prior staff reports.

The Housing Element demonstrates the City's ability to accommodate its fair share of the region's housing need, as defined by the Association of Bay Area Governments. It includes policies on future housing production, second units, maintenance of existing housing in Piedmont, fair housing practices, and assistance to Piedmont residents with special needs. The Element identifies changes to be made to Chapters 17 and 17D of the Piedmont Municipal Code (e.g., the zoning regulations and second unit regulations), as well as a variety of operating procedures which will facilitate housing production and maintenance. Implementation of the Element will take place as resources allow in 2011-2014. The major thrust continues to be the use of rent-restricted second units to meet the City's low and very low income housing needs.

The Housing Element is the only part of the General Plan that is subject to a State certification process. Certification is important to maintain eligibility for future grants, avoid lawsuits, and demonstrate the City's commitment to addressing housing issues. The certification process involves submitting the Draft Element to reviewers at the State Department of Housing and Community Development (HCD) and editing the document based on their comments. The State reviewers evaluate the document against their interpretation of the State Government Code as it pertains to housing.

This process often requires several iterations before the document is deemed compliant. Of the 35 jurisdictions in the East Bay (33 cities and 2 counties), only 14 of the jurisdictions were in compliance as of November 23, 2010. By May 18, 2011, the number of compliant East Bay jurisdictions stood at 22, as cities continued to revise their Housing Elements in response to HCD critiques.

REVIEW PROCESS:

The City of Piedmont submitted an *Administrative Draft* Housing Element to HCD on March 22, 2010 for their preliminary review. The City received an official comment letter from HCD on May 25, 2010 and subsequently prepared a 28-page Addendum indicating the specific text changes it would make in response to the State's letter. In the intervening period, two Planning Commission hearings were held to take public testimony on the Draft Element.

City Staff delivered the Addendum to HCD on August 10, 2010 and requested a second preliminary review. HCD indicated verbally that it would try to expedite its review rather than waiting the statutorily allowable 60 days (e.g., until October 9, 2010) to issue its opinion. Unfortunately, the State used the entire 60 days and issued its second comment letter on October 7, 2010.

The second comment letter was significantly shorter than the first one, and indicated that the City had satisfactorily responded to most of the State's concerns. However, the State indicated that additional changes were necessary before the Element would be deemed compliant. These included:

- Additional information regarding the City's proposed strategy for complying with SB 2. SB 2 is 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 State asked for additional data on the characteristics of parcels in this zone and the character of existing uses in this zone.

- A stronger commitment to encourage multi-family housing, consistent with statutory requirements for Housing Elements. HCD suggested the City create additional incentives for multi-family development, such as prohibiting single family homes in the multi-family zoning district and raising the maximum lot coverage standard in the multi-family zone.
- Actions to “monitor and maintain the availability of second unit development opportunities such as lots with capacity for second units.”
- A minor edit to Program 5.E indicating 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.
- Additional steps to encourage housing for extremely low income households, including families. While the State recognized the City’s efforts to provide second units for such households, they suggested the City expand opportunities for multi-family rental housing development.
- 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.

The City modified its August 7 Addendum to incorporate responses to these objections. The revised Addendum was submitted to the State on October 29. HCD indicated that because the revisions were relatively minor and because the City had already been through two rounds of formal review, they would “expedite” the review.

On November 18, HCD communicated (by phone) to the City that the new Addendum was mostly acceptable, but a few concerns remained. The City responded to HCD’s remaining concerns within 24 hours and submitted a revised addendum on November 19. Piedmont Staff requested confirmation that the document was now compliant. HCD responded on December 1, indicating that the document was being reviewed by additional staff at HCD who “still had concerns” and were not prepared to sign off on it yet. Their general concern was that a greater sense of commitment needed to be conveyed on a few of the proposed new programs.

By December 3, staff submitted another set of revisions altering programs as requested to provide more committal language. HCD indicated by phone that the revisions were still not acceptable. Their specific concern was that the City had not developed adequate programs to monitor the effects of the Piedmont City Charter on multi-family housing production. City staff indicated to HCD that such programs were not warranted based on the Housing Element’s analysis, and could potentially divert limited staff resources from more productive programs.

Staff requested a meeting with HCD to discuss possible ways to resolve this issue. HCD was non-responsive for several weeks.

On December 16, HCD sent the City of Piedmont an email indicating that its staff was drafting language relating to the Piedmont Charter for the City to include in the Housing Element. City staff asked that this language be forwarded immediately in order to calendar the Element for the first City Council meeting in 2011. HCD was again non-responsive for several weeks. The HCD reviewer contacted the City's consultant on January 24 and apologized for the delay, indicating he was still waiting for the Agency director to sign off on the proposed language.

HCD's proposed language was received on February 23, 2011. Piedmont City staff found it to be unacceptable, as it implied that the City Charter was preventing the City from producing affordable housing. Moreover, Piedmont staff felt the program proposed by HCD used unreasonable criteria for defining a "constraint."

On March 10, the City's consultant presented a counterproposal to HCD. The re-worded program indicated that staff would monitor the Charter, but also affirmatively stated that the Charter was not a constraint to affordable housing production. In its response, Staff cited the success of the affordable second unit program, noting that Piedmont had a better track record of producing affordable units than general law cities in the Bay Area with similar land uses and demographics. HCD's reviewer indicated the City's proposed wording was still unacceptable. City staff requested a meeting with the HCD Agency director, but HCD staff was again non-responsive. In the interim, the City submitted several alternative versions of the "Charter" program (Program 4.I in the document) for HCD's consideration.

On April 25, the Program Manager of the HCD Housing Policy Division contacted the City's consultant with feedback on the City's proposals. Compromise language was developed and subsequently vetted with HCD's Deputy Director.

City staff requested written confirmation from HCD that the revised language would result in a compliance determination. HCD provided a "pre-certification" letter on May 10, 2011 indicating the City would be deemed compliant if it adopted the Element with the language proposed. Accordingly, staff has prepared a "track changes" version of the Housing Element which incorporates all of the State-approved changes. Once the Element is adopted, a Final version (with the tracked changes accepted) will be produced and submitted to the State. The State has 90 days to make its final finding of compliance.

ANALYSIS OF THE PROPOSED PROGRAM ON THE CITY CHARTER

Program 4.I requires Piedmont's City Planning staff to submit an annual report to the City Council evaluating the extent to which the City Charter is constraining multi-family development. It is envisioned that this would be part of an annual report already prepared by staff documenting building permit trends and revenues. The report will indicate if the charter is constraining multi-family development using such metrics as: (a) the failure of a ballot measure to change the City's Zoning Map; (b) a viable multi-family proposal which has City Council and

Planning Commission support but cannot proceed because a zoning change would be required; (c) third party research indicating the charter is a constraint; and (d) input from the development community. Staff is prepared to add a section to its annual report on planning and building permit activity which addresses these factors. The program requires that action be taken to mitigate any constraints that are identified, such as designating additional sites for multi-family development or modifying zoning standards.

ADDITIONAL CHANGES BETWEEN THE JULY 2010 PUBLIC REVIEW DRAFT AND THE PROPOSED FINAL DOCUMENT

Although the language relating to the City Charter was the cause of the delay between October 2010 and May 2011, the State reviewers had raised other issues during their review of the July 2010 Draft. These concerns were largely addressed through the Addendum prepared in October 2010. They include:

- HCD asked the City to prove it could meet its fair share of the region's housing needs through second units. The City responded with a detailed analysis of second unit trends, including several charts (see Attachment 3). The data supports staff's conclusion and was satisfactory to HCD.
- HCD asked the City to demonstrate that Zone B (the Public Facilities Zone) was a realistic location for possible emergency shelters. The City responded with a detailed description of Zone B, including the characteristics of parcels and buildings within the Zone. The City's response cited the vacant building at 801 Magnolia, the Civic Center Master Plan proposals for additional community facilities, the availability of transit (bus) service at the Civic Center, and past discussions of new facilities at the Corporation Yard as evidence that the potential for new buildings exists in Zone B. These edits were satisfactory to HCD.
- HCD requested that the City include additional zoning incentives for multi-family housing. Thus, the Element has been revised to add a program which would allow 50% lot coverage for multi-family development in Zones C (the Multi-family Zone) and D (the Commercial Zone), and institute a minimum density standard of 12 units per acre in Zone C. Presently the lot coverage standard in Zone C is 50% for affordable projects but 40% for other development types, including market rate apartments. The existing standard in Zone D is 50% for one-story buildings, but only 25% for two-story buildings, which does in fact impede mixed use development.

HCD initially objected to the wording of this program, which indicated that these zoning changes "would be considered." Staff subsequently edited the program to indicate the changes "will be made."

- HCD requested a program to monitor second unit opportunities on large lots. The City responded with a new program to do exactly that. Program 3.D would advise applicants

for new homes or major remodels on lots over 20,000 square feet of the opportunity to include a second unit as part of their plan. This was acceptable to HCD.

- HCD requested an edit to Program 5.E, which the City subsequently included. Per HCD's request, a second sentence has been added to the Program which reads:

“Pursuant to Chapter 633, Statutes of 2007, the revised zoning text will stipulate that transitional and supportive housing will be considered a residential use subject only to the same permitting processes as other housing in the subject zone without undue special regulatory requirements.”

- HCD requested additional programs for extremely low income families. The City responded by revising Program 2.A (applications for CDBG funding for housing rehabilitation) to indicate that the program should target extremely low income families. Program 5.A (promoting the concept of “shared housing”) also has been revised to note the benefits to extremely low income families. The City has also added a new program (5.J) indicating it will develop additional incentives for extremely low income housing in the future, potentially through revisions to its second unit regulations.

NEED FOR CERTIFIED HOUSING ELEMENT:

Staff strongly recommends Council adoption of the Housing Element with the changes required by HCD. Although the process has been very lengthy and difficult, the requirements being placed on Piedmont are not unlike the requirements that have been placed on other Bay Area communities. For example, several East Bay cities have been required to rezone land and amend their General Plan Maps to create sites for high density housing. While staff believes some of the programs required by the State may not result in additional affordable housing in Piedmont, staff also believes that it is very important to have a City-adopted, State-certified Housing Element: the absence of a certified Housing Element would leave the City vulnerable to lawsuits from developers, housing advocacy groups and others. It could also make the City ineligible for certain State grants. Additionally, a State law that would fine or otherwise penalize cities without certified Housing Elements has been considered by the State legislature. Although this legislation was not enacted the last time it was proposed, it could be reintroduced and approved in the next 5 years. Finally, staff believes that the implementation of the required Housing Element policies and program objectives can be achieved according to the projected schedule. While the state-mandated revisions create an extra administrative task, this is outweighed by the benefits provided by certification, and the positive outcomes of the other important programs in the document.

RESOLUTIONS

Two resolutions have been prepared for the Council's consideration. These are essentially the same resolutions approved by the Planning Commission on August 7, 2010, with additional clauses that reflect activity since that time. The first resolution calls for adoption of the Housing Element (inclusive of the Addendum), citing the legal requirements, public involvement

provisions, and various milestones in the planning process. The second resolution adopts the CEQA Negative Declaration, again citing legal requirements and planning process milestones.

CITY COUNCIL ACTION:

Following public testimony (if any), close the Public Hearing on the Piedmont Housing Element Update. Approve the two resolutions adopting the General Plan (including the Addendum) and the Negative Declaration.

