

PIEDMONT CITY COUNCIL

Regular Meeting Minutes for Monday, October 16, 2017

A Regular Session of the Piedmont City Council was held October 16, 2017, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54957(b), the agenda for this meeting was posted for public inspection on October 12, 2017.

CALL TO ORDER Mayor McBain called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

ROLL CALL Present: Mayor Bob McBain, Vice Mayor Teddy Gray King, and Councilmembers Betsy Smegal Andersen, Jennifer Cavanaugh, and Tim Rood

Staff: City Administrator Paul Benoit, Assistant City Attorney Chad Herrington, Fire Chief Warren "Bud" McLaren, Chief of Police Jeremy Bowers, Planning Director Kevin Jackson, Recreation Director Sara Lillevand, Director of Public Works Chester Nakahara, Finance Director Michael Szczech, Senior Planner Pierce Macdonald-Powell, and City Clerk John Tulloch

CEREMONIAL MATTERS

Swearing In In accordance with the Council's appointment at its special meeting October 2, 2017, the City Clerk administered the oath of office to newly appointed City Councilmember Betsy Smegal Andersen. Subsequent to being sworn in, Councilmember Andersen thanked her family for its encouragement and support.

North Bay Fires Fire Chief Warren "Bud" McLaren discussed the North Bay Fires and the mutual aid provided by the Piedmont Fire Department. Chief of Police Jeremy Bowers discussed the devastation from the fires and expressed his gratitude to those who have assisted. City Clerk John Tulloch provided information on opportunities for volunteers and donations to assist those who were affected by the fires. Mayor McBain stated the information would be placed on the City's website and he commended City staff.

CONSENT CALENDAR The following items were considered under one vote by the Council:

Minutes Approval of Council Special Meeting Minutes for 10/02/17

**Nuisance Abatement
And Administrative
Citation** 2nd Reading of Ord. 735 N.S. Revising Nuisance Abatement and Administrative Citation Procedures (0045)

**Street Pruning
Contract** Award of the FY 17-18 Street Tree Pruning Contract to the Professional Tree Care Company in the Amount of \$156,450 (0045)

Resolution No. 72-17

RESOLVED, that the City Council approves the Consent Calendar Items 1 through 3.

Moved by King, Seconded by Cavanaugh

Ayes: Andersen, Cavanaugh, King, McBain, Rood

Noes: None

Appointment of Public Mayor McBain announced that he pulled this item from the consent calendar in

Safety Committee Chair order to thank Lori Elefant for her service as Chair and to welcome Lynne Wright as the incoming Chair of the committee. He also urged residents to take advantage of the work that the committee has done to help residents be prepared for natural disasters.

Councilmember King congratulated Lynne Wright on her impending appointment.

Resolution No. 73-17

RESOLVED, that the City Council appoints Lynne Wright as the Chair of the Public Safety Committee, as recommended by the Public Safety Committee.

Moved by King, Seconded by Andersen

Ayes: Andersen, Cavanaugh, King, Rood, McBain

Noes: None

(0085)

PUBLIC FORUM

Mira Tellegen discussed her experience growing up in Piedmont and the positive impact on her life.

Abigail Willson urged the Council to make Piedmont a sanctuary city.

William Updyke thanked the Police Department for keeping Piedmont safe.

CEREMONIAL MATTERS

**League of Women
Voters Proclamation**

Mayor McBain presented a proclamation to the Piedmont League of Women Voters in recognition of its 70th anniversary and its continued engagement in the Piedmont community.

Piedmont League of Women Voters President Katy Foulkes thanked the Council for its support and encouraged residents to vote.

**Introduction of New
Employee**

Public Works Director Nakahara introduced new Administrative Assistant Mark Enea. Mr. Enea thanked the Council and expressed his enthusiasm for working for the City.

REGULAR AGENDA

The Council considered the following items of regular business:

Councilmember Andersen announced that she must recuse herself from the consideration of site PHS07, located across from 352 Jerome Avenue, because her home is within 500 feet of the proposed site. She left the Council Chambers.

**Wireless
Communication
Facilities Permits**

Planning Director Kevin Jackson began his presentation by stating that staff did not select the location of any of the proposed sites nor did staff design any of the facilities. Rather, the role of staff for these applications was to offer comments, concerns and suggestions. Mr. Jackson reviewed the specifics of the application for site PHS07, located across from 352 Jerome Avenue, and recommended denial of the application and stated reasons for the recommendation, which are more fully laid out in the proposed resolution for the denial of the application.

Public Testimony was received from:

Tom Lee stated his opposition to site PHS07, because cell phone service is not guaranteed by any state or federal law. He read a section of federal

telecommunication law related to rural areas and stated the proposed allocation was in the wrong area.

Todd Threw, representing applicant Crown Castle, stated, based on staff's request to reduce the size, the antenna was reduced to 24-inches and moved to the communications zone of the pole and that the location of the antenna was subject to restriction and regulation by the Public Utilities Commission.

Resolution No. 74-17

WHEREAS, between 1907 and 1940, 2,500 homes, nearly 70% of the City's existing housing stock, were built, and most of Piedmont's streets were laid out during the early days of the automobile, before modern engineering standards evolved and were adopted. The Piedmont General Plan and Design Guidelines have been developed by City decision-makers over time to apply rigorous aesthetic and health and safety standards to new development on private and public property due to the unusually dense development of Piedmont neighborhoods, high-quality natural and historic resources, and the existing limited transportation circulation and access; and

WHEREAS, the Piedmont General Plan, adopted April 6, 2009, provides direction for development on public land including policies, programs, and actions in the Land Use Element, Transportation Element, Design and Preservation Element, Parks, Recreation, and Open Space Element, and Natural Resources and Sustainability Element, and the first guiding principle of the Framework section reads, "While a limited amount of change is inevitable, the essential quality of and character of Piedmont's homes, natural features, and open space will be protected. The ambiance of the city's residential streets and public spaces will be conserved. These are the things that make Piedmont special, and they are central to the city's vision for its future. This basic principle underpins all elements of the General Plan;" and

WHEREAS, on November 2, 2016, Crown Castle NG West LLC through Beacon Development (the "Applicant") filed wireless communication facilities (WCF) permit applications for nine sites in Piedmont near Piedmont Park, Piedmont High School, and surrounding neighborhoods (Applications #16-0385), and one of the nine proposed WCF installations was proposed for a site across from 352 Jerome Avenue in the public right-of-way, a site identified in the application materials as PHS07. The plans for the proposed installation PHS07 are incomplete but show the installation of a single new pseudo omni-directional antenna on a three-foot-long arm extension affixed to a new replacement utility pole across from 352 Jerome Avenue, along with the installation of communication equipment on the side of pole and partially behind in a new pole-mounted shroud on Jerome Avenue; and

WHEREAS, as provided in Piedmont City Code section 17.46.080.c, the City Council is hearing this application for Wireless Communication Facilities permit because the proposal across from 352 Jerome Avenue is a WCF permit installation proposed in zone A within the City-owned public right-of-way; and

WHEREAS, the roadways adjacent to the site across from 352 Jerome Avenue have curb-to-curb width of 30 feet, and these roadway widths are only "marginally adequate" for access according to the General Plan Transportation Element; and

WHEREAS, City staff sent the applicant seven (7) letters and emails outlining

the missing, inconsistent, and incomplete information in the proposed plans and applications, each letter and email was a timely response to the applicant's submittals in accordance with Federal Communication Commission and State of California requirements, and these letters and emails were sent on November 10, 2016; December 19, 2016; February 19, 2017; April 17, 2017; May 29, 2017; June 9, 2017; and August 13, 2017; and

WHEREAS, the Piedmont Park Commission held a duly noticed public hearing on June 7, 2017 for the proposed installation at 355 Jerome Avenue near 352 Jerome Avenue, and recommended City Council denial of the designs shown in the iteration of the plans filed by the applicant on May 19, 2017 (henceforth referred to as "May 2017 Plans"); and

WHEREAS, the Piedmont Planning Commission held a duly noticed public hearing on June 12, 2017 for variance applications (height and obstructions), WCF application, and plans for the proposed installation at 355 Jerome Avenue near 352 Jerome Avenue and, at the close of the public hearing, recommended City Council denial of the requested variance applications and WCF application for the design shown in the May 2017 plans, because the installations shown in the May 2017 Plans did not comply with Division 17.46 of the Piedmont City Code or Division 17.70 of the Piedmont City Code; and

WHEREAS, on June 23, 2017, the Applicant and City mutually agreed to an extension to October 31, 2017 of the applicable shot clock timelines set forth by the Federal Communications Commission (Petition for Declaratory Ruling ("Shot Clock Rule"), 24 F.C.C. Rcd. 13994 (2009) and the applicable State of California-required shot clock for application processing time lines (collectively, the "Shot Clock"). The purpose of the shot clock extension was to provide the Applicant with additional time to investigate and propose alternate designs intended to address the various concerns expressed by the Planning Commission and Park Commission regarding the May 2017 Plans during the meeting of June 12, 2017 and the meeting of June 7, 2017; and

WHEREAS, on September 8, 2017, the applicant filed the latest applications and plans for the nine (9) installations, and the location of the proposed installation was moved from the utility pole at 355 Jerome Avenue to a new utility pole across from 352 Jerome Avenue. The application and plans still contained incomplete information and inconsistent information.