Date report prepared: May 28, 2011

ATTACHMENTS:

1. Resolutions
2. Letter from State HCD (May 10, 2011)
3. Revised Plan Addendum (May 2, 2011)
4. Housing Element - Track Changes Version (separate document)

RESOLUTION NO. _____**RESOLUTION OF THE PIEDMONT CITY COUNCIL ADOPTING THE UPDATED PIEDMONT HOUSING ELEMENT**

WHEREAS, State law requires every city and county in California to adopt a Housing Element as part of its General Plan; and

WHEREAS, State law further requires that Housing Elements be updated every five to eight years to demonstrate that the jurisdiction is capable of accommodating its “fair share” of the region’s housing needs and complies with the current requirements of the State Government Code; and

WHEREAS, cities and counties in the nine Bay Area were assigned new Regional Housing Needs Allocations in 2007 and required to update their Housing Elements by June 30, 2009; and

WHEREAS, the City of Piedmont was given a Regional Housing Needs Allocation of 40 units for 2007-2014, including 13 units of very low income housing, 10 units of low income housing, 11 units of moderate income housing, and 6 units of above moderate income housing; and

WHEREAS, the existing 2002 Housing Element had a horizon year of 2007 and did not include specific provisions beyond that year; and

WHEREAS, changes to the Government Code between 2002 and 2011 make certain provisions of the existing 2002 Housing Element non-compliant with State law; and

WHEREAS, the City completed an update of the other elements of its General Plan in April 2009, with the intent of updating the Housing Element in 2009-2010; and

WHEREAS, the City completed a year-long process of collecting and analyzing housing and demographic data about Piedmont, and preparing new Housing Element text, goals, policies, programs, and maps; and

WHEREAS, the Planning Commission held five work sessions on the Housing Element in 2009 and three public hearings on the Element in 2010; and

WHEREAS the City Council held public hearings on the Housing Element in September and October 2010, and in June 2011; and

WHEREAS, the proposed Element reflects input from those who participated; and

WHEREAS, an Administrative Draft of the proposed Element was submitted to the State Department of Housing and Community Development for review in March 2010, resulting in an official State comment letter indicating the revisions necessary for a compliance determination; and

WHEREAS, an Addendum to the Element has been prepared in response to the changes requested by the State; and

WHEREAS, subsequent versions of this Addendum were prepared in response to feedback from the State, until the City received confirmation that its Housing Element would be found in compliance if submitted with the Addendum incorporated; and

WHEREAS, on May 10, 2011, the State indicated the Housing Element would be deemed compliant if it was adopted with the Addendum; and .

WHEREAS, the updated Addendum has been merged into the Draft Housing Element to produce a Final Housing Element; and

WHEREAS, the City has completed state-mandated environmental review procedures for the project and has prepared a separate resolution for a Negative Declaration;

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Piedmont adopts the updated Piedmont Housing Element, inclusive of the Plan Addendum and related administrative edits.

RESOLUTION NO. _____

RESOLUTION OF THE PIEDMONT CITY COUNCIL ADOPTING THE HOUSING ELEMENT NEGATIVE DECLARATION

WHEREAS, the City of Piedmont has completed an update of its Housing Element; and

WHEREAS, a Housing Element Update is defined as a “project” under the California Environmental Quality Act and is thus subject to environmental review; and

WHEREAS, the updated Piedmont Housing Element proposes no significant changes to the City’s land use or transportation maps; and

WHEREAS, the updated Piedmont Housing Element demonstrates that the City can accommodate its Regional Housing Needs Allocation (RHNA) without rezoning properties or increasing currently allowable densities; and

WHEREAS, the City completed an Initial Study of the proposed Housing Element and determined that the potential for environmental impacts would be mitigated by policies in the 2009 General Plan; and

WHEREAS, CEQA does not require a detailed evaluation of all projects that could conceivably be developed consistent with Housing Element policies but rather requires the City to conduct project-level environmental review for subsequent projects; and

WHEREAS, the City prepared a Negative Declaration for the Housing Element and delivered 15 copies of the Initial Study-Negative Declaration (IS-ND) to the State Clearinghouse and additional copies to the Alameda County Recorder on July 8, 2010; and

WHEREAS, the City provided public notice of the availability of the IS-ND for public review and posted copies of the document on its website for 30 days; and

WHEREAS, the comment period for the IS-ND ended, with no comments received; and

WHEREAS, the document for which the IS-ND was prepared has been on the City’s website since March 2010; and

WHEREAS, the IS-ND itself has been on the City’s website since July 2010;

NOW THEREFORE BE IT RESOLVED that the Piedmont City Council adopts the Piedmont Housing Element Update Negative Declaration.

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

1800 Third Street, Suite 430
P. O. Box 952053
Sacramento, CA 94252-2053
(916) 323-3177 / FAX (916) 327-2643
www.hcd.ca.gov

ATTACHMENT 2

May 10, 2011

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

RECEIVED**MAY 12 2011****PUBLIC WORKS
CITY OF PIEDMONT**

Dear Mr. Nakahara:

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

Thank you for submitting Piedmont's draft housing element received for review on April 29, 2011. The Department is required to review draft housing elements and report the findings to the locality pursuant to Government Code Section 65585(b). Communications with Mr. Barry Miller, the City's consultant, facilitated the review.

The revised draft element addresses the statutory requirements described in the Department's October 7, 2010 review. For example, the element now demonstrates the appropriateness of Zone B to accommodate emergency shelters pursuant to Chapter 633, Statutes of 2007 (SB 2). As a result, the revised draft element will comply with State housing element law (Article 10.6 of the Government Code) when adopted and submitted to the Department, pursuant to Government Code Section 65585(g).

The Department's finding of compliance is based on the successful implementation of Program 4.I to monitor the effectiveness of strategies to mitigate the impact of the City's Charter and adopt additional mitigations, if needed. In addition, Programs 1.G and 1.E committing to develop incentives to facilitate multifamily development are critical in encouraging a variety of housing types, particularly housing affordable to lower-income households. Piedmont should monitor and report on the results of this Program through the annual progress report, required pursuant to Government Code Section 65400. If these Programs are not adopted and/or not effective in encouraging multifamily development, the element must be amended to identify alternative strategies and add or revise programs, as appropriate.

The Department appreciates the cooperation and assistance of Mr. Miller throughout the course of the review. We look forward to receiving Piedmont's adopted housing element. If you have any questions or need additional technical assistance, please contact Brett Arriaga, of our staff, at (916) 445-5888.

Sincerely,


Glen A. Campora
Assistant Deputy Director

PIEDMONT HOUSING ELEMENT ADDENDUM

Revised ~~October 28, 2010~~ ~~November 18, 2010~~ May 2, 2011

The City of Piedmont has prepared this Addendum to the Housing Element in response to comments from the State Department of Housing and Community Development (HCD) on its Administrative Draft Housing Element (March 2010). Some of the changes annotated here are included in the July 2010 Public Review Draft and others are more recent. The Planning Commission considered an earlier version of this Addendum at its August 7 public meeting and the City Council considered it at its September 7 meeting. On October 18, the Council directed staff to make changes to the Addendum in response to comments received from State HCD on October 7, 2010. These changes are noted in yellow highlighted text, and are annotated in underline/ strike-out format. Upon receiving further comments on the revisions from HCD on November 18, several additional changes were made. These are noted in red font. Following the November 18 comments, Staff entered into further negotiations with HCD on Programs 2.A, 4.I, and 5.E. The changes made after November 18, 2010 are noted in blue font or blue highlighter.

In addition to the changes noted here, staff has made administrative edits to the Housing Element as necessary to ensure internal consistency and completeness. For example, where this Addendum adds new programs to Chapter 6, the "summary table" in Chapter 7 listing all programs has been edited accordingly.

The Addendum is organized based on the sequence of comments in the two letters from HCD. In each case, the HCD comment is highlighted in a text box. The edited pages are listed, followed by text additions or deletions. Deleted text is noted with ~~strikeout~~ format. Added text is noted with underlined format. Comments on the edits are noted in (small font).

HCD COMMENT:

1. Sites Inventory: While the element lists sites by address, parcel size and zoning, it must also include the General Plan designation of each site.

City Response:

Table 4-1 is hereby deleted and replaced with the Table on the following two pages.

In addition, Staff has replaced Map 4-1 with a new Map (see Page 4). Staff had previously indicated to HCD that Map 4-1 was a "placeholder". The new Map indicates Housing Opportunity Sites.

In October 2010, Map 4-1 and Table 4-1 were amended to reflect the current status of sites, and to respond to an HCD request to show 1201 Grand Avenue, a single site identified by the City as having the potential for future mixed use development.

Table 4-1: Inventory of Vacant Lots in Piedmont, p 1

Location (*)	Lot Size (sq. feet)	General Plan Designation	Comments
ZONE A (Single Family, 10,000 SF minimum lot size)			
Behind 162 Estates	19,860	LDR	Owned by adjacent home
Behind 170 Estates	16,212	LDR	Owned by adjacent home
Behind 172 Estates	15,932	LDR	Owned by adjacent home
Adjoins 245 Estates	11,100	LDR	Owned by adjacent home
Adjoins 145 Lexford	12,855	LDR	Owned by adjacent home
Adjoins 145 Lexford	14,135	LDR	Owned by adjacent home
Adj. 430 Hampton	8,814	LDR	Owned by adjacent home
"490" Hampton	8,841	LDR	Owned by adjacent home
248 St. James	6,032	LDR	Owned by adjacent home
164 St James	9,225	LDR	Owned by adjacent home
"1726" Trestle Glen	6,190	LDR	Owned by adjacent home
Behind 70, 80, 90 LaSalle	60,432	LDR	Landlocked—could be subdivided. Owned by 280 Indian.
"100" LaSalle	9,857	LDR	Owned by 280 Indian
"110" LaSalle	12,243	LDR	Owned by 280 Indian
"282" Indian, front	11,605	LDR	Owned by 280 Indian
"282" Indian, back	13,961	LDR	Landlocked, Owned by 280 Indian
"255" Sea View	10,385	LDR	
Adj. 111 Woodland	8,665	LDR	Owned by adjacent home
90 Florada	13,710	LDR	Home was approved here but not built
Adjoins 101 Wildwood Gardens	13,787	LDR	Owned by adjacent home
"1069" Winsor	8,081	LDR	Owned by adjacent home
Adjoins 382 Wildwood	11,640	LDR	Owned by adjacent home
"14" Littlewood	36,270	LDR	Potential for 2 lots
"195" Oak Road	13,487	LDR	Permit for new home expired
Adjoins 8 Requa	11,129	LDR	
Adjoins 152 Hazel	9,266	LDR	Owned by adjacent home
Adj. 105 Sheridan	4,745	LDR	Owned by adjacent home
90 Calvert Ct.	14,375	LDR	Owned by adjacent home
415 Pacific	14,400	LDR	Recent lot split
"532" Blair	5,590	LDR	Owned by adjacent home