WHEREAS, the September 2017 Plans were analyzed by staff, and staff reports were prepared for the City Council hearing of October 2, 2017 for the proposed installation across from 352 Jerome Avenue and the other eight (8) WCF installations requested by the applicant; and

WHEREAS, on September 19, 2017, the applicant withdrew the previously proposed designs filed in May 2017, referred to herein as the May 2017 Plans, that were reviewed by the Park Commission and Planning Commission in June 2017 and the applicant transferred all previously filed application fees and applications, including variance applications, toward the review of the September 2017 Plans; and

WHEREAS, the City Council, Planning Commission, Park Commission, and City staff are aware of the federal Telecommunications Act of 1996 and the Federal Communications Commission rules regarding radio frequency emissions safety, and the City Council has solicited and received specific legal

education from the co-author of the FCC guide, “Local Government Official’s Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance” regarding the lawful scope and limits their authority, duties, and responsibilities connected with radio frequency emissions review under federal law and regulations, the City Council, Planning Commission, Park Commission, and City staff have solely relied upon the evidence provided in the statement prepared by William Hammett, P.E., of Hammett & Edison Consulting Engineers, dated August 4, 2017 (the “Statement”), included in the Administrative Record, that the project as described in the application demonstrated planned compliance with FCC guidelines limiting human exposure to radio frequency (“RF”) electromagnetic fields, and accordingly the public correspondence and comments received in connection to radio frequency emissions regarding this planning matter were not considered, nor were they factors in the Planning Commission and Park Commission decisions to recommend denial of the designs shown in the May 2017 plans, nor in City staff’s recommendation to City Council to deny the designs shown in the September 2017 plans, nor factors in the City Council’s decision to direct staff to prepare resolutions of denial, nor factors in the City Council’s decision to deny the application based solely on the other independent grounds contained in this Resolution for the site across from 352 Jerome Avenue; and

WHEREAS, pursuant to Piedmont City Code Section 17.46.080.D, the City Council must make five (5) required findings before being able to approve a wireless communication facilities permit, and the required findings include required satisfaction of the development standards and Piedmont Design Guidelines as outlined in the staff report and as addressed by City Council members, staff, and members of the public during the public hearing; and

WHEREAS, the magnitude of the missing, incomplete, and inconsistent information and details in the application and project plans are material to the City Council’s understanding of the proposed wireless communication facilities permit application and create uncertainty in the minds of the City Council for the design and future execution of the proposed design for the site across from 352 Jerome Avenue. As detailed in the staff report prepared for the October 2, 2017 City Council public hearing, the September 2017 application forms and plans for installations across from 352 Jerome Avenue are missing the following information or have the following inconsistencies of each of the following jointly and severally:

1. The application forms are not signed by the applicant and the applicant has not authorized Beacon Development to be its agent;
2. Sheet SP-2 plan view detail is incorrectly titled “Top View” (the site plans provide a symbol for the utility pole but do not show actual placement of the antenna and equipment in relationship to the sidewalk, curb ramps, driveways, planter strips, trees, and other features in the public right-of-way – a “top view” may mean a conceptual illustration only) and it is not drawn to scale, all plan sets;
3. Required story poles were not provided for the proposed installations;
4. Sheet O-1, survey is not provided in a copy reproduced to scale;
5. Sheet D-1 does not specify the material of the proposed equipment shroud and the plan references the location of “RRU-12” not the proposed

RRU-11 equipment;

6. Sheets EP-1, LP-1, and SP-1 state that the existing and proposed utility pole is 1 foot to the back of curb when field measurements taken by staff show that the existing pole is 9 inches to back of curb;
7. Sheet SP-2 states that equipment is to be “painted to match and to satisfaction of the City Engineering staff” but does not state which pieces of equipment and to what the equipment will be matched;
8. Sheet O-1 omits the adjacent pedestrian curb ramp and street trees; and

WHEREAS, pursuant to Piedmont City Code Section 17.46.080.D, the following requirements have not been satisfied by the Applicant in the applications and plans for the proposed wireless communication facility proposed by the applicant for the site across from 352 Jerome Avenue because of each of the following jointly and severally:

A. Pursuant to Section 17.46.080.D.1.b, the applicant has not met the priority for location standards of section 17.46.040.A because under the particular circumstances of the proposed installation and site, the wireless communication facility across from 352 Jerome Avenue is not concealed or collocated as required by Section 17.46.040.A.3 because the antenna would be visually looming and conspicuous on the existing utility pole and in the residential landscape;

B. Pursuant to Section 17.46.080.D.1.c, the applications and plans for the proposed wireless communication facility proposed by the applicant for the site across from 352 Jerome Avenue have not satisfied each of the applicable development standards in section 17.46.070, because

a. The applicant has not satisfied Piedmont City Code Section 17.46.070.A.3, Visual impact, because the wireless communication facility has not been designed to minimize visual impacts because of each of the following jointly and severally:

i. As demonstrated by the proposed concealment elements of the applicant’s proposed facilities on street lights, concealment of cabling is feasible and a smaller profile antenna is feasible. The proposed installation on the particular utility pole and this site across from 352 Jerome Avenue is not adequately concealed in that the canister type antenna is proposed at the end of a bulky 3-foot-long arm extension, no collar is proposed to screen the cabling where it connects to the antenna, and cabling would be exposed along the arm extension, and the proposed shroud does not conceal the power meter or disconnect box.

ii. The bulk of the proposed antenna and 3-foot extension arm connecting it to the utility pole in a direction parallel to the street (Arbor Drive) at a height approximately 27 feet above grade will negatively impact the existing residential character.

iii. The project plans filed on September 8, 2017 are incomplete. It is unknown what additional visual impacts may be created by details omitted from the plans such as additional equipment,

brackets, structural elements, guy wires, and cabling required by the proposed installation.

iv. The antenna proposed for the site across from 352 Jerome Avenue is not as concealed as possible and would be 2 feet tall and 14.6 inches in diameter at the end of a 3-foot-long arm extension and communication equipment would be located behind a pole-mounted shroud, which adds to the installation's visibility and visual massing in the residential setting. Feasible alternative designs that would mitigate negative visual impacts are available but were not proposed.

C. The applicant has not satisfied Piedmont City Code section 17.46.070.A.4, Public Health, Peace and Safety, nor section 17.46.070.A.5, Public Right-of-Way, for this particular installation and site, because the inconsistent information on the existing and proposed site plan fail to establish a reliable plan, the existing narrow roadways limits access and creates safety concerns, fire safety concerns regarding the proposed pole-mounted communication equipment, and the bulky and visually conspicuous appearance inconveniences the public use of the public right-of-way, because of each of the following jointly and severally:

1. The curb-to-curb width of the roadways on Jerome Avenue and Arbor Drive are 30 feet wide and marginally adequate for existing traffic circulation and access as determined by the Piedmont General Plan, and the site would be further limited by additional utilities and proposed maintenance and other on-going and long-term site-related work, requiring commercial vehicles, such as "bucket trucks," traffic control, and lane closures. Although existing utilities are present on the proposed utility pole site, the addition of new utilities will further burden the public right-of-way in this particular location.
2. The proposed installation at the location across from 352 Jerome Avenue will cause an inconvenience to the public's use of the right-of-way and will interfere with the public's use of the right-of-way. Existing utility poles and other encroachments reduce the narrow sidewalk width in areas of sidewalk associated with the proposed installations. The plans show the replacement utility poles proposed as part of the wireless communication facility installation encroaching into the pedestrian path of travel an additional 3 inches which further constrains the existing and historic flow of pedestrian traffic at this location.
3. The proposed changes to the utility pole are likely to create sidewalk obstructions because the plans do not accurately show the relative locations of the power and communication risers on the sides of the replacement utility poles, the street curb, and sidewalk width.
4. The proposed changes to the utility poles and addition of power and communication risers will create additional sight line obstructions, because plans do not confirm the relative locations, width, and offsets of the power and communication risers on the sides of the replacement utility poles, the street curb, and sidewalk width.
5. The location of pole-mounted equipment within the canopy of

the existing London Plan street tree creates safety concerns because Fire Department staff cannot apply water to extinguish a fire in proximity to electrical equipment, CO2 could not be contained around the communication equipment which is exposed on all sides, and nearby vegetation would cause a fire to spread rapidly.

D. Pursuant to 17.46.080.D.1.d, the applicant has not provided a design for the site across from 352 Jerome Avenue that is consistent with the Piedmont Design Guidelines because the Piedmont Design Guidelines call for harmony and integration in new construction (Guideline I-1.c.) and require compliance with the Piedmont General Plan, and the proposals are not harmonious or well-integrated into the residential setting. Piedmont Design Guidelines include Guideline I-1 which reads, “Where one architectural style is predominant in the neighborhood, the new residential construction should be compatible with this predominant existing architectural style. Where no one architectural style is predominant in the neighborhood, the new residential construction should be compatible with the architectural style of the houses near it. The proponent of the new construction shall be responsible for including graphic materials in his/her submission to the City documenting compatibility,” and sub-section I-1(c), reads, “In both conditions, a single predominant style or several styles, the goals of this guideline are harmony and integration...” The proposed installation does not comply with the guidelines above because of the following jointly and severally:

a. The proposed wireless communication facility is not harmonious or integrated into the residential setting because the stark and industrial appearing pole assembly in the context of a residential street would look out of scale and negatively impact the residential character of the neighborhood, the proposed installation is conspicuous due to its industrial appearance, exposed cabling, and looming visual massing. The antenna proposed for the site across from 352 Jerome Avenue is not as concealed as possible and would be 2 feet tall and 14.6 inches in diameter at the end of a 3-foot-long arm extension, which adds to its visibility and visual massing in the residential setting. Other less conspicuous designs are feasible but were not proposed. Plans show that the pole-mounted shroud would extend over the sidewalk and an alternative location for underground vault is not readily apparent, and clearance pruning for construction and on-going maintenance would damage street trees thus further interfering with the existing community aesthetics in this particular location and area.

b. The proposed installation does not comply with the first goal of the Land Use Element which is “Residential Character - Maintain the character of Piedmont as a residential community,” nor with Land Use Element Policy 1.2, Neighborhood Conservation, which reads, “Sustain the balance between homes, private yards, and public space that defines Piedmont’s residential neighborhoods. The essential form of the city’s residential areas—including the scale and appearance of its homes, the mature vegetation, the views and vistas, the appearance of streets and public places, and the street layout—should be maintained for the long-term future.” The proposed installation does not comply with the policy above because the proposed installation would be a canister antenna at the end of a 3-foot-long arm extension, construction and exposed cabling would have a stark and industrial appearance, and

construction requires clearance pruning of a City street tree.

c. The proposed installation does not comply with Natural Resources and Sustainability Element goal 14, which states “Urban Forest - Conserve and expand Piedmont’s tree canopy to create visual beauty, provide shade, prevent erosion and absorb runoff, reduce noise and air pollution, and provide habitat for birds and other wildlife,” nor NR&S Policy 14.1: Street Tree Maintenance which reads, “Maintain the city’s street trees and recognize their essential contribution to the character and environmental health of Piedmont. The City should continue to perform pruning and tree care on a regular basis to ensure the long-term health of trees and to address conflicts with views, utilities, and public safety.” The proposed installation does not comply with the policy above because the replacement of the utility pole will require clearance pruning of an existing London Plane street tree, and the replacement of the pole is not required for the provision of utility-delivered electrical power; and

d. The proposed installation does not comply with Parks, Recreation, and Open Space Element the goal 23, which states “Park Planning and Management - Provide attractive, high-quality parks that accommodate a wide range of recreational needs” nor PR&OS Policy 23.8, Landscaped Medians, Traffic Islands, and Parking Strips, which reads “Recognize the importance of landscaped medians and roadsides, traffic ‘islands’, parking strips, and other planted public open spaces to Piedmont’s character and beauty. Encourage and support the planting and care of such areas by community groups and volunteers. See also Design and Preservation Element policies on parking strips and the “public realm.” The proposed installation does not comply with the policy above because the plans show placement of the communication equipment partially behind a shroud mounted on the side of the utility pole, projecting over the sidewalk which would create an unusual, conspicuous, and irregular streetscape, and the arborists’ reports call for clearance pruning to remove of some of the tree canopy, resulting in a streetscape that is not beautiful nor in character with the residential setting; and

e. The proposed installation does not comply with Design and Preservation Element goal 27, which states “City Identity and Aesthetics - Ensure that streets, parks, civic buildings, and other aspects of the “public realm” contribute to Piedmont’s overall identity, beauty and visual quality;” nor the following policies: D&P Policy 27.1 which reads “Streets as Public Space - Recognize that streets are important public spaces as well as transportation routes. Sidewalks, street trees, landscaping, and other amenities should be provided and maintained to keep these spaces attractive;” nor D&P Policy 27.2, which reads “Sidewalks and Planting Strips - Manage sidewalk space and planting strips along Piedmont streets to promote pedestrian safety and comfort, enhance visual character, and reduce the impact of vehicle traffic on adjacent yards.” The proposed installation does not comply with the goal and policies above because the installation’s industrial appearance, exposed cabling, visual massing, and placement has a detrimental effect on the visual quality and beauty of the streetscape. The antenna proposed for the site across from 352 Jerome Avenue is not as concealed as possible and would be 2 feet tall and 14.6 inches in

diameter at the end of a 3-foot-long arm extension, which adds to its aesthetically disruptive visibility and visual massing in the residential setting.

f. The proposed installation does not comply with Design and Preservation Element goal 31, which states “Historic Preservation - Identify, preserve, and maintain Piedmont’s cultural and historic resources and recognize these resources as an essential part of the city’s character and heritage,” nor D&P Policy 31.6, Historic Landscapes, which reads, “. . .Ensure that new public works such as street lights, street furniture, and sidewalks are compatible with the historic context of Piedmont’s neighborhoods.” The proposed installation does not comply with the policy above because the design of the proposed installation at the location across from 352 Jerome Avenue does not integrate design elements characteristic of the surrounding neighborhood and therefore is out of place within the historic context of the residences in the project vicinity; and

g. The proposed installation does not comply with Community Services and Facilities Element goal 37, which reads “Infrastructure - Provide water, sewer, storm drainage, energy, and telecommunication services in the most efficient, cost-effective, and environmentally sound manner possible,” nor CS&F Policy 37.4, Siting and Design of Infrastructure, which reads “Ensure that the siting and design of infrastructure facilities, including water tanks and telecommunication towers, mitigates the potential for adverse visual impacts and is consistent with policies in the Design and Preservation Element.” Due to the unnecessary bulk and stark industrial appearance of the antenna and 3-foot-long bracket and exposed cabling on the utility pole, and pole-mounted shroud, the proposed installation does not comply with the policies above because the design does not adequately mitigate potential adverse visual impacts related to aesthetics and would not comply with the Piedmont Design Guidelines; and

WHEREAS, the City Council held a duly noticed public hearing on October 2, 2017 for the requested WCF applications, plans, and previously proposed variance applications, took public comment, and, at the conclusion of the public hearing, continued the item to the October 16, 2017 regular meeting and directed staff to prepare resolutions of denial for the proposed installations at 352 Jerome Avenue , as well as 150 Highland Avenue, 303 Hillside Avenue, 428 El Cerrito Avenue, and 1159 Winsor Avenue; and

WHEREAS, the adoption of this resolution of denial is not subject to the California Environmental Quality Act (CEQA) because it is not a project within the meaning of CEQA and it can be seen with certainty that there is no possibility that the denial of the applications may have a significant effect on the environment (Public Resources Code section 21065; CEQA Guidelines, 14 Cal. Code of Regs. Sections 15061(b)(3), 15378.); and

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

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

SECTION 2. Based on the findings and facts set forth heretofore, the Piedmont City Council denies the application for wireless communication facilities permit for a proposed wireless communication facility sited across from 352 Jerome Avenue, identified in plans as PHS07.

SECTION 3. All portions of this resolution are severable. If an individual component of this Resolution is adjudged by a court to be invalid and unenforceable, then the remaining portions will continue in effect.

Moved by King, Seconded by Rood

Ayes: Cavanaugh, King, Rood, McBain

Noes: None

Recused: Andersen

(1127)

Councilmember Andersen returned to the Council Chambers and took her seat at the dais.

Mr. Jackson summarized the Council's direction at the October 2, 2017 regular meeting to return with findings for denial for the four applications for the sites at 150 Highland, 303 Hillside, 428 El Cerrito and 1159 Windsor Avenue, and provided recommended findings for denial.

He then summarized Council's direction to return with findings for approval for the applications at 340-370 Highland, 799 Magnolia and 740 Magnolia and explained those findings and conditions of approval, incorporating the applicant's comments where appropriate. He stated that, as conditioned, all three locations had subterranean vaults and were required to demonstrate appropriate sound levels by an acoustical engineer. Mr. Jackson indicated the allowable decibel level was 50 and the applicant had submitted a report indicating that noise from the proposed vault would be in excess of 60 decibels. He clarified that the applicant would have a lease with the City for the vault located on its property.

Assistant City Attorney Herrington stated the City Attorney's office had received and reviewed Mr. Shonafelt's letter.

Public Testimony was received from:

Sharon James, Michael Shonafelt, Todd Threw, Suat Yoksuloglu, Morgan Hunt, and Jason Osborne representing applicant Crown Castle NG West LLC, provided an overview of the process and redesign of sites in an effort to appease the concerns of the community. The applicants explained the purpose of providing additional wireless coverage. They discussed the field testing that was conducted subsequent to the October 2, 2017 City Council meeting. They indicated that the condition of approval regarding sound levels at the property line could not be complied with and requested that the Council approve an above ground solution. They also discussed Crown Castle's consideration of monopole installations on City or School District property.

Peter Harvey, Shary Nunan, Ina Kim, Emmy Weisner, Stephen Kozinchik, Gao Liu, Kirsten Myers, Jonathan Becker, Wendi Sue, Joyce Rickenbacker, Carole Porter, Stan Silverman, Lisa Carnazzo, Garrett Schwartz, Sherk Chung, and Mike Cooley spoke in opposition to the applications, citing possible impacts to property values, aesthetics, and possible health effects. Speakers questioned the appropriateness and safety of the design of the proposed wireless

communication facilities and their supporting equipment. Speakers stated their belief that there was sufficient existing coverage and that these small cell sites are not necessary. The incomplete nature of the applications as well as the precedent that approval of the applications might set was given as another reason for denial. Speakers suggested working with other cities to oppose this type of technology. Several speakers questioned whether approving these sites would be a violation of the protections afforded by the Americans with Disabilities Act to residents afflicted with electromagnetic sensitivity. The possible damage to the City's urban forest was also cited as a reason to deny the applications. Concern was expressed with the effects construction might have on the neighborhoods surrounding the sites, citing work being done on the existing small cell site at Lower Grand Avenue as evidence of poor construction management. It was pointed out that Crown Castle had provided a statement indicating that the vaults could not meet the City's noise requirements.