Note: LDR = Low Density Residential

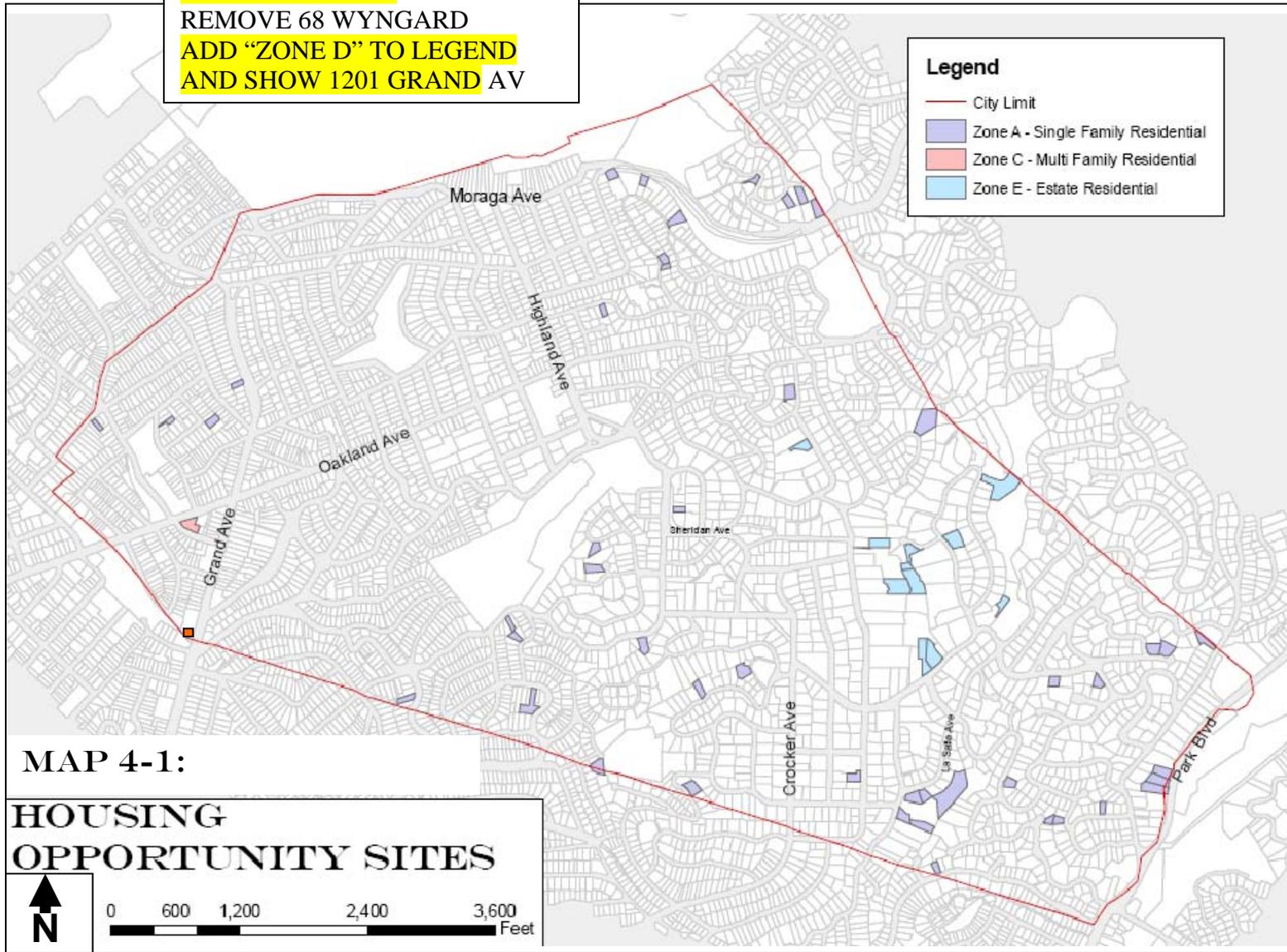
Table 4-1: Inventory of Vacant Lots in Piedmont, p. 2

Location (*)	Lot Size (sq. feet)	General Plan Designaion	Comments
ZONE A (Continued)			
" 310" Wildwood	5,833	LDR	Owned by EBMUD
" 33" Prospect	6,336	LDR	Owned by EBMUD
" 1100" Harvard	18,858	LDR	Owned by EBMUD
Adjoins 150 Scenic	4,130	LDR	Owned by adjacent home
Adjoins 150 Scenic	6,962	LDR	Owned by adjacent home
" 279" Scenic	12,773	LDR	Application submitted but home never built
Below 255 Scenic	6,495	LDR	Owned by adjacent home-landlocked
Adjoins 16 Nellie	11,590	LDR	Owned by adjacent home
1 Maxwelton	11,497	LDR	
Adj 50 Maxwelton	5,627	LDR	Odd-shape
Adj 81 Maxwelton	9,810	LDR	Owned by adjacent home
1635 Grand	5,793	LDR	
Adjoins 434 Pala	9,037	LDR	Owned by adjacent home-difficult access
" 208" Howard	4,871	LDR	Flag lot
Adj 860 Kingston	5,092	LDR	Owned by adjacent home
Adjoins 22 Nace	9,025	LDR	Owned by adjacent home, difficult access
ZONE E (Estate 20000 SF minimum lot size)			
" 18" Glen Alpine	20,293	Estate Res	Rear of 17 Sotelo (pool)
" 5" Indian Gulch	11,205	Estate Res	Access to 21 Glen Alpine
Behind 2 Sotelo	9,937	Estate Res	Landlocked; owned by adjacent home
24 Sea View	17,069	Estate Res	Flag lot, contains tennis cts Owned by adjacent home
Access to 70 Sotelo	45,978	Estate Res	Separate lot in Oakland contains residence
Behind 21 Glen Alpine	5,680	Estate Res	Owned by adjacent home
Behind 74 Sea View	32,610	Estate Res	Owned by adjacent home
Behind 15 Glen Alpine	30,935	Estate Res	Landlocked, owned by adjacent home
1 Hampton Court	21,445	Estate Res	Owned by adjacent home
3 Hampton Court	22,685	Estate Res	Owned by adjacent home
Adjoins 47 Bellevue	11,308	Estate Res	Owned by adjacent home
ZONE C (Multi-Family, 1 unit per 2,000 Square Feet of Lot Area)			
408 Linda	15,375	MDR	Contains vacant former PG&E substation
ZONE D (Mixed Use, 1 unit per 2,000 square feet of Lot Area)			
1201 Grand Ave	4,000	Mixed Use	Underutilized building/ pt of Ace Garden Center

Source: City of Piedmont, Barry Miller, AICP, 2010

Note: LDR = Low Density Residential, MDR= Medium Density Residential

ADD 90 CALVERT
ADD 1201 GRAND
REMOVE 68 WYNGARD
ADD "ZONE D" TO LEGEND
AND SHOW 1201 GRAND AV



HCD COMMENT:

2. Second Units: As indicated in the element, the City relies on second units to accommodate the City's share of housing needs for lower-income households. While the City assumes 10-20 percent of identified single-family lots will develop with second units (page 4-5); the analysis must consider the capacity of second units based on the number of second units developed in the prior housing element planning period whether or not the units are permitted by-right, the need for second units in the community, the resources or incentives available for their development and any other relevant factors.

As mentioned in the conversation with the Department, the City diligently monitors second-unit applications and has recently experienced higher levels of applications due to improved streamlining efforts. The element could utilize this information to complete a thorough analysis to demonstrate the realistic capacity of second units in the planning period.

City Response:

Edit the last two sentences in the third paragraph of P. 4-5 as follows (paragraph is only slightly edited, footnote is new)

Although each new home could theoretically include a second unit, based on recent development practice it is more likely that only 10 to 20 percent of the new homes actually will.¹ Thus, the realistic yield on these lots is estimated at between 25 and 30 ~~and 35~~ units (including second units).

FOOTNOTE (to be inserted at bottom of page):

¹ The assumption that 10-20 percent of future new homes might contain a second unit is based on actual production during the prior (1999-2006) Housing Element period. Excluding "teardowns," six new market-rate homes were built and one of these homes included a second unit (1/6 = 17%).

Edit Page 4-11 ("Viability of Second Units as Affordable Housing") section as follows (new text is underlined).

AB 2348 requires local governments that are meeting their RHNA requirements through means *other than* high-density zoning to demonstrate that their proposed approach is viable. Although Piedmont could theoretically accommodate 15 units of low and very low income housing on land zoned at 20 units per acre or more (the former PG&E site, gas stations and older commercial properties, and demolition and replacement of homes in the multi-family zone), such an outcome is extremely unlikely—and not necessarily desirable. The high cost of land, absence of suitable sites, and dynamics of the Piedmont real estate market make the development of traditional "apartment" projects impractical. Less than one percent of the city's housing units are in buildings with five dwellings or more, and these units were constructed more than 40 years ago. An affordable housing strategy that relied on multi-family

development would ultimately be less effective (and less productive) than one which was tailored to the unique characteristics of Piedmont's land supply and housing stock.

In the ~~four~~ five years since adoption of the city's new Second Unit Ordinance (Chapter 17D of the Municipal Code), the city has had a successful track record of producing very low, low, and moderate income second units. For the first time in the City's 102-year history, Piedmont has begun to develop a pool of income-restricted affordable units which meet the needs of lower income households. ~~Every second unit application that has come before the Planning Commission since 2005 has been approved.~~ In fact, the number of second units approved (~~44~~) during the 1999-2006 Housing Element planning period (10 units) was greater than the number of new owner-occupied homes (6 units) approved during this time period.

As noted in Chapter 2 of the Housing Element, the City's second unit ordinance includes incentives to create rent-restricted units for low and very low income households. These incentives include waivers of parking requirements, which are typically the greatest obstacle to creating new second units. Other incentives include allowances for larger units (up to 1,000 square feet) if the owner agrees to rent restrictions, and waiver of first year business license taxes for rent-restricted units. ~~Half of the second units approved since 2006 have been rent and income restricted for very low income households.~~

The City does not require a conditional use permit for rent-restricted units. While a "second unit permit" is required for the parking waiver or size exceptions, the findings to approve the permit are straightforward and have not been an impediment. Waiving the parking requirement in order to permit a rent restricted unit requires the following findings:

- (a) the unit will not be detrimental to the health, safety or general welfare of persons residing in the neighborhood and will not negatively impact traffic safety or emergency vehicle access to residences or create hazards by obstructing views to or from adjoining sidewalks and streets.
- (b) The parking exception will not adversely affect the character of the surrounding neighborhood.
- (c) There is sufficient street parking available to accommodate the parking exception or the second unit is located within 1/3 mile of a public transit stop.

Similarly, increasing the unit size above 700 square feet requires that the Planning Commission find that the unit will not have significant adverse affects on adjacent properties or the surrounding neighborhood, considering such factors as views, privacy, and access to light and air.

These findings have not constrained the creation of rent-restricted second units. In fact, the contrary seems to be true. As Chart 4.1 below indicates, the volume of applications for rent-restricted second units has actually been exceeding the volume for market-rate units since 2005. Moreover, every rent-restricted second unit application that has come before the Planning Commission since 2005 has been approved.

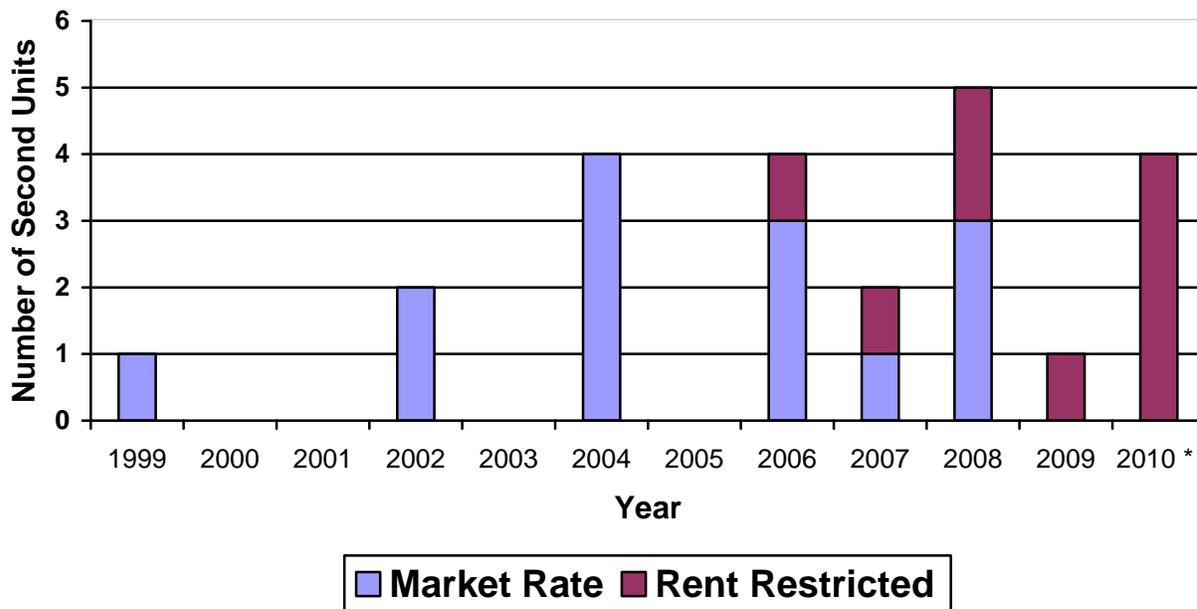


CHART 4-1: Second Unit Production Trends in Piedmont, 1999-2010*

* = Approved through August 9, 2010

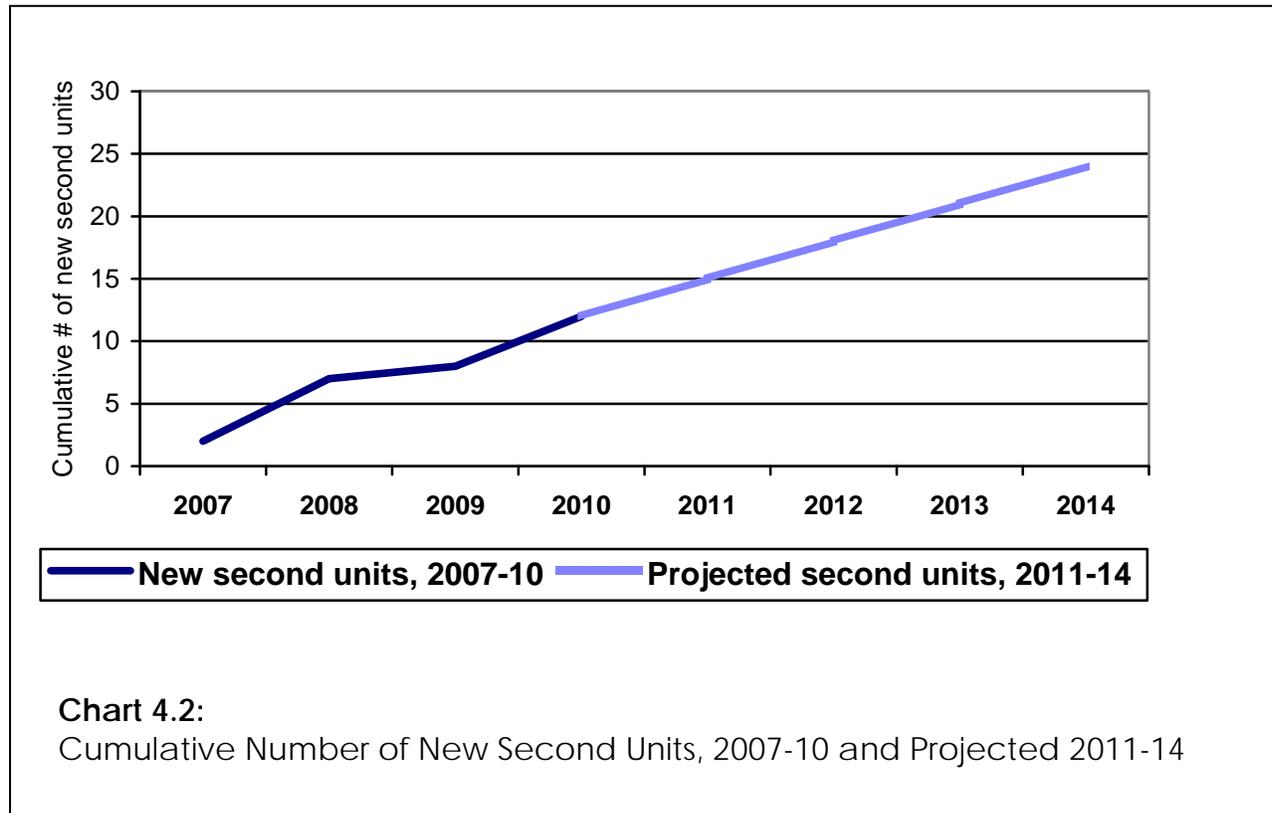
Second units that are not rent-restricted are permitted “by right,” consistent with the Government Code requirements. Although these units are rented at market rates, they help meet the city’s affordable housing needs by providing a housing resource for seniors and small low and moderate income households. The City collects data annually on second unit rents as part of its business license program. Based on data for 2009, the median rent for second units in Piedmont was \$950. There were 8 market rate units that were renting for less than \$600 a month, which would make them affordable to small, very low income households. Even the more expensive units, which were in the \$1,500 to \$2,000 a month range, meet HUD affordability criteria for one and two person “moderate” income households. Such units provide an important alternative for those who cannot afford to purchase a Piedmont home.

The market rate (i.e., non-income restricted) second units also help meet the city’s affordable housing needs. Although the rents on these units are not regulated, they are generally \$1,000-\$1,500 a month and meet HUD affordability guidelines for small low and moderate income households.

If the City continues to receive second unit applications at the rate it has since the start of the RHNA period (2007-2009), another 14 units could be approved by 2014.

Chart 4.2 further illustrates the viability of second units to meet the city’s RHNA allocation. The chart illustrates the cumulative number of new second units added thusfar during the planning period (2007 – 2010) and includes a “straight line” projection to 2014 based on a continuation of this trend. As of August 2010, there were 12 units approved (including 8 rent restricted units). Continuing the trend of 3 new units a year to 2014 would yield a total of 24 units, which exceeds the low/very low RHNA allocation for 2007-2014. The number could easily be higher based on the number of eligible properties,

the state of the economy, and the character of Piedmont's housing stock. Consequently, many of the City's housing policies focus on promoting the second unit program and seeking ways to encourage more households to participate.



The potential for second units in Piedmont homes is documented on Page 4-10. As noted, there are at least 117 homes in the City that have existing floor space with the potential for conversion to a legal second unit (i.e., homes with at least two kitchens, pool houses with bathrooms, etc). About half of the city's homes have four or more bedrooms, including more than 500 homes with five or more bedrooms. The architecture and configuration of many Piedmont's homes is also conducive to second unit production. Many of the city's homes were built with multiple entrances, carriage houses and other outbuildings, space for domestic employees, bedrooms and bathrooms on multiple levels, and other physical attributes that lend themselves to second unit creation. Many of the lots are large and could support a second unit without a Zoning Variance.

The demographics of the city are also conducive to second unit production. The City includes a large population of seniors who would benefit from the availability of second units (for their own occupancy or to rent to tenants for extra income). There are also a large number of young adults who were raised in Piedmont but have limited options for staying there (other than continuing to reside in their parents homes). Second units in Piedmont are also an extremely attractive option for one- and two-person households, single parents with young children, and others who seek to enjoy the amenities and high quality of life in the city but are unable to purchase a home there. Given that the median price of a home in the city is over \$1 million, and given the absence of vacant land for multi-family housing, the need for second units in the city is substantial.

HCD COMMENT:

3. *Emergency Shelters:* While the element generally states there is sufficient capacity in Zone B of the City's residential zones to accommodate the need for emergency shelters. (page 5-10), it should include an analysis demonstrating this capacity including available parcels, sizes of parcels and other characteristics that make the available parcels conducive for the development of emergency shelters.

Follow up HCD comment on October 7:

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 the 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.

City Response:

Edit Page 5-10 as follows (new text is underlined)

Transitional Housing and Emergency Shelter

The City of Piedmont amended its zoning code in 2005 to permit emergency shelter and transitional housing in Zone B with a conditional use permit. Properties with this designation include most of the Piedmont Civic Center complex. A master planning process for this area has identified several potential sites for new quasi-public facilities. Pursuant to SB 2 (effective January 1, 2008), the City will amend the Municipal Code after this Housing Element is adopted to remove the CUP requirement for emergency shelter and transitional housing in Zone B.

There is sufficient capacity in this Zone to accommodate the need for shelter, as determined by EveryOne Home and the Alameda County Department of Housing and Community Development. As noted in Chapter 4 of this Housing Element, the County of Alameda estimated Piedmont's homeless population at 15 residents in 2008, using a pro-rated formula based on population combined with countywide survey data. The City's Police, Public Works, and Recreation Departments estimate the actual number of homeless residents to be significantly less. Regardless, it would still be possible to meet the need for a 15-bed shelter (or two smaller shelters) in Zone B.

Zone B includes more than 80 acres of land, or about 7 percent of the city. Of this total, about 50 acres consists of parkland. The remaining 30 acres includes a mix of land owned by the City, the School District, and the private sector. Excluding the parkland, the zone includes 13 parcels. These parcels range in size from 2,500 square feet to 18 acres, with a median size of 13,626 square feet. Typical parcel sizes are one-half acre or larger, as the sites correspond to schools and other public buildings. At least one of the parcels is completely vacant. The areas most suitable for emergency shelter are in the Civic Center area and at the Corporation Yard, both located in Zone B.

During the past three years, the Piedmont Civic Center has been the subject of a master planning effort, that has underscored the potential for new and/or expanded community facilities. City Hall itself sits on a 36,000 square foot parcel that also includes the Fire Department and the Veterans Memorial Building (a

separate structure including the Police Department and community recreation rooms). The Civic Center Master Plan identified the potential to retrofit portions of the Veterans Building for other community uses. Demolition and replacement of the Veterans Building with a structure that is more architecturally compatible with the rest of the Civic Center complex also has been discussed, raising the possibility for additional uses and more floor space.

Adjoining this complex and also in Zone B is 801 Magnolia Avenue, a 13,600 square foot parcel containing the former Christian Scientist Church. The 12,600 square foot structure was acquired by the City several years ago and is currently vacant. Some of the activities considered in recent years have included a teen center, a cafe, offices, performing arts space, community meeting space, and a senior center. No single use has been identified as a “preferred” alternative, and the potential for other uses exists and continues to be studied.

West of this block (and also in Zone B) is the Piedmont Recreation Center, occupying almost an entire city block and including the Piedmont Swim Club, the Recreation Center building, a carriage house, tennis courts, and parking areas. This area includes two parcels totaling about 81,000 square feet. The focus of the Civic Center Master Plan was the reconfiguration of this space, potentially expanding total buildable area by closing Bonita Avenue and redeveloping existing recreation facilities with larger multi-purpose structures. A May 2008 feasibility study commissioned by the City identified the potential for a complete renovation of the 11,400 square foot recreation building (including the potential for new activities), addition of a new 9,000 square foot wing, development of a new 18,900 square foot swim center, and a 132 space parking structure. In 2008, the City commissioned a scale model showing how new buildings might be accommodated in this area. The project is presently on-hold, but the capacity for additional activities and facilities has been clearly demonstrated.

The Civic Center area is well served by public transportation, including a local bus line providing frequent connections to BART and Downtown Oakland, and two trans-bay bus lines to San Francisco. It is centrally located within Piedmont and is large enough to accommodate multiple activities without conflicting with adjoining uses (which are primarily schools, parks, and a small commercial district).