Staff responded to Council inquiries regarding the difference between coverage and capacity gaps, stating that there was not sufficient evidence in the record to dispute the submittals presented by Crown Castle. Assistant City Attorney Chad Herrington stated the City did not have the authority to dictate the technology used as the least intrusive means of closing the service gap.

Planning Director Jackson and Senior Planner Pierce Macdonald-Powell discussed the permit streamlining act as well as the federal and state shot clocks governing consideration of these applications.

Mr. Herrington explained that the proposed conditions of approval allowed modifications to reduce noise and movement of vaults if unable to meet sound requirements of City Code. He explained staff's recommendation for denial based on the impact to street trees from the structure, not RF radiation. He confirmed that electromagnetic sensitivity was not covered under ADA.

Planning Director Jackson discussed the condition requiring \$100,000 deposit to ensure completion of work within one year.

The Council discussed the applications and stated concern that the City is at a disadvantage due to the coverage gap determination being based on proprietary information.

Resolution No. 75-17

WHEREAS, between 1907 and 1940, 2,500 homes, nearly 70% of the City's existing housing stock, were built, and most of Piedmont's streets were laid out during the early days of the automobile, before modern engineering standards evolved and were adopted. The Piedmont General Plan and Design Guidelines have been developed by City decision-makers over time to apply rigorous aesthetic and health and safety standards to new development on private and public property due to the unusually dense development of Piedmont neighborhoods, high-quality natural and historic resources, and the existing limited transportation circulation and access; and

WHEREAS, the Piedmont General Plan, adopted April 6, 2009, provides direction for development on public land including policies, programs, and actions in the Land Use Element, Transportation Element, Design and Preservation Element, Parks, Recreation, and Open Space Element, and Natural Resources and Sustainability Element, and the first guiding principle of the Framework section reads, "While a limited amount of change is inevitable, the

essential quality of and character of Piedmont's homes, natural features, and open space will be protected. The ambiance of the city's residential streets and public spaces will be conserved. These are the things that make Piedmont special, and they are central to the city's vision for its future. This basic principle underpins all elements of the General Plan;" and

WHEREAS, on November 2, 2016, Crown Castle NG West LLC through Beacon Development (the "Applicant") filed wireless communication facilities (WCF) permit applications for nine sites in Piedmont near Piedmont Park, Piedmont High School, and surrounding neighborhoods (Applications #16-0385), and one of the nine proposed WCF installations was proposed for a site at 505 Blair Avenue in the public right-of-way near 150 Highland Avenue, a site identified in the application materials as PHS02. The plans for the proposed installation PHS02 were initially shown to be placed on a utility pole (henceforth referred to as "May 2017 Plans"). The plans for 150 Highland Avenue were modified to show a new location for the installation, which is also identified as PHS02 (henceforth referred to as "September 2017 Plans"). The September 2017 plans are incomplete but show the installation of a single new pseudo omni-directional antenna on an extension affixed atop an existing light pole, along with the installation of communication equipment in a cabinet shaped like a USPS mailbox in the public right-of-way on Highland Avenue; and

WHEREAS, as provided in Piedmont City Code section 17.46.080.c, the City Council is hearing this application for Wireless Communication Facilities permit because the proposal at 150 Highland Avenue is a WCF permit installation proposed in zone A within the City-owned public right-of-way; and

WHEREAS, the location of the proposed equipment cabinet at 150 Highland Avenue is sited between a pedestrian cross walk and pedestrian curb ramp and a driveway and curb cut for 4 Pala Avenue, an area which narrows to a width of less than 6 feet; and

WHEREAS, Highland Avenue is one of five (5) arterial streets in Piedmont, and Highland Avenue carries large volumes of vehicular traffic within and through Piedmont, including emergency vehicles and transit; and

WHEREAS, City staff sent the applicant seven (7) letters and emails outlining the missing, inconsistent, and incomplete information in the proposed plans and applications, each letter and email was a timely response to the applicant's submittals in accordance with Federal Communication Commission and State of California requirements, and these letters and emails were sent on November 10, 2016; December 19, 2016; February 19, 2017; April 17, 2017; May 29, 2017; June 9, 2017; and August 13, 2017; and

WHEREAS, the Piedmont Park Commission held a duly noticed public hearing on June 7, 2017 for the proposed installation at 505 Blair Avenue near 150 Highland Avenue, and recommended City Council denial of the designs shown in the iteration of the plans filed by the applicant on May 19, 2017 (referred to as "May 2017 Plans"); and

WHEREAS, the Piedmont Planning Commission held a duly noticed public hearing on June 12, 2017 for variance applications, WCF application, and plans for the proposed installation at 505 Blair Avenue near 150 Highland Avenue and, at the close of the public hearing, recommended City Council denial of the

requested variance applications and WCF application for the design shown in the May 2017 plans, because the installations shown in the May 2017 Plans did not comply with Division 17.46 of the Piedmont City Code or Division 17.70 of the Piedmont City Code; and

WHEREAS, on June 23, 2017, the Applicant and City mutually agreed to an extension to October 31, 2017 of the applicable shot clock timelines set forth by the Federal Communications Commission (Petition for Declaratory Ruling (“Shot Clock Rule”), 24 F.C.C. Rcd. 13994 (2009) and the applicable State of California-required shot clock for application processing time lines (collectively, the “Shot Clock”). The purpose of the shot clock extension was to provide the Applicant with additional time to investigate and propose alternate designs intended to address the various concerns expressed by the Planning Commission and Park Commission regarding the May 2017 Plans during the meeting of June 12, 2017 and the meeting of June 7, 2017; and

WHEREAS, on September 8, 2017, the applicant filed the latest applications and plans for the nine (9) installations. The Applicant modified the location of the proposed PHS02 installation to an existing street light at 150 Highland Avenue, however, the application and plans still contained incomplete information and inconsistent information.

WHEREAS, the September 2017 Plans were analyzed by staff, and staff reports were prepared for the City Council hearing of October 2, 2017 for the proposed installation at 150 Highland Avenue and the other eight (8) WCF installations requested by the applicant; and

WHEREAS, on September 19, 2017, the applicant withdrew the previously proposed designs filed in May 2017, referred to herein as the May 2017 Plans, that were reviewed by the Park Commission and Planning Commission in June 2017 and the applicant transferred all previously filed application fees and applications, including variance applications, toward the review of the September 2017 Plans; and

WHEREAS, the City Council, Planning Commission, Park Commission, and City staff are aware of the federal Telecommunications Act of 1996 and the Federal Communications Commission rules regarding radio frequency emissions safety, and the City Council has solicited and received specific legal education from the co-author of the FCC guide, “Local Government Official’s Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance” regarding the lawful scope and limits their authority, duties, and responsibilities connected with radio frequency emissions review under federal law and regulations, the City Council, Planning Commission, Park Commission, and City staff have solely relied upon the evidence provided in the statement prepared by William Hammett, P.E., of Hammett & Edison Consulting Engineers, dated August 4, 2017 (the “Statement”), included in the Administrative Record, that the project as described in the application demonstrated planned compliance with FCC guidelines limiting human exposure to radio frequency (“RF”) electromagnetic fields, and accordingly the public correspondence and comments received in connection to radio frequency emissions regarding this planning matter were not considered, nor were they factors in the Planning Commission and Park Commission decisions to recommend denial of the designs shown in the May 2017 plans, nor in City staff’s recommendation to City Council to deny the designs shown in the September 2017 plans, nor factors in the City Council’s decision to direct staff

to prepare resolutions of denial, nor factors in the City Council's decision to deny the application based solely on the other independent grounds contained in this Resolution for the site at 150 Highland Avenue; and

WHEREAS, pursuant to Piedmont City Code Section 17.46.080.D, the City Council must make five (5) required findings before being able to approve a wireless communication facilities permit, and the required findings include required satisfaction of the development standards and Piedmont Design Guidelines as outlined in the staff report and as addressed by City Council members, staff, and members of the public during the public hearing; and

WHEREAS, the magnitude of the missing, incomplete, and inconsistent information and details in the application and project plans are material to the City Council's understanding of the proposed wireless communication facilities permit application and create uncertainty in the minds of the City Council for the design and future execution of the proposed design for the site at 150 Highland Avenue. As detailed in the staff report prepared for the October 2, 2017 City Council public hearing, the September 2017 Plans and application forms for the proposed installation at 150 Highland Avenue are missing the following information or have the following inconsistencies of each of the following, jointly and severally:

1. Application forms are not signed by the applicant and the applicant has not authorized Beacon Development to be its agent (page 3, all applications);
2. Required story poles were not provided for the proposed installations;
3. Sheet SP-2 does not provide a site plan detail drawn to scale and this detail is incorrectly titled "Top View" (the existing and proposed site plans provide a symbol for the street light but do not show actual placement of the antenna and above-ground equipment cabinet in relationship to the sidewalk, curb ramps, driveways, planter strips, trees, and other features in the public right-of-way – a "top view" may mean a conceptual illustration only);
4. Sheet O-1, survey is not provided in a copy reproduced to scale;
5. Sheet EP-1 is not drawn to scale and does not show the accurate addresses of the residences adjacent to the proposed wireless installation (150 Highland Avenue and 4 Pala Avenue);
6. Sheets EP-1, LP-1, and SP-1, show the existing and proposed conditions incorrectly in the area of the driveway and curb cut of the residence at 4 Pala Avenue, immediately adjacent to the proposed above-ground equipment cabinet;
7. Sheet SP-2 is not drawn to scale;
8. Sheets SP-2 and O-1, have conflicting information about the height of the existing street light (difference of a 3 feet 9 inches);
9. Sheet O-1 omits the driveway location and curb cut for the residence at 4 Pala Avenue; and