The other major opportunity area in Zone B is the City’s Corporation Yard. This site occupies several acres on Moraga Avenue and is used for maintenance and public works activities. In the past, the City has considered reconfiguring the site to accommodate community facilities, but no specific proposals have been made. Action 33.E of the Piedmont General Plan Community Services and Facilities Element (adopted in 2009) calls for a study of the property to determine its long term use potential.

~~Another contains a former church that has been acquired by the City for public benefit uses. The Zone also includes the City’s Corporation Yard, which includes several acres of undeveloped or underutilized land. It also includes the Piedmont Civic Center, which has been the subject of a master planning exercise to explore the potential for additional buildings on underutilized sites. The Draft Civic Center Master Plan also contemplates closing one block of Bonita Street to create additional land for recreation, civic buildings, and other uses that would benefit Piedmont residents.~~

Development standards in Zone B are likewise conducive to the construction of emergency shelter or supportive housing. The Zone has a 35 foot height limit, and no maximum lot coverage limit or floor area ratio limit. The General Plan designation that corresponds to this zone has a floor area ratio standard of 0.75. This would allow a substantial structure even on a relatively small lot.

HCD COMMENT:

4. Analyze potential and actual governmental constraints: Land-Use Controls. The element identifies and discusses various residential development standards. However, the element must include a complete analysis of their potential impacts on the cost and supply of housing and add implementation actions, as appropriate, to address constraints on development. This analysis must also demonstrate the cumulative impacts of development standards on the ability to achieve maximum densities. In addition, the analysis should specifically address lot coverage and off~street parking requirements for multifamily units.

City Response:

Add new section to bottom of P. 5-10 called:

Cumulative Impacts of Land Use Controls

State law requires the City to consider not only the impact of individual development standards, but also the cumulative effects of these standards on the cost and supply of housing. For example, it is possible that a particular setback requirement may appear reasonable on its own, but may limit development opportunities when combined with height and lot coverage limits. Sometimes, the combined effect of different development controls can require more expensive construction (such as two-story buildings instead of single story buildings) or result in frequent Zoning Variances.

In Piedmont, single family zoning standards do not create an adverse cumulative impact on development costs or the housing supply. Side and rear setbacks are just four feet on most lots (compared to five feet on adjacent Oakland properties), creating an ample building envelope, and providing many choices for siting a home or an addition on a property. Lot coverage limits tend to favor two-story construction over single story construction on small (less than 4,000 square feet) lots, but the limits are generous enough to provide plenty of space on almost all lots for a modest one-story home. Floor area ratio limits, coupled with the other standards, still leave ample opportunities for construction and home expansion. The use of a sliding standard for FAR rather than a fixed limit ensures that even small lots still can support a substantial home. The 35-foot height allowance for all residential lots provides flexibility in design, particularly compared to nearby communities with more restrictive single family heights. Moreover, the 35-foot standard is an *average* height and some portions of a structure may be even taller.

The single family zoning standards also support the achievement of the maximum densities prescribed by the Piedmont General Plan. The General Plan indicates that “Low Density Residential” areas may have densities of up to 8 units per acre. While the 10,000 square foot lot standard would preclude that density from being attained on raw land, virtually all of Piedmont was subdivided more than 50 years ago. Prevailing lot patterns are already in the 8 unit per acre range in much of the city, and the General Plan density is achieved and even exceeded in some locations.

The development standards in single family areas are particularly conducive to the production of rent-restricted second units. In particular, the parking waiver provides a strong incentive to create an affordable second unit. Variances are rarely required for such units, given the FAR, lot coverage, height, and setback allowances for single family lots.

The multi-family zone (Zone C) contains 27 parcels, only one of which is vacant (the former PG&E substation). Nonetheless, existing single family homes in this zone could conceivably be replaced by multi-family residences. In such instances, zoning does not constrain redevelopment. However, because the existing structures are mostly owner-occupied single family homes in excellent condition, there is little economic incentive to replace them or divide them into multi-family flats.

On a 60 x 100 foot lot in this zone, the zoning density standards would permit construction of a three-unit building. After required setbacks are subtracted, the buildable area of the lot would be 3,952 square feet. The 40% lot coverage limit would mean that only 2,400 square feet of this 3,952 square foot envelope could be covered by structures. There are no FAR limits, and there is a 35' height limit, so conceivably, the parcel could support a three-story 7,200 square foot structure (2,400 square feet of floor space per unit). These standards provides ample opportunities for larger (three-bedroom) multi-family units as well as smaller 1-2 bedroom units. The opportunity for an even larger building is provided by offering a density bonus (in the form of added lot coverage and an additional dwelling unit) for affordable housing.

As noted in the text, new housing units in Zone C require two parking spaces per unit, regardless of unit size. The spaces must be outside the front setback and they must be covered and non-tandem. Given the 40% lot coverage and 20' front setback requirements, this would typically require ground level garages (or "tuck under" parking spaces) in any new multi-family construction. This could, in fact, represent a disincentive to the conversion of existing single family structures into multi-family units. It would be difficult on most Zone C lots to provide four to six off-street covered spaces outside the front setback. Accordingly, this Housing Element includes an action program to reduce the Zone C parking requirement for units less than 700 square feet to one space per unit. This would make it easier to add studios and one-bedroom units in the multiple family zones, and could facilitate the creation of new units within existing single family structures.

HCD COMMENT:

5. Fees and Exaction: While the element lists fees and considers their total effect on a typical single-family home (page 5-15), it should also describe and analyze the effects on development costs for multifamily development.

City Response:

Insert the following text after the third paragraph of P. 5-16:

The same fee schedules shown above also apply to multi-family construction. As noted earlier, there are 27 parcels in Piedmont zoned for multi-family development, and only one (the former PG&E site) is considered a housing opportunity site. The most recent proposal for this site had a Design Review fee of \$3,000 and a Variance fee of \$710. This amounted to just \$530 per dwelling unit, which is less than 20 percent of the planning fee that would be required for a new single family home. There were no school, park, transportation, or other impact fees. Utility connection fees are set by the various water and sewer providers and are consistent with those charged in other jurisdictions. Assuming a hypothetical construction cost of \$200,000 per multi-family unit, the building permit cost for a 6-unit structure would be \$11,803. The cost per unit cost would be \$1,967, which is less than one percent of construction cost.

Since multi-family projects are typically larger than single family projects and are subject to the California Environmental Quality Act (CEQA), environmental assessment is usually necessary. The City collects CEQA related fees to recover the cost of consultants and administrative handling. In the case of the most recent proposal for the PG&E site, the project was subject to a CEQA Initial Study and Scoping fee of \$23,465. This resulted in a determination that an EIR was required. An additional \$78,136 was expended for this purpose, for a total of \$101,600, or about \$14,500 per dwelling unit. This relatively large expense was somewhat unique to this particular site, however, as it would involve demolition of a former electric substation that required hazardous materials remediation prior to sale. Replacement of a single family home with a three or four unit building would likely require a smaller CEQA fee, or could require no CEQA fee at all. When possible, the City seeks to apply the CEQA exemption for infill projects from Public Resources Code 21159.23 and .24, thereby further reducing development costs.

HCD COMMENT:

6. Local Processing and Permit Procedures: While the element includes some information on some development permits, it must also specifically describe and analyze the City's permit processing and approval procedures for impacts on cost, supply, timing and approval certainty. To address this requirement, the element should discuss processing procedures and review steps for typical single- and multi-family projects, including type of permit, level of review, and decision making criteria such as approval findings.

City Response:

Insert new text after the first paragraph on page 5-17, moving the heading "Other Potential Regulatory Constraints" to the next page. The added text includes two new text boxes, as indicated below.

Typical Procedures for Single and Multi-family Projects

Building a single family home or a multi-family project in Piedmont usually begins with one or more pre-application conferences with City staff. This provides an opportunity to identify issues of concern, discuss the City's permitting requirements and application process, and review relevant Design Review requirements and zoning rules. Pre-application conferences often involve the property owner and project architect, but may also include contractors, landscape architects, and other design and construction professionals. These meetings can save the applicant time and money in the long run, by making sure all parties are aware of the City's standards and procedures. The City's zoning regulations and design guidelines are on the City's website, as are "Frequently Asked Questions" (FAQs) about planning and building permits.

Large projects such as new homes or multi-unit buildings are subject to Design Review by the Planning Commission. If Zoning Variances are necessary, the applications may be submitted concurrently. Applications must be submitted at least 30 days prior to the Commission meetings, which occur on the second Monday of each month. Applicants are required to submit two copies of their plans, an application form, a worksheet showing calculations (of floor area ratio, lot coverage, height, setbacks, etc.), and an affidavit which verifies that immediate neighbors have been notified of the plans. Prior to the Commission hearing, the City makes a determination that the application is complete and places it on the Planning Commission agenda. If the application is incomplete, the missing materials are requested and the item is not agendaized.

Two weeks before the hearing, the City notifies persons within a fixed radius of the property and invites them to review the plans. The notification radius varies from 100 feet to 300 feet depending on the scope of the project, with new homes subject to the 300 foot requirement. Applicants must then provide eight copies of their plans, six of which are distributed to the Planning Commission. A staff report is prepared, including proposed conditions of approval, recommendations, and draft findings.

The Commission then holds a public hearing, at which time the project is either approved, approved with modifications or conditions, or denied. A 10-day appeal period follows the Commission's decision. Following the appeal period, an applicant may apply for a building permit by submitting construction

drawings, calculations, permit fees, and an application form. An applicant has one year to apply for the building permit following Planning Commission approval, although the City has established a process for a six-month extension to this limit.

For new homes and major alterations, the City does not require any special permits above and beyond Design Review. However, the scope of Design Review in Piedmont is very broad, and most projects that affect the exterior of a structure (or that involve a new structure) other than repair, maintenance, or replacement-in-kind are included. The City has established protocols for different types of projects to streamline the Design Review process and has created several categories of Design Review permits. For example, a separate application form has been developed for projects requiring windows and doors. The application form indicates specific design criteria which supplement those in the Residential Design Guidelines. A separate application and form also has been developed for front yard fences. A proposal for a new home would not need to submit each application form individually, but would fill out a single form that encompasses all aspects of the project.

For new residences, story poles are required to show the height and mass of the proposed construction. This represents an additional cost for the applicant. Story poles also may be required for upper level expansions of existing residences when a neighbor's light, view, or privacy is in question, and they may be required for large single-story expansions, at the discretion of the Planning Commission or staff. The City has adopted a policy for story pole installation, and requires written verification from a registered surveyor that the poles are accurately placed. The City also has adopted a design policy for driveways and off-street parking space location, intended to guide safe access and turning radii.

Design Review applications are subject to three basic findings, as indicated in the text box below. The City's Residential Design Guidelines provide additional direction as how to make these findings. References to individual guidelines are frequently made in staff reports, and are often cited in the decision to approve, deny, or modify a project. If a project involves a multi-level structure or upper story addition, the applicant must demonstrate how the project meets the City's Design Review criteria with respect to height, bulk, openings, breaks in the façade, roof lines, arrangement of structures, and concealment of mechanical and electrical equipment. The applicant must also show that the project has been designed to minimize view and light impacts on neighboring properties, and that the size and height of the addition is commensurate with the size of the lot and in keeping with the neighborhood development pattern.

Design Review Findings

New homes and residential additions and exterior alterations in Piedmont are subject to the following findings:

- The exterior design elements are aesthetically pleasing as a whole and harmonious with existing and proposed neighborhood development. These elements include but are not limited to: height, bulk, area openings, breaks in the façade, line and pitch of the roof, materials, arrangements of structures on the parcel, and concealment of mechanical and electrical equipment;
- The design is appropriate, considering its effect on neighboring properties' existing views, privacy and access to direct and indirect light; and
- The safety of residents, pedestrians, and vehicular occupants and the free flow of vehicular traffic are not adversely affected, considering the circulation pattern, parking layout and points of ingress and egress.