WHEREAS, pursuant to Piedmont City Code Section 17.46.080.D, the following requirements have not been satisfied by the Applicant in the applications and plans for the proposed wireless communication facility proposed by the applicant for the site at 150 Highland Avenue because of each of the following, jointly and severally:

A. Pursuant to Section 17.46.080.D.1.b, the applicant has not met the priority for location standards of section 17.46.040.A because under the particular circumstances of the proposed installation and site, the wireless communication facility at 150 Highland Avenue is not concealed or collocated as required by Section 17.46.040.A.3 because the antenna would be conspicuous on the existing street light and in the residential landscape;

B. Pursuant to Section 17.46.080.D.1.c, the applications and plans for the proposed wireless communication facility proposed by the applicant for the site at 150 Highland Avenue have not satisfied each of the applicable development standards in section 17.46.070, because

a. The applicant has not satisfied Piedmont City Code Section 17.46.070.A.3, Visual impact, because the wireless communication facility has not been designed to minimize visual impacts because of each of the following, jointly and severally:

i. As demonstrated by the proposed concealment elements of the applicant's proposed facilities with close mount panel antennas and equipment within underground vaults, a smaller profile antenna and complete concealment of communication equipment are feasible. The proposed installation on the particular street light and this site at 150 Highland Avenue is not adequately concealed in that the communication equipment would be located above ground in a cabinet shaped like a U.S. mailbox, the mailbox would not be in service and would attract graffiti and vandalism, and bollards or other traffic control required to protect vehicles from contact with the electronics in the above-ground cabinets would have a cluttered and industrial appearance. An alternative location for the communication equipment, such as within an underground vault, is not readily apparent due to the heavy use of the roadway and the presence of street trees nearby.

ii. The project plans filed on September 8, 2017 are incomplete. It is unknown what additional visual impacts may be created by details omitted from the plans such as additional equipment and cabling required by the proposed installation.

iii. The antenna proposed for the site at 150 Highland Avenue is not as concealed as possible and would be 2 feet tall and 14.6 inches in diameter on an extension atop an existing street light, which adds to its visibility and visual massing in the residential setting. Feasible alternative designs that would mitigate negative visual impacts are available but were not proposed.

C. The applicant has not satisfied Piedmont City Code section 17.46.070.A.4, Public Health, Peace and Safety, nor section 17.46.070.A.5, Public Right-of-Way, for this particular installation and site, because the inconsistent information on the existing and proposed site plan fail to establish a reliable plan, the existing narrow area between the pedestrian crosswalk and curb ramp and driveway and curb cut limits access and

creates safety concerns, and the proposed above ground cabinet and associated bollards necessary to protect vehicle from contact with electronics within the above ground cabinet (but not shown on the plans) inconveniences the public use of the public right-of-way, because of each of the following jointly and severally:

1. The proposed communication equipment is shown located within an above-ground cabinet shaped like a U.S. mailbox in an area of the sidewalk that is already constrained between a pedestrian curb ramp and driveway.
2. The Existing Site Plan (Sheet EP-1), Landscape Plan (LP-1), Proposed Site Plan (Sheet SP-1), and Survey (O-1) incorrectly show the driveway to 4 Pala Avenue and do not show or incorrectly label the addresses of the properties immediately adjacent to the proposed installation. Actual field measurements of the driveway reveal that the driveway is within 6 feet of the pedestrian curb ramp and the proposed above-ground equipment cabinet is sited in front of the narrow angled driveway to 4 Pala Avenue, blocking sightlines of motorists, cyclists and pedestrians.
3. Plans show that the proposed antenna would be located within the tree canopy of a City street tree, requiring clearance pruning to provide lines of sight for signal propagation and damaging a City street tree in this particular location.
4. The proposed installation at the location at 150 Highland Avenue will cause an inconvenience to the public's use of the right-of-way and will interfere with the public's use of the right-of-way. The proposed above-ground equipment cabinet would encroach into the pedestrian path of travel in an area of the sidewalk which is already occupied by a driveway curb cut, pedestrian curb ramp, undergrounded utility cabinets, and street light, and the addition of an above-ground cabinet and required traffic bollards or other protection would further constrain the existing and historic flow of pedestrian traffic at this location.
5. The proposed changes to the street light are likely to create sidewalk obstructions because the plans do not accurately show the relative locations of the street light, antenna, equipment cabinet, required bollards or other traffic control measures, undergrounded utilities, the street curb, curb cuts, and sidewalk width.
6. The above-ground equipment cabinet creates safety concerns because Fire Department staff cannot apply water to extinguish a fire in proximity to electrical equipment, CO₂ could not be contained around the communication equipment which is exposed on all sides, and vehicles traveling on Highland Avenue, an arterial roadway, could come into contact with the electronics in the above-ground cabinet which could electrify the vehicle and create a hazard for emergency personnel and passersby attempting to rescue the occupants.

D. Pursuant to 17.46.080.D.1.d, the applicant has not provided a design for the site at 150 Highland Avenue that is consistent with the Piedmont Design Guidelines because the Piedmont Design Guidelines call for harmony and

integration in new construction (Guideline I-1.c.) and require compliance with the Piedmont General Plan, and the proposals are not harmonious or well-integrated into the residential setting. Piedmont Design Guidelines include Guideline I-1 which reads, “Where one architectural style is predominant in the neighborhood, the new residential construction should be compatible with this predominant existing architectural style. Where no one architectural style is predominant in the neighborhood, the new residential construction should be compatible with the architectural style of the houses near it. The proponent of the new construction shall be responsible for including graphic materials in his/her submission to the City documenting compatibility,” and sub-section I-1(c), reads, “In both conditions, a single predominant style or several styles, the goals of this guideline are harmony and integration...” The proposed installation does not comply with the guidelines above because of the following, jointly and severally:

a. The proposed wireless communication facility is not harmonious or integrated into the residential setting because the 2-foot-tall by 14.6-inch-diameter canister antenna would look out of scale and negatively impact the residential character of the neighborhood, the proposed installation is conspicuous due to its bulky and disproportionate appearance which is thicker than the street light diameter. Other less conspicuous designs are feasible but were not proposed. Plans show communication equipment within an above-ground cabinet that would require bollards or other traffic control to protect vehicles from contact with the electronics in the equipment thus further interfering with the existing community aesthetics in this particular location and area. The proposed installation is within an existing underground utility district and the new above-ground equipment cabinet would be contrary to the purposes and terms of the underground utility district. An alternative location for the communication equipment, such as within an underground vault, is not readily apparent due to the constrained location between a driveway and pedestrian curb ramp, the existing underground utility vaults, heavy use of the roadway in front of the installation, and the presence of street trees nearby.

b. The proposed installation does not comply with the first goal of the Land Use Element which is “Residential Character - Maintain the character of Piedmont as a residential community,” nor with Land Use Element Policy 1.2, Neighborhood Conservation, which reads, “Sustain the balance between homes, private yards, and public space that defines Piedmont’s residential neighborhoods. The essential form of the city’s residential areas—including the scale and appearance of its homes, the mature vegetation, the views and vistas, the appearance of streets and public places, and the street layout—should be maintained for the long-term future.” The proposed installation does not comply with the policy above because the proposed installation would be a bulky, thick and disproportionate canister antenna on an extension atop an existing slender street light, and construction and signal propagation require clearance pruning of one or more City street trees.

c. The proposed installation does not comply with Natural Resources and Sustainability Element goal 14, which states “Urban Forest - Conserve and expand Piedmont’s tree canopy to create visual

beauty, provide shade, prevent erosion and absorb runoff, reduce noise and air pollution, and provide habitat for birds and other wildlife,” nor NR&S Policy 14.1: Street Tree Maintenance which reads, “Maintain the city’s street trees and recognize their essential contribution to the character and environmental health of Piedmont. The City should continue to perform pruning and tree care on a regular basis to ensure the long-term health of trees and to address conflicts with views, utilities, and public safety.” The proposed installation does not comply with the policy above because the proposed antenna within the tree canopy of one or more existing City street trees will require clearance pruning for construction and signal propagation which would damage and degrade the appearance of the street tree and adversely impact the health of the tree(s) and continued growth and vitality; and

d. The proposed installation does not comply with Parks, Recreation, and Open Space Element the goal 23, which states “Park Planning and Management - Provide attractive, high-quality parks that accommodate a wide range of recreational needs” nor PR&OS Policy 23.8, Landscaped Medians, Traffic Islands, and Parking Strips, which reads “Recognize the importance of landscaped medians and roadsides, traffic “islands,” parking strips, and other planted public open spaces to Piedmont’s character and beauty. Encourage and support the planting and care of such areas by community groups and volunteers. See also Design and Preservation Element policies on parking strips and the “public realm.” The proposed installation does not comply with the policy above because the plans show placement of the communication equipment within an above-ground vault on the sidewalk in the shape of a U.S. mailbox which would be inconsistent with the existing underground district, would attract graffiti and vandalism, which would require bollards or other traffic control to protect vehicles, and which would create an unusual, awkward, irregular, and discontinuous streetscape which is not beautiful nor in character with the residential setting; and

e. The proposed installation does not comply with Design and Preservation Element goal 27, which states “City Identity and Aesthetics - Ensure that streets, parks, civic buildings, and other aspects of the “public realm” contribute to Piedmont’s overall identity, beauty and visual quality;” nor the following policies: D&P Policy 27.1 which reads “Streets as Public Space - Recognize that streets are important public spaces as well as transportation routes. Sidewalks, street trees, landscaping, and other amenities should be provided and maintained to keep these spaces attractive;” nor D&P Policy 27.2, which reads “Sidewalks and Planting Strips - Manage sidewalk space and planting strips along Piedmont streets to promote pedestrian safety and comfort, enhance visual character, and reduce the impact of vehicle traffic on adjacent yards.” The proposed installation does not comply with the policy above because the plans show placement of the communication equipment within an above-ground vault on the sidewalk in the shape of a U.S. mailbox which would be inconsistent with the existing underground district, would attract graffiti and vandalism, which would require bollards or other traffic control to protect vehicles, and which would have a detrimental effect on the visual quality and beauty of the streetscape. The antenna proposed for the site at 150 Highland Avenue is not as concealed as possible and would be 2 feet tall and 14.6 inches

in diameter atop a slender street light, which adds to its aesthetically disruptive visibility and visual massing in the residential setting.