Findings are also required for the granting of Variances. Applicants are asked to explain how their project meets the criteria in their application form. This helps staff and the Planning Commission in making their decision and gives the applicant a chance to justify their request. The three basic findings are shown in the text box below. In determining a “hardship,” the personal economic or family circumstances of the applicant are not considered. Hardship is defined based on unique problems with the property, such as natural obstacles or awkward lot dimensions.

Variance Findings

Variances from the Piedmont Zoning Regulations are granted based on the following findings by the Planning Commission:

- The underlying lot and existing improvements present unusual physical circumstances including but not limited to size, shape, topography, location and surroundings), so that strictly applying the terms of this chapter would keep the property from being used in the same manner as other properties in the zone which conform to the zoning requirements.
- The variance is compatible with the immediately surrounding neighborhood and the public welfare.
- Accomplishing the improvement without a variance would cause unreasonable hardship in planning, design, or construction.

As noted earlier in this chapter, the processing and permitting procedures do impact the cost of housing and add a level of uncertainty to the approval process. Building a new home may require multiple Planning Commission hearings, several Plan modifications, erection of story poles, landscaping, more expensive design solutions, and the use of exterior materials that sustain the high aesthetic quality of Piedmont’s neighborhoods. As previously noted, this primarily affects households in the high end of the “above moderate income” income range. New homes in Piedmont are typically over 3,000 square feet and the cost of a vacant lot alone exceeds the affordability limits for low and moderate income households. This Housing Element includes a program to provide greater certainty and direction for Design Review applicants.

Processing and permitting procedures do not impact the supply of housing in Piedmont, due to the city’s built out character. The City typically receives requests for only one or two new homes a year—not because of its permitting procedures, but because there are so few vacant lots on which to build.

For affordable units, the permitting process provides a high level of certainty. As noted earlier in this chapter, every rent-restricted second unit application submitted since 2005 has been approved. The time required to process and approve such applications is almost always faster than for a new house, particularly if the unit involves the conversion of space within an existing structure. Even if the second unit involves construction of new space or approval of a parking waiver (for a rent-restricted unit), the application can typically be approved in one hearing. Granting a parking waiver for a rent-restricted second unit simply requires that the Planning Commission find that the unit will not be detrimental to health, safety, or welfare of the neighborhood, and that there is sufficient street parking (or a bus stop) nearby.

HCD COMMENT:

7. City Charter for Rezoning of Parcels: The element briefly mentions the City charter requiring a citywide election for the rezoning of any parcel of land to a use other than single-family residential (page 2-4). The element must include a complete description of the requirements, how elections are processed and an analysis of the impact of the charter on the cost, timing and supply of housing. Should the analysis identify the charter as a constraint to residential development, programs must be added to address and remove or modify the charter requirements.

Follow up HCD Comment on October 7:

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.

City Response:

Edit the first sentence of the first paragraph on p. 5-11 as follows:

A potential regulatory constraint in the City relates to Piedmont's Municipal Charter. Piedmont is a charter city, and its municipal charter contains special requirements for the rezoning of property. Section 9.02 of the Charter specifies that:

[quote and second paragraph are unchanged]

Add new text to the end of this section as follows:

The Charter requirements apply only to zoning map changes, and not to zoning text changes. This gives the City the flexibility to modify the lists of permitted and conditionally permitted uses, and to alter development standards, without a citywide vote. When a vote is required, the City abides by the Election Code of the State of California, as required by Charter Section 8.03. The assistance of the Alameda County Registrar of Voters is requested in the designation of polling places, counting of ballots, and so on. A rezoning measure would most likely be placed on the same ballot as the general election, although the charter does allow for a special election. General municipal elections are held on the first Tuesday after the first Monday in February in even numbered years. It is unlikely that the City would hold a special election for a zoning change alone, but if it did this would represent a municipal cost since fees could be required for polling place rental, counting of ballots, and public information about the measure.

The city's most recent experience with a zoning-related ballot measure was in 2006. The City acquired the former Christian Scientist Church at 801 Magnolia Avenue and sought to rezone the property from "Single Family Residential" to "Public Facilities." The measure was placed on the same ballot as the regular municipal election (including City Council and School Board members). The incremental cost of adding this measure was minimal, since it appeared on a general election ballot and did not require

informational mailers or other “campaign” expenses. The measure was approved by 89.5 percent of the voters.

Based on actual experience, the Charter requirement has had no impact on housing production in the last 50 years. The Charter could indeed be a constraint if the city included large vacant or redevelopable areas, but Piedmont does not. In fact, it appears that all land in the City is already zoned to its highest and best use, which on 99 percent of Piedmont’s privately-owned parcels is single family housing. There has been no pressure to rezone single family zoned land for multi-family housing in the city, even on parcels that are currently developed with apartments. The handful of legal, non-conforming apartments that exist in the single family zone are considered “grandfathered” structures. Zoning precludes their expansion, but it does not preclude continued investment in these properties or their use as rental apartments.

In fact, single family homes even appear to be the highest and best use in the *multi-family* zoning district. About half of the parcels in this district are developed with single family homes, and there have been no proposals to demolish these homes and replace them with multi-unit buildings. To the contrary, there *have* been proposals (not approved) to convert existing multi-unit structures in this zone into single family homes. The City has adopted policies through its Housing Element to encourage the preservation of multi-family structures regardless of location and discourage their conversion into single family homes. The condominium conversion provisions of the Piedmont Subdivision Ordinance further restrict the conversion of existing multi-family rental apartments to other uses.

Given all of these factors, the City has concluded that the Charter is not a constraint and does not influence the supply, cost, or timing of housing. Other factors, namely the high cost of land and built out character of the city, are much more significant constraints. These constraints compel the city to seek affordable housing solutions which make the most of the existing housing stock—namely the creation of second units.

Add new Program 4.I on Page 6-19 as follows:

▪ *Program 4.I: Monitoring the Effects of the City Charter*

Piedmont’s rent-restricted second unit program has been successful in accommodating and achieving the City’s share of the regional housing need, including producing housing for very low income households. However, the Charter requires a citywide vote for zoning map changes, which constrains the development of a variety of housing types, particularly high-density multi-family housing. To address this constraint, the City has added Programs 1.E (allowing multi-family density housing and mixed use in the commercial zone) and 1.G (creating new incentives for multi-family uses). Program 4.I supplements these two programs to ensure their effectiveness by monitoring and annually evaluating and reporting on the effects of the City Charter on: (a) the cost and supply of housing, particularly multifamily housing and (b) the effectiveness of City strategies to mitigate related impacts such as allowing multifamily uses in Zone D (Program 1.E) and incentives for multifamily uses in Zones C and D (Program 1.G). Based on the outcome of the evaluation, the City will adopt strategies to address and mitigate identified constraints.

City Planning and Building Staff will continue to track annual housing production and permit activity as they have in the past, and will prepare annual reports to the Council evaluating housing and building permitting trends and the effects of the Charter as described above. These reports will specifically evaluate the Charter for impacts on multi-family housing production and costs based on various criteria such as:

- the failure of a citywide ballot measure associated with a proposed Zoning Map change to multi-family housing
- a multi-family development proposal which has been endorsed or approved by the Planning Commission or City Council but does not proceed because a citywide ballot measure to change the zoning would be required
- conclusions of research done by a third party finding that the City Charter constrains the ability to do multi-family housing;
- lack of multi-family development proposals
- input from the development community, including non-profits, property owners, stakeholders and advocates on behalf of lower income households such as the Non-Profit Housing Association of Northern California (NPH), EBHO and the League of Women Voters.

Based on the outcomes of the evaluation, the City will implement program and zoning changes within 12 months including, if necessary, a Charter amendment or other appropriate remedies not requiring voter approval. These remedies could include streamlining multifamily permit procedures and identifying and designating, additional sites for multifamily development within 12 months.

HCD COMMENT:

8. Identify adequate sites: As noted in Finding A-3, the element does not include a complete site analysis and therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types.

City Response:

This comment is addressed by the responses to the previous seven comments

HCD COMMENT:

9. Multifamily Opportunities: Given the requirement to encourage a variety of housing types to assist in addressing the need for housing for families suitable in size, the element should include programs to facilitate multifamily development. For example, programs could be added to offer incentives assisting in the development of multifamily projects such as expedited permit processing, modifying development standards, fee deferral and/or other incentives encouraging multifamily development. This is particularly important given the lack of multifamily development in the prior planning period and some sites zoned for multifamily with existing operating uses.

Follow up HCD comment on October 7:

While program 1.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 multifamily 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.

City Response:

Add new Program 1.G to bottom of Page 6-6 as follows:

- **Program 1G: Facilitating Multi-Family Development.**
Develop incentives which would facilitate multi-family development on land zoned for multi-family or commercial uses in Piedmont, including modifications to lot coverage requirements for multi-family uses in Zones C and D, and modifications to permitted and conditionally permitted use requirements for Zones C and D. The City will also consider potential ways to streamline environmental review in the event future multi-family uses are proposed in these areas. These changes should be implemented within 24 months after the Housing Element is found to be compliant with the State Government Code by the State Department of Housing and Community Development..

Description:

The City of Piedmont will continue to explore ways to encourage or incentivize multi-family development in Zoning Districts C and D. The City already provides rapid processing of development applications and has modified the development standards (i.e., allowing greater lot coverage) in Zone C to facilitate affordable housing development. The City offers reduced fees for affordable second units (i.e., waiver of business taxes) but has not yet offered such reductions for affordable multi-family projects. Provisions for fee reductions for multi-family projects that incorporate affordable units should be explicitly provided in the Zoning Regulations.

As noted in Program 1.E, the City will be amending its Zoning regulations to permit mixed use and multi-family development in Zone D (the Commercial zoning district). As further noted in Program 4.G, the City will also amend the regulations for Zones C and D to allow fewer parking spaces for smaller multi-family units. Additional steps to incentivize multi-family and mixed use development in Zone D **will be established should be pursued**. This should include **the following specific zoning changes: raising the maximum lot coverage allowed for two-story buildings if they include housing.**

- a) **Raising the maximum lot coverage allowed for two-story buildings in Zone D for projects which include housing.** The limit is presently 50 percent for one-story buildings and 25 percent for two-story buildings. Given that most multi-family and mixed use buildings are two stories, it would be difficult to do such development in this zone without a Variance for lot coverage. The ordinance should be amended to allow 50 percent lot coverage for mixed use and multi-family buildings in Zone D.
- b) **Raising the lot coverage allowed for multi-family buildings in Zone C to include all multi-family projects and not just affordable projects.** The City presently has a 40 percent lot coverage limit for structures in Zone C. This limit increases to 50 percent for multi-family projects that include affordable units. While this is an incentive for affordable housing, it may be a disincentive for market rate rental units, which are needed in the city to serve moderate income households. Lot coverage limits should be raised to 50 percent for all multi-family projects in this zone, regardless of affordability.
- c) **Adopt a minimum density standard of 12 units per net acre in Zones C and D.** Adoption of a minimum density standard roughly equivalent to one unit per 3,600 square feet of lot area in Zones C and D would further incentivize the use of any available properties in these zones for multi-family housing. The standard would help ensure that any future development in these zones maximizes the opportunity for multi-family units. The City already has a condominium conversion ordinance which **prohibits** the removal of rental apartments without providing an equivalent number of new rental apartments elsewhere in Piedmont. This effectively ensures that any existing multi-family housing in Zone C will remain, while the proposed zoning revision encourages any new development in this zone to be multi-family housing or townhomes.