f. The proposed installation does not comply with Design and Preservation Element goal 31, which states “Historic Preservation - Identify, preserve, and maintain Piedmont’s cultural and historic resources and recognize these resources as an essential part of the city’s character and heritage,” nor D&P Policy 31.6, Historic Landscapes, which reads, “...Ensure that new public works such as street lights, street furniture, and sidewalks are compatible with the historic context of Piedmont’s neighborhoods.” The proposed installation does not comply with the policy above because the design of the proposed installation at the location at 150 Highland Avenue does not integrate design elements characteristic of the surrounding neighborhood and therefore is out of place within the historic context of the residences in the project vicinity; and

g. The proposed installation does not comply with Community Services and Facilities Element goal 37, which reads “Infrastructure - Provide water, sewer, storm drainage, energy, and telecommunication services in the most efficient, cost-effective, and environmentally sound manner possible,” nor CS&F Policy 37.4, Siting and Design of Infrastructure, which reads “Ensure that the siting and design of infrastructure facilities, including water tanks and telecommunication towers, mitigates the potential for adverse visual impacts and is consistent with policies in the Design and Preservation Element.” Due to the unnecessary bulky and disproportionate appearance of the canister antenna atop a slender street light, the cluttered and constrained location between the driveway and pedestrian curb ramp, and the discontinuous sidewalk and above-ground equipment configuration, the proposed installation does not comply with the policies above because the design does not adequately mitigate potential adverse visual impacts related to aesthetics; and

WHEREAS, the City Council held a duly noticed public hearing on October 2, 2017 for the requested WCF applications, plans, and previously proposed variance applications, took public comment, and, at the conclusion of the public hearing, continued the item to the October 16, 2017 regular meeting and directed staff to prepare resolutions of denial for the proposed installation at 150 Highland Avenue, as well as 428 El Cerrito Avenue, 303 Hillside Avenue, 352 Jerome Avenue, and 1159 Winsor Avenue; and

WHEREAS, the adoption of this resolution of denial is not subject to the California Environmental Quality Act (CEQA) because it is not a project within the meaning of CEQA and it can be seen with certainty that there is no possibility that the denial of the applications may have a significant effect on the environment (Public Resources Code section 21065; CEQA Guidelines, 14 Cal. Code of Regs. Sections 15061(b)(3), 15378.); and

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

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

SECTION 2. Based on the findings and facts set forth heretofore, the Piedmont City Council denies the application for wireless communication facilities permit for a proposed wireless communication facility sited at 150 Highland Avenue, identified in plans as PHS02.

SECTION 3. All portions of this resolution are severable. If an individual component of this Resolution is adjudged by a court to be invalid and unenforceable, then the remaining portions will continue in effect.

Moved by Rood, Seconded by Cavanaugh

Ayes: Andersen, Cavanaugh, King, Rood, McBain

Noes: None

(1127)

Resolution No. 76-17

WHEREAS, between 1907 and 1940, 2,500 homes, nearly 70% of the City's existing housing stock, were built, and most of Piedmont's streets were laid out during the early days of the automobile, before modern engineering standards evolved and were adopted. The Piedmont General Plan and Design Guidelines have been developed by City decision-makers over time to apply rigorous aesthetic and health and safety standards to new development on private and public property due to the unusually dense development of Piedmont neighborhoods, high-quality natural and historic resources, and the existing limited transportation circulation and access; and

WHEREAS, the Piedmont General Plan, adopted April 6, 2009, provides direction for development on public land including policies, programs, and actions in the Land Use Element, Transportation Element, Design and Preservation Element, Parks, Recreation, and Open Space Element, and Natural Resources and Sustainability Element, and the first guiding principle of the Framework section reads, "While a limited amount of change is inevitable, the essential quality of and character of Piedmont's homes, natural features, and open space will be protected. The ambiance of the city's residential streets and public spaces will be conserved. These are the things that make Piedmont special, and they are central to the city's vision for its future. This basic principle underpins all elements of the General Plan;" and

WHEREAS, on November 2, 2016, Crown Castle NG West LLC through Beacon Development (the "Applicant") filed wireless communication facilities (WCF) permit applications for nine sites in Piedmont near Piedmont Park, Piedmont High School, and surrounding neighborhoods (Applications #16-0385), and one of the nine proposed WCF installations was proposed for a site at 303 Hillside Avenue in the public right-of-way, a site identified in the application materials as PHS05. The plans are incomplete but show the installation of a single new pseudo omni-directional antenna on a 3-foot-long arm extension on a new replacement utility pole, along with the installation of communication equipment in an underground vault beneath the sidewalk in the public right-of-way on Hillside Avenue; and

WHEREAS, as provided in Piedmont City Code section 17.46.080.c, the City Council is hearing this application for Wireless Communication Facilities permit because the proposal at 303 Hillside Avenue is a WCF permit installation proposed in zone A within the City-owned public right-of-way; and

WHEREAS, the location of the proposed equipment cabinet at 303 Hillside Avenue is sited on a utility pole that is within 6 feet of the driveway of 301

Hillside Avenue and the sidewalk narrows to 5 feet between the utility pole and existing planting strip; and

WHEREAS, the installation is within 70 feet of the intersection of Hillside Avenue and Oakland Avenue, Oakland Avenue is one of five (5) arterial streets in Piedmont, and Oakland Avenue carries large volumes of vehicular traffic within and through Piedmont, including emergency vehicles and transit vehicles; and

WHEREAS, City staff sent the applicant seven (7) letters and emails outlining the missing, inconsistent, and incomplete information in the proposed plans and applications, each letter and email was a timely response to the applicant's submittals in accordance with Federal Communication Commission and State of California requirements, and these letters and emails were sent on November 10, 2016; December 19, 2016; February 19, 2017; April 17, 2017; May 29, 2017; June 9, 2017; and August 13, 2017; and

WHEREAS, the Piedmont Park Commission held a duly noticed public hearing on June 7, 2017 for the proposed installation at 303 Hillside Avenue, and recommended City Council denial of the designs shown in the iteration of the plans filed by the applicant on May 19, 2017 (referred to as "May 2017 Plans"); and

WHEREAS, the Piedmont Planning Commission held a duly noticed public hearing on June 12, 2017 for variance applications, WCF application, and plans for the proposed installation at 303 Hillside Avenue and, at the close of the public hearing, recommended City Council denial of the requested variance applications and WCF application for the design shown in the May 2017 plans, because the installations shown in the May 2017 Plans did not comply with Division 17.46 of the Piedmont City Code or Division 17.70 of the Piedmont City Code; and

WHEREAS, on June 23, 2017, the Applicant and City mutually agreed to an extension to October 31, 2017 of the applicable shot clock timelines set forth by the Federal Communications Commission (Petition for Declaratory Ruling ("Shot Clock Rule"), 24 F.C.C. Rcd. 13994 (2009) and the applicable State of California-required shot clock for application processing time lines (collectively, the "Shot Clock"). The purpose of the shot clock extension was to provide the Applicant with additional time to investigate and propose alternate designs intended to address the various concerns expressed by the Planning Commission and Park Commission regarding the May 2017 Plans during the meeting of June 12, 2017 and the meeting of June 7, 2017; and

WHEREAS, on September 8, 2017, the applicant filed the latest applications and plans for the nine (9) installations. The application and plans still contained incomplete information and inconsistent information.

WHEREAS, the September 2017 Plans were analyzed by staff, and staff reports were prepared for the City Council hearing of October 2, 2017 for the proposed installation at 303 Hillside Avenue and the other eight (8) WCF installations requested by the applicant; and

WHEREAS, on September 19, 2017, the applicant withdrew the previously proposed designs filed in May 2017, referred to herein as the May 2017 Plans, that were reviewed by the Park Commission and Planning Commission in June

2017 and the applicant transferred all previously filed application fees and applications, including variance applications, toward the review of the September 2017 Plans; and

WHEREAS, the City Council, Planning Commission, Park Commission, and City staff are aware of the federal Telecommunications Act of 1996 and the Federal Communications Commission rules regarding radio frequency emissions safety, and the City Council has solicited and received specific legal education from the co-author of the FCC guide, "Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance" regarding the lawful scope and limits their authority, duties, and responsibilities connected with radio frequency emissions review under federal law and regulations, the City Council, Planning Commission, Park Commission, and City staff have solely relied upon the evidence provided in the statement prepared by William Hammett, P.E., of Hammett & Edison Consulting Engineers, dated August 4, 2017 (the "Statement"), included in the Administrative Record, that the project as described in the application demonstrated planned compliance with FCC guidelines limiting human exposure to radio frequency ("RF") electromagnetic fields, and accordingly the public correspondence and comments received in connection to radio frequency emissions regarding this planning matter were not considered, nor were they factors in the Planning Commission and Park Commission decisions to recommend denial of the designs shown in the May 2017 plans, nor in City staff's recommendation to City Council to deny the designs shown in the September 2017 plans, nor factors in the City Council's decision to direct staff to prepare resolutions of denial, nor factors in the City Council's decision to deny the application based solely on the other independent grounds contained in this Resolution for the site at 303 Hillside Avenue; and

WHEREAS, pursuant to Piedmont City Code Section 17.46.080.D, the City Council must make five (5) required findings before being able to approve a wireless communication facilities permit, and the required findings include required satisfaction of the development standards and Piedmont Design Guidelines as outlined in the staff report and as addressed by City Council members, staff, and members of the public during the public hearing; and

WHEREAS, the magnitude of the missing, incomplete, and inconsistent information and details in the application and project plans are material to the City Council's understanding of the proposed wireless communication facilities permit application and create uncertainty in the minds of the City Council for the design and future execution of the proposed design for the site at 303 Hillside Avenue. As detailed in the staff report prepared for the October 2, 2017 City Council public hearing, the September 2017 Plans and application forms for the proposed installation at 303 Hillside Avenue are missing the following information or have the following inconsistencies of each of the following, jointly and severally:

1. Application forms are not signed by the applicant and the applicant has not authorized Beacon Development to be its agent (page 3, all applications);
2. Required story poles were not provided for the proposed installations;
3. Sheet SP-2 does not provide a site plan detail drawn to scale and this detail is incorrectly titled "Top View" (the existing and proposed site plans

provide a symbol for the street light but do not show actual placement of the antenna and above-ground equipment cabinet in relationship to the sidewalk, curb ramps, driveways, planter strips, trees, and other features in the public right-of-way – a “top view” may mean a conceptual illustration only);

4. Sheet O-1, survey is not provided in a copy reproduced to scale;
5. Sheet D-1 does not show all of the contents of the underground vault;
6. Sheet D-2 does not specify the finish of the proposed vault cover;
7. Sheet EP-1 does not show the full extent of the masonry wall at 303 Hillside Avenue;
8. Sheets EP-1, LP-1, and SP-1 state that the existing and proposed utility pole is 2 feet to the back of curb when field measurements taken by staff show that the existing pole is 8.5 inches to back of curb;
9. Sheets SP-1 and SP-2 have inconsistent setbacks from the proposed replacement pole to the front of curb, one at 26 inches and one at 16 inches;
10. Sheet SP-2 scale does not match dimensions shown on plan; and
11. Sheet SP-2 states that equipment is to be “painted to match and to satisfaction of the City Engineering staff” but does not state which equipment and to what the equipment will be matched; and

WHEREAS, pursuant to Piedmont City Code Section 17.46.080.D, the following requirements have not been satisfied by the Applicant in the applications and plans for the proposed wireless communication facility proposed by the applicant for the site at 303 Hillside Avenue because of each of the following, jointly and severally:

A. Pursuant to Section 17.46.080.D.1.b, the applicant has not met the priority for location standards of section 17.46.040.A because under the particular circumstances of the proposed installation and site, the wireless communication facility at 303 Hillside Avenue is not concealed or collocated as required by Section 17.46.040.A.3 because the antenna would be conspicuous on the existing utility pole and in the residential landscape;

B. Pursuant to Section 17.46.080.D.1.c, the applications and plans for the proposed wireless communication facility proposed by the applicant for the site at 303 Hillside Avenue have not satisfied each of the applicable development standards in section 17.46.070, because

a. The applicant has not satisfied Piedmont City Code Section 17.46.070.A.3, Visual impact, because the wireless communication facility has not been designed to minimize visual impacts because of each of the following, jointly and severally:

i. As demonstrated by the proposed concealment elements of the applicant’s proposed facilities with close mount panel antennas, a smaller profile antenna is feasible. The proposed installation on the particular utility pole and this site at 303 Hillside Avenue is not as

concealed as possible in that the proposed canister antenna would be 2 feet tall by 14.6 inches diameter at the end of a 3-foot-long arm extension in a location projecting over the sidewalk which unnecessarily increases its visual bulk and obtrusive appearance in the residential setting. Feasible alternative designs that would mitigate negative visual impacts are available but were not proposed.

ii. The project plans filed on September 8, 2017 are incomplete. It is unknown what additional visual impacts may be created by details omitted from the plans such as additional equipment, structural supports, brackets, risers, and cabling required by the proposed installation.

C. The applicant has not satisfied Piedmont City Code section 17.46.070.A.4, Public Health, Peace and Safety, nor section 17.46.070.A.5, Public Right-of-Way, for this particular installation and site, because the inconsistent information on the existing and proposed site plan fail to establish a reliable plan, the existing narrow pedestrian sidewalk within 70 feet of a busy intersection, and curb ramp and driveway within 6 feet of the proposed installation limits access and creates safety concerns and inconveniences the public use of the public right-of-way, because of each of the following jointly and severally:

1. The proposed plans indicate that the new taller replacement utility pole would be located 2 feet to the back of curb. The existing utility pole is 8.5 inches to back of curb. The plans do not clearly state that it is the intent of the Applicant or the Joint Pole Authority (JPA) to relocate the replacement utility pole an additional 7.5 to 15.5 inches toward the middle of the sidewalk on Hillside Avenue. The proposed site plan would have the effect of moving the utility pole toward the center of the sidewalk, thereby further constricting the flow of pedestrian traffic along Hillside Avenue, near an arterial roadway, school facilities, transit, and carpool locations.

2. The existing sidewalk width in the area of the utility pole is 5 feet. Plans show the proposed utility pole moving a maximum of 15.5 inches toward the center of the sidewalk, which would reduce the sidewalk to less than 48 inches. Project plans do not demonstrate that the project will comply with minimum sidewalk clearance widths required by the ADA.

3. The Survey (Sheet O-1) omits the location of the driveway to 301 Hillside Avenue.

4. The proposed installation at the location at 303 Hillside Avenue will cause an inconvenience to the public's use of the right-of-way and will interfere with the public's use of the right-of-way. The proposed utility pole location encroaching up to 15.5 inches toward the center of the sidewalk, additional new risers on the sides of the utility pole, and the antenna and 3-foot-long arm extension projecting over the sidewalk would further constrain the existing and historic flow of pedestrian traffic at this location and create an irregular, unusual and discontinuous appearance to the sidewalk and streetscape.

5. The proposed changes to the utility pole are likely to create sidewalk obstructions because the plans do not accurately show the relative locations of the utility pole, risers, antenna, equipment vault, the street curb, driveway curb cuts, and sidewalk width.

6. The proposed vault location is immediately adjacent to an existing perimeter wall at the property at 303 Hillside Avenue which could undermine its foundation and which is not accurately represented on the Applicant's plans.

D. Pursuant to 17.46.080.D.1.d, the applicant has not provided a design for the site at 303 Hillside Avenue that is consistent with the Piedmont Design Guidelines because the Piedmont Design Guidelines call for harmony and integration in new construction (Guideline I-1.c.) and require compliance with the Piedmont General Plan, and the proposals are not harmonious or well-integrated into the residential setting. Piedmont Design Guidelines include Guideline I-1 which reads, "Where one architectural style is predominant in the neighborhood, the new residential construction should be compatible with this predominant existing architectural style. Where no one architectural style is predominant in the neighborhood, the new residential construction should be compatible with the architectural style of the houses near it. The proponent of the new construction shall be responsible for including graphic materials in his/her submission to the City documenting compatibility," and sub-section I-1(c), reads, "In both conditions, a single predominant style or several styles, the goals of this guideline are harmony and integration..." The proposed installation does not comply with the guidelines above because of the following, jointly and severally:

a. The proposed wireless communication facility is not harmonious or integrated into the residential setting because the 2-foot-tall by 14.6-inch-diameter canister antenna at the end of a 3-foot-long arm extension would look out of scale and negatively impact the residential character of the neighborhood, the proposed installation is conspicuous due to its bulky appearance and protrusion over the sidewalk. Other less conspicuous designs are feasible but were not proposed.

b. The proposed installation does not comply with the first goal of the Land Use Element which is "Residential Character - Maintain the character of Piedmont as a residential community," nor with Land Use Element Policy 1.2, Neighborhood Conservation, which reads, "Sustain the balance between homes, private yards, and public space that defines Piedmont's residential neighborhoods. The essential form of the city's residential areas—including the scale and appearance of its homes, the mature vegetation, the views and vistas, the appearance of streets and public places, and the street layout—should be maintained for the long-term future." The proposed installation does not comply with the policy above because the proposed installation would be a bulky and thick canister antenna on a 3-foot-long arm extension protruding over the sidewalk.

c. The proposed installation does not comply with Transportation Element goal 10, which states "Walking and Bicycling - Encourage walking and bicycling as viable modes of transportation for traveling

within Piedmont,” because project plans do not demonstrate that the project will comply with minimum sidewalk clearance widths required by the ADA.