The City will also pursue ways to reduce environmental review costs for multi-family or mixed use projects **that include affordable units**. Although environmental review requirements for redevelopment of the PG&E site have been extensive because the site was used as an electric substation for 80 years, this is not the case for many other properties in Zones C and D. For sites that have historically been in residential use, environmental review could be expedited and less costly.

The zoning changes described above will be implemented within 24 months after HCD certification of the Housing Element.

The measures described above could conceivably facilitate new mixed use or multi-family units during the 5-year planning period. However, given the absence of vacant land (other than the former PG&E site), the high value of commercial land in Piedmont, and the relatively affordable nature of the existing housing in the multi-family zone, the City's best prospects for meeting its future affordable housing needs will continue to be through second units.

HCD COMMENT:

10. Second Units: Given the City's reliance on second unit development to meet the needs of housing for lower-income households, a program should be added that specifically monitors second unit development opportunities available to meet the needs of lower-income families.

Follow up HCD comment on October 7:

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 monitor and maintain the availability of second unit development opportunities such as lots with capacity for second units.

City Response:

Add new Program 3.C and Program 3.D to bottom of Page 6-14 as follows:

- ***Program 3C: Monitoring Affordable Second Unit Opportunities***
Monitor the supply of unintended second units, illegal or suspected second units, and vacant second units. A confidential data base listing the addresses of such units shall be maintained for administrative purposes. Recognize the potential for such properties to help meet the City's affordable housing needs, and take proactive steps to realize this potential in the coming years.

Description:

As noted in Table 2.1 of the Housing Element, the City maintains an address data base of second units, noting the year they were created, the way they were permitted, and comments on their current status. The data base provides a mechanism for monitoring second unit development opportunities, and the supply and status of legal and illegal second units. As noted in Program 1.D, the City will begin monitoring data on second unit rents in 2011, providing an additional source of information on this component of the housing supply.

Program 3.A describes the City's intent to pursue additional development opportunities in "unintended" second units. These are spaces that are not used for habitation as separate living quarters, but have the potential for conversion to second units based on their physical characteristics. Examples include pool houses with indoor cooking facilities; basements with kitchens, bathrooms, and separate entrances; and finished rooms over garages. There were 117 unintended second units counted in the city in 2009. As noted in Program 3.B, the City intends to remind owners of these units of the opportunity to apply for legal second unit status.

The address data base of "suspected" and "illegal" second units is an important resource. The illegal status of such units provides leverage to convert them into rent-restricted units. The City will work with the owners of such units in to convert them into legal apartments, on the condition that they either provide conforming parking or be rent-restricted to a low or very low income household. The latter option provides a "win-win" for all parties, since it provides the owner with a legal second unit and legitimate source of rental income, the City with an affordable unit, and a low income tenant with a secure place to live.

As noted on P. 5-17 of the Housing Element, the City also collects annual business license taxes (generally around \$200 annually) from second unit rentals. The owners of many legal units are not paying these taxes, suggesting that the units are vacant or are being used for guest quarters, family members, home offices, etc. These legal units are a housing resource for the City, and steps should be taken to incentivize their use as rental apartments. Even though they are not rent-restricted, such units are usually affordable to low and moderate income households.

Finally, it is acknowledged that the City's data base of "unintended units" represents only a portion of the potential for second units in the city. There are many other homes in Piedmont that contains physical features conducive to second unit creation. The City will make an ongoing effort to expand its data base of such spaces in the future as planning and building permit applications are received and as plans are reviewed. Part of the plan checking process should include an evaluation of whether the property contains an unintended second unit (i.e., does it have two kitchens? is there habitable space over the garage or in the basement or attic?) Properties should be added to the unintended unit data base over time, so that when the City does periodic mailings on second unit opportunities, these addresses are included.

▪ ***Program 3D: Monitoring Additional Second Unit Development Opportunities***

Monitor potential opportunities for second units within new homes and on existing homes located on larger lots that are conducive to second unit creation.

Description:

While Program 3.C addresses opportunities for second units through the conversion of existing floor space, Program 3.D focuses on lots which are conducive to second unit creation due to their large size, location, or ability to accommodate additions or new structures. This includes vacant lots, lots in the Estate Zone, and lots in Zone A that are larger than 20,000 square feet. These lots are more likely to have space for a new second unit, as well as room to meet the off-street parking requirements for market-rate units. As development applications for new homes or major home additions are received on these properties, the City will advise applicants of the opportunity to add a second unit.

HCD COMMENT:

11. *Emergency Shelters:* The City must provide an analysis demonstrating sufficient capacity in 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 City's need for emergency shelters.

Transitional and Supportive Housing: While Program 5.E indicates the City will amend Zone B to allow transitional housing by-right, pursuant to SB 2, transitional and supportive housing must be permitted as a residential use and only subject to those restrictions that apply to other residential uses of the same type in the same zone. As a result, the element must amend Program 5.E or add another program to amend zoning for transitional and supportive housing consistent with SB 2.

Follow up HCD comment on October 7:

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 the 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 (SB2), transitional and supportive housing must be considered 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.

City Response:

The requested analysis in HCD's first paragraph is provided in our response to Comment #3. The response to the comment in the second paragraph is provided through the following revisions to Program 5.E on P. 6-23 (new text is underlined):

- ***Program 5.E: Zoning Amendment for Emergency Shelter***
Amend the Piedmont Zoning Ordinance to identify emergency shelters and transitional housing as permitted uses in Zone B, the Public Facilities Zone. Pursuant to Chapter 633, Statutes of 2007 (SB2), emergency shelter—the revised zoning text will stipulate that transitional and supportive housing will be considered a residential use subject only to the same permitting processes as other housing in the subject zone without undue special regulatory requirements.

Description:

This action would bring Piedmont into compliance with California Senate Bill 2 (effective January 1, 2008) which indicates that cities must identify adequate sites for emergency shelter and transitional housing "by right" through appropriate zoning and development standards. The action would add emergency shelters to the list of permitted uses in the Public Facilities Zone (Zone B). Presently, they are only conditionally permitted. As indicated in Chapter 5, there is sufficient capacity in Zone B to

meet the local need for emergency shelter, which is estimated as being between 0 and 15 people, depending on the data source.²

Emergency shelters and transitional and supportive housing are in Zone B would be permitted as residential uses and are would be subject to the same requirements that apply to other residential uses of the same type in the same zone without undue special regulatory requirements elsewhere in Zone B. This zone—The zoning district where such uses would be permitted by right—in other words, without discretionary review (Zone B)—has no minimum lot area, no minimum lot frontage, and no limit on lot coverage or impervious surface. Setbacks are 20’ on all sides and a height limit of 35 feet applies. Because most of the parcels in this zone are large, these setbacks would not preclude new structures. Given the small size of the homeless population and the potential cost of developing a new shelter or transitional housing development, it is more likely that such a facility would use an existing structure rather than a brand new building. The zone includes numerous structures, including a vacant church, municipal buildings, recreation centers, schools, and portables.

² The reference to “0 to 15” is based on the City’s observation that there is not a quantifiable homeless population in Piedmont, while recognizing that the County Homeless Management Information System used a pro-rated population-based formula to estimate that the City had 15 homeless residents. The City of Piedmont has estimated that there is a need to assist three extremely low income households in the City during for 2010-2014 (based on the Regional Housing Needs Allocation), which could include homeless residents.

HCD COMMENT:

12. Pursuant to Chapter 891, Statutes of 2006 (AS 2634), programs should specifically assist in the development of a variety of housing types to meet the housing needs of extremely low-income (ELI) households. While the element includes Programs 5.G and 5.E to assist in the development of housing for ELI households for the City's homeless, additional programs should be added to address the needs of ELI households that are not homeless. To address this requirement, the element could revise or add programs to prioritize some funding for the development of housing affordable to ELI households, and/or offer financial incentives or regulatory concessions to encourage the development of housing types, such as multifamily, single-room occupancy (SRO) units, and supportive housing, which address some of the needs of this income group.

Follow up HCD comment on October 7:

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 (AS 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.

City Response:

Add a new Program 5.I to the bottom of Page 6-24. The program also includes a text box to illustrate the findings of best practices research on the topic at hand.

- *Program 5.I: Second Units for Extremely Low Income Households*
Maintain an inventory of second units that are available at rents that are affordable to extremely low income households. Explore ways to expand this inventory and encourage the development of additional extremely low income second units through the City's affordable second unit program and other means.

Description:

The City of Piedmont has identified the need to assist three extremely low income households during the 2010-2014 Housing Element period, based on its Regional Housing Needs Allocation. Pursuant to Assembly Bill 2634, local governments are required to assist in the development of a variety of housing types to meet the needs of these households. In larger communities, this is usually done by accommodating single room occupancy hotels (SROs), providing multi-family developments with units set aside for extremely low income households, and facilitating supportive and transitional housing. In smaller communities, provisions for shelters and

supportive and transitional housing are required by state law, but additional steps must still be taken to meet the diverse housing needs of extremely low income residents.

Based on data from the 2000 Census, about 40 percent of Piedmont's extremely low income households are headed by senior citizens. Programs 2.A, 5.A, and 5.B focus on these residents. As these programs are administered, the City will place a priority on serving extremely low income senior applicants.

For extremely low income residents in Piedmont who are *not* seniors, second units and shared housing are the best prospects for meeting housing needs. As the text box below indicates, this is the strategy that has been taken by other small residential cities in the Bay Area with demographic and land use characteristics similar to Piedmont.

Data collected by the City of Piedmont indicates there were several second units in the city in 2009 with monthly rents of less than \$468.³ These units meet affordability criteria for extremely low income households and demonstrate that such units are already meeting a portion of the City's extremely low income housing needs *with no public subsidy*. Based on rental tax data, an additional unknown number of the city's second units appear to be occupied by extremely low income households who pay no rent at all. Such units are an important resource for extremely low income households and should be sustained.

In the future, the City will explore options to increase the inventory of extremely low income housing. This could be done through a permanent waiver of the business license tax for extremely low income second units (rather than a one-year waiver). The City will also explore fee reductions or other incentives so that some of the very low income units produced through the affordable second unit program are suitable for extremely low income households, including seniors and persons with disabilities. Other programs in this Housing Element, including the monitoring of second unit rents (see Program 1.D), will enable the City to gauge the extent to which second units are already serving extremely low income households. The City will also increase public awareness of the rules for renting a room in a Piedmont house, since such rentals can provide an income source for homeowners and a potential resource for extremely low income households.

³ \$465 would be the affordable monthly rent for a one-person extremely low income household in 2009, based on HUD Income data for Alameda County, e.g. 30 % of \$18,750 annual income / 12 months = \$468.

Providing Extremely Low Income Housing in Small, Residential Cities: Solutions from Across the Bay Area

As part of the Housing Element Update, the City of Piedmont conducted a “best practices” review of peer cities in the Bay Area. The focus was on Housing Element programs to address the needs of extremely low income households. Four cities—all with recently certified Housing Elements, high median incomes, high home values, and mostly residential land uses—were surveyed. The results are below.

Hillsborough (pop. 11,200; estimated Extremely Low Income need: 10 units). Programs include:

- Waiving planning and building fees for second units
- Informing developers of opportunities to build transitional and supportive housing
- Allowing the renting of individual rooms in single family homes
- Supporting shared housing
- Encouraging second units (the Town’s Housing Element concluded that 55 percent of its second units were affordable to extremely low income households, including all units for which no rent was reported.)

Belvedere (pop 2,150; estimated Extremely Low Income need: 3 units). Programs include:

- Considering an affordable housing impact fee and Housing Trust Fund to assist very low income households
- Allowing Single Room Occupancy (SRO) hotels in the Commercial zoning district
- Creating home sharing and tenant matching opportunities
- Providing reduced fees for extremely low income housing
- Using existing rental assistance programs (Section 8, etc.)

Portola Valley (pop. 4,800; estimated Extremely Low Income need: 16 units). Programs include:

- Allowing larger second units and considering reduced fees
- Waiving fees for extremely low income units
- Encouraging shared housing
- Considering an affordable housing impact fee

Moraga (pop. 16,200; estimated Extremely Low Income need: 42 units). Programs include:

- Allowing renting of rooms in single family homes
- Facilitating access to housing subsidies, including subsidies for extremely low
- Recognizing that some second units are free, and therefore may serve extremely low (10 percent of the Town’s units are estimated to rent for less than \$670/month)

Also add a new Program 5.J to the bottom of Page 6-24:

▪ ***Program 5.J: Housing for Extremely Low Income Families***

Develop incentives to meet the needs of Piedmont's extremely low income households potentially including modified development standards for new multi-family buildings that include units for extremely low income families.

Description:

Piedmont presently allows second units to be as large as 1,000 square feet if the units are rent restricted to very low income households, including extremely low income households. The allowance for larger units if the unit is rented to a very low income household provides a strong incentive that benefits extremely low income families. A unit of this size would typically be associated with a two-bedroom apartment or carriage house, which could accommodate a three or four person extremely low income family. The City will pursue additional incentives to encourage the inclusion of units that are affordable to extremely low income households in new multi-family development. These incentives could include allowances for higher lot coverage and floor area ratios in Zone C for buildings that dedicate one or more units for extremely low income families.

Modify Program 2.A on P. 6-8 as follows:

▪ ***Program 2.A: CDBG Funding***

Apply for Community Development Block Grant (CDBG) funds for housing maintenance and production on an annual basis, and establish a process for informing the public that such funds are available. If and when such funds are received, a priority should be placed on their use to assist households with incomes less than 30 percent of area median income.

Description:

The Alameda Urban County CDBG program provides funds to assist lower income households with home repair and maintenance projects. A limited amount of funds are provided to local cities, with disbursement to qualifying lower income households. The City of Piedmont has participated in this program in the past and will continue to participate in the future. Future participation is recommended. If the City is successful in obtaining funds, a public information campaign should be initiated to solicit applications for grants/loans by Piedmont households, with an emphasis on extremely low income households. If sufficient funds are obtained to produce new affordable housing units, the City will work with non-profit developers to explore complementary measures to facilitate housing production, such as reduced permitting and environmental review costs. The City will also seek input from developers to research appropriate potential funding sources for affordable housing production.

Modify Program 5.A on P.6-21 as follows:

▪ ***Program 5.A: Shared Housing***

Consider participating in ECHO Housing's shared housing program as a way to improve housing opportunities for lower income seniors and extremely low income households.

Description:

Some of Piedmont's "empty nesters" or other residents who have surplus space in their homes may wish to rent that space in return for income or care, but may be reluctant to rent to strangers. The non-profit

Eden Council for Hope and Opportunity (ECHO Housing), which serves residents throughout Alameda County, operates a shared housing program which could potentially benefit these residents. The program matches persons needing housing with homeowners who have available space.

Shared housing programs can also provide a resource for extremely low income households, including families as well as seniors. The ECHO program includes counseling on shared living, supportive services, and informational and referral., as well as educational workshops on home sharing. Any shared housing program in Piedmont should be designed to include extremely low income families, as well as empty nesters and other seniors.

HCD COMMENT:

13. Design Review (program 2.E): The Program commits to conduct planning commission study sessions to assess and identify steps that might be taken to expedite and improve the City's design review process. However, given that many Piedmont residents believe the City's design review requirements are too restricting and do not provide clarity in decision-making (page 5-12), the Program should commit to actions beyond identifying steps that "might be taken" to address the constraint. For example, the Program could commit to developing a handbook, by a date certain, outlining different design schemes that provide certainty to applicants.

City Response:

Edit Program 2.E on P. 6-10 as follows (new text is underlined) :

▪ *Program 2.E: Streamlining Design Review*

Conduct a Planning Commission Study Session to identify steps that might be taken to expedite and improve the design review process. Following this Session, develop amendments to the Design Review process consistent with Action 28.C of the General Plan (Design and Preservation Element).

Description:

Design Review is an important part of Piedmont's housing conservation program and has helped retain many of the city's smaller and more relatively affordable homes. At the same time, some aspects of Design Review increase the cost of construction, which affects housing affordability and decisions about reinvestment. This may pose hardships for low and moderate income households in the City. It is important to continually revisit Design Review requirements, procedures, and fees in response to public concerns, construction trends, and staff resources.

This program calls for a special work session on Design Review to be sponsored by the Piedmont Planning Commission. The work session should be widely publicized, with opportunities for community feedback on a range of topics. Among the specific proposals that may be considered by the Commission would be:

- Additional categories of exemptions from Design Review, especially for small projects that are not visible to neighbors or from the street
- Changes to the notification requirements, and the extent to which comments from neighbors may change a project's design and materials
- Clearer rules for decision making
- Potential modifications to the fee schedule, to further discount certain types of projects or raise the fees for other types of projects

Following the work session, City Planning staff will propose appropriate changes to the Design Review procedures based on guidance from the Planning Commission. These changes would subsequently be presented to the City Council for consideration. Consistent with Action 28.C of the Piedmont General Plan, it is expected that the changes would include additional exemptions for rear yard projects that comply with zoning standards and are minimally visible from the street. The changes could also relate to the fee schedule, and to the rules for decision making.

See also Design and Preservation Element Action 28.C regarding amendments to the Design Review requirements and Action 28.E regarding an update to the City's Residential Design Guidelines

Add new Program 2F to bottom of Page 6-10 as follows:

- **Program 2.F: Update of Design Guidelines**
Update the 1988 City of Piedmont Residential Design Guidelines, consistent with Action 28.E of the Piedmont General Plan.

Description:

As noted in the Design and Preservation Element of the General Plan adopted in April 2009, the Guidelines document should be given a more contemporary look and should be reformatted to reflect current graphic design standards. The content also should be assessed, and changes should be made to make the Guidelines more relevant and descriptive where necessary. In addition to the drawings in the Guidelines, photos should be incorporated to illustrate desired outcomes and provide greater certainty to applicants. Consistent with the General Plan, a specific section of the Guidelines should address development of small (less than 5,000 square foot) lots.

Also as noted in the General Plan, the scope of the City's Design Guidelines should be expanded to address mixed use and multi-family residential development. This could expedite the processing of such development if future proposals are received, and would ensure that multi-family development is not evaluated using standards intended for single family homes.

HCD COMMENT:

14. The City should also note recent statutory changes to Government Code Section 65302 (Chapter 369, Statutes 2007 [AS 162]) which requires amendment of the safety and conservation elements of the General Plan to include analysis and policies regarding flood hazard and management information upon the next revision of the housing element on, or after, January 1, 2009.

City Response:

Add footnote to the end of the third paragraph on Page1-2:

¹ Government Code Section 65302 also requires amendment of the Safety and Conservation Elements of the General Plan to include an analysis of flood hazard policies relative to housing. In Piedmont's case: (a) the General Plan was adopted after this rule became effective (Jan 1, 2009) and includes the requisite analysis and policies, and (b) no portion of Piedmont is within the 100-year flood plain and consequently no housing sites were affected by flood hazard information.

HCD COMMENT:

15. While the element includes a general summary of the public participation process, it should also include descriptions of how input was solicited, considered and incorporated. For example, the element could describe the success of the outreach efforts, summarize public comments and describe how public input was eventually incorporated into the element.

City Response:

Edit Page 1-4 of the Element as follows (underlined text is new):

Public Participation

In accordance with the Government Code, the City of Piedmont solicited public input throughout preparation of the Housing Element. The Planning Commission was the primary conduit and held five evening work sessions on the Element in 2009. Each work session corresponded to one of the chapters of the Element. The work sessions followed a longer public input process associated with the General Plan Update that took place in 2007 and 2008. Although housing was not the explicit focus of the 2007-08 work sessions, that process also offered an opportunity for Piedmonters to express their views on housing issues.

[Comment: Reversed previous order of second and third paragraphs below]

Early in the Housing Element process, the City developed an email data base of interested parties. Housing Element meetings were publicized through community newspapers, posting of meeting notices at City Hall and on the City's website, and e-mails to an "interested parties" mailing list that was maintained and expanded throughout the process. Meetings were televised on local access cable (KCOM), potentially reaching most Piedmont households. Meetings could also be viewed on-line via streaming video, both in real-time and on-demand.

These parties Piedmont residents and other interested parties were invited to attend each Planning Commission work session, and were provided with opportunities to review and comment on each working draft chapter of the element as it was completed. Working drafts were posted on the City's website throughout 2009 and 2010. The City's email notification list included Piedmont residents, regional housing advocates, social welfare organizations, and local non-profits, as well as members of the City Council. The City worked with the local press to publicize the Commission work sessions and encourage attendance.

Despite efforts to solicit broad public input, public turnout at Housing Element meetings was relatively low. This has been the City's experience with other long-range planning initiatives and compelled the City to seek other methods of soliciting input (see discussion of the Resident Survey below). Most Housing Element meetings included one or two public speakers, a handful of audience members, and a member of the local press. Comments generally addressed the City's second unit program and Design Review standards. The City has incorporated community feedback in this Element by proposing revisions to the second unit program, updating the Residential Design Guidelines, and committing to a

continued dialogue about fees and Design Review procedures. The Element also reflects extensive input from the Planning Commission, who reviewed and commented on its policies and programs in their work sessions.

As noted above, the City explored new ways to engage the public in this Housing Element update, since the traditional methods of public workshops and Planning Commission meetings resulted in limited input. As part of the General Plan Update in 2007, the City mailed a 4-page resident survey that was mailed to every household in Piedmont the City. More than 1,100 surveys—representing **over 30 percent** of the city’s households—were returned. The survey was an extremely useful tool to gauge public opinion on planning issues, including those related to housing. The General Plan survey included questions on such topics as second units, mixed use development, and residential design review. It included a combination of interval rating questions (e.g., on a scale of 1 to 5 ...), multiple choice questions, and open-ended questions. Hundreds of written comments related to housing were received, transcribed, and analyzed.

Data from the survey was used in the development of housing policies, just as it was used to develop land use, transportation, design, conservation, and community facility policies. For example, 71 percent of the respondents indicated the City should encourage mixed use development (including housing) on Grand Avenue commercial properties. This is reflected in the policies of this Housing Element, which support multi-family residential development in this area. The survey also indicated support for second units as a form of affordable housing, which is also a focus of this Housing Element.

The General Plan Survey also helped shape housing policies related to planning and building fees, zoning regulations, and Design Review requirements. About 25 percent of the survey respondents felt the City’s Design Review regulations were too restrictive, about 44 percent felt they were “just right,” and 5 percent felt they were not restrictive enough. Written responses were published in a 2008 report. Where appropriate, the policy recommendations in this Housing Element reflect the recurring themes and messages from the survey—for example, the use of “sliding scales” when calculating design review fees, updating the City’s Design Guidelines, and considering reduced public notification requirements for projects that are not visible from the street.

[last paragraph in this section is unchanged]