d. The proposed installation does not comply with Design and Preservation Element goal 27, which states “City Identity and Aesthetics - Ensure that streets, parks, civic buildings, and other aspects of the “public realm” contribute to Piedmont’s overall identity, beauty and visual quality;” nor the following policies: D&P Policy 27.1 which reads “Streets as Public Space - Recognize that streets are important public spaces as well as transportation routes. Sidewalks, street trees, landscaping, and other amenities should be provided and maintained to keep these spaces attractive;” nor D&P Policy 27.2, which reads “Sidewalks and Planting Strips - Manage sidewalk space and planting strips along Piedmont streets to promote pedestrian safety and comfort, enhance visual character, and reduce the impact of vehicle traffic on adjacent yards.” The proposed installation does not comply with the policy above because the plans show the proposed canister antenna at the end of a 3-foot-long arm extension protruding over the sidewalk which would create an unusual, awkward, irregular, and discontinuous streetscape which is not beautiful, attractive, nor in character with the residential setting.

e. The proposed installation does not comply with Design and Preservation Element goal 31, which states “Historic Preservation - Identify, preserve, and maintain Piedmont’s cultural and historic resources and recognize these resources as an essential part of the city’s character and heritage,” nor D&P Policy 31.6, Historic Landscapes, which reads, “...Ensure that new public works such as street lights, street furniture, and sidewalks are compatible with the historic context of Piedmont’s neighborhoods.” The proposed installation does not comply with the policy above because the design of the proposed installation at the location at 303 Hillside Avenue does not integrate design elements characteristic of the surrounding neighborhood and therefore is out of place within the historic context of the residences in the project vicinity; and

f. The proposed installation does not comply with Community Services and Facilities Element goal 37, which reads “Infrastructure - Provide water, sewer, storm drainage, energy, and telecommunication services in the most efficient, cost-effective, and environmentally sound manner possible,” nor CS&F Policy 37.4, Siting and Design of Infrastructure, which reads “Ensure that the siting and design of infrastructure facilities, including water tanks and telecommunication towers, mitigates the potential for adverse visual impacts and is consistent with policies in the Design and Preservation Element.” Due to the unnecessary bulky and protruding appearance of the canister antenna at the end of a 3-foot-long arm extension projecting over the sidewalk, the cluttered and constrained location adjacent to a driveway curb cut, and the discontinuous sidewalk width, the proposed installation does not comply with the policies above because the design does not adequately mitigate potential adverse visual impacts related to aesthetics; and

WHEREAS, the City Council held a duly noticed public hearing on October 2,

2017 for the requested WCF applications, plans, and previously proposed variance applications, took public comment, and, at the conclusion of the public hearing, continued the item to the October 16, 2017 regular meeting and directed staff to prepare resolutions of denial for the proposed installation at 303 Hillside Avenue, as well as 428 El Cerrito Avenue, 150 Highland Avenue, 352 Jerome Avenue, and 1159 Winsor Avenue; and

WHEREAS, the adoption of this resolution of denial is not subject to the California Environmental Quality Act (CEQA) because it is not a project within the meaning of CEQA and it can be seen with certainty that there is no possibility that the denial of the applications may have a significant effect on the environment (Public Resources Code section 21065; CEQA Guidelines, 14 Cal. Code of Regs. Sections 15061(b)(3), 15378.); and

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

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

SECTION 2. Based on the findings and facts set forth heretofore, the Piedmont City Council denies the application for wireless communication facilities permit for a proposed wireless communication facility sited at 303 Hillside Avenue, identified in plans as PHS05.

SECTION 3. All portions of this resolution are severable. If an individual component of this Resolution is adjudged by a court to be invalid and unenforceable, then the remaining portions will continue in effect.

Moved by Rood, Seconded by Cavanaugh

Ayes: Andersen, Cavanaugh, King, Rood, McBain

Noes: None

Resolution No. 77-17

WHEREAS, between 1907 and 1940, 2,500 homes, nearly 70% of the City's existing housing stock, were built, and most of Piedmont's streets were laid out during the early days of the automobile, before modern engineering standards evolved and were adopted. The Piedmont General Plan and Design Guidelines have been developed by City decision-makers over time to apply rigorous aesthetic and health and safety standards to new development on private and public property due to the unusually dense development of Piedmont neighborhoods, high-quality natural and historic resources, and the existing limited transportation circulation and access; and

WHEREAS, the Piedmont General Plan, adopted April 6, 2009, provides direction for development on public land including policies, programs, and actions in the Land Use Element, Transportation Element, Design and Preservation Element, Parks, Recreation, and Open Space Element, and Natural Resources and Sustainability Element, and the first guiding principle of the Framework section reads, "While a limited amount of change is inevitable, the essential quality of and character of Piedmont's homes, natural features, and open space will be protected. The ambiance of the city's residential streets and public spaces will be conserved. These are the things that make Piedmont special, and they are central to the city's vision for its future. This basic principle underpins all elements of the General Plan;" and

WHEREAS, on November 2, 2016, Crown Castle NG West LLC through Beacon Development (the “Applicant”) filed wireless communication facilities (WCF) permit applications for nine sites in Piedmont near Piedmont Park, Piedmont High School, and surrounding neighborhoods (Applications #16-0385), and one of the nine proposed WCF installations was proposed for a site across from 428 El Cerrito Avenue in the public right-of-way, a site identified in the application materials as PHS06. The plans for the proposed installation PHS06 are incomplete but show the installation of a single new three-sector directional antenna on a three-foot-long arm extension affixed to a new replacement utility pole across from 428 El Cerrito Avenue, along with the installation of communication equipment in a new underground vault in the public right-of-way beneath the sidewalk and planter on Jerome Avenue; and

WHEREAS, as provided in Piedmont City Code section 17.46.080.c, the City Council is hearing this application for Wireless Communication Facilities permit because the proposal across from 428 El Cerrito Avenue is a WCF permit installation proposed in zone A within the City-owned public right-of-way; and

WHEREAS, the roadways adjacent to the site across from 428 El Cerrito Avenue have curb-to-curb width of 24 feet, and these roadway widths are only “marginally adequate” for access according to the General Plan Transportation Element; and

WHEREAS, El Cerrito Avenue leads to an entrance to Witter Field and Piedmont Unified School District (“PUSD”) buildings and facilities, including Piedmont High School, Piedmont Middle School, and Millennium High School, and the proposed installation across from 428 El Cerrito Avenue is within 152 feet of the PUSD entrance; and

WHEREAS, the grade in the area of the proposed underground vault installation across from 428 El Cerrito Avenue is 13% according to the survey prepared by the applicant and adjoins a sloping planter in the public right-of-way; and

WHEREAS, City staff sent the applicant seven (7) letters and emails outlining the missing, inconsistent, and incomplete information in the proposed plans and applications, each letter and email was a timely response to the applicant’s submittals in accordance with Federal Communication Commission and State of California requirements, and these letters and emails were sent on November 10, 2016; December 19, 2016; February 19, 2017; April 17, 2017; May 29, 2017; June 9, 2017; and August 13, 2017; and

WHEREAS, the Piedmont Park Commission held a duly noticed public hearing on June 7, 2017 for the proposed installation across from 428 El Cerrito Avenue, and recommended City Council denial of the designs shown in the iteration of the plans filed by the applicant on May 19, 2017 (henceforth referred to as “May 2017 Plans”); and

WHEREAS, the Piedmont Planning Commission held a duly noticed public hearing on June 12, 2017 for variance applications, WCF application, and plans for the proposed installation across from 428 El Cerrito Avenue and, at the close of the public hearing, recommended City Council denial of the requested variance applications and WCF application for the design shown in the May 2017 plans, because the installations shown in the May 2017 Plans did not comply with Division 17.46 of the Piedmont City Code or Division 17.70 of the Piedmont City Code; and

WHEREAS, on June 23, 2017, the Applicant and City mutually agreed to an extension to October 31, 2017 of the applicable shot clock timelines set forth by the Federal Communications Commission (Petition for Declaratory Ruling (“Shot Clock Rule”), 24 F.C.C. Rcd. 13994 (2009)) and the applicable State of California-required shot clock for application processing time lines (collectively, the “Shot Clock”). The purpose of the shot clock extension was to provide the Applicant with additional time to investigate and propose alternate designs intended to address the various concerns expressed by the Planning Commission and Park Commission regarding the May 2017 Plans during the meeting of June 12, 2017 and the meeting of June 7, 2017; and

WHEREAS, on September 8, 2017, the applicant filed the latest applications and plans for the nine (9) installations. The application and plans still contained incomplete information and inconsistent information.

WHEREAS, the September 2017 Plans were analyzed by staff, and staff reports were prepared for the City Council hearing of October 2, 2017 for the proposed installation across from 428 El Cerrito Avenue and the other eight (8) WCF installations requested by the applicant; and

WHEREAS, on September 19, 2017, the applicant withdrew the previously proposed designs filed in May 2017, referred to herein as the May 2017 Plans, that were reviewed by the Park Commission and Planning Commission in June 2017 and the applicant transferred all previously filed application fees and applications, including variance applications, toward the review of the September 2017 plans; and

WHEREAS, the City Council, Planning Commission, Park Commission, and City staff are aware of the federal Telecommunications Act of 1996 and the Federal Communications Commission rules regarding radio frequency emissions safety, and the City Council has solicited and received specific legal education from the co-author of the FCC guide, “Local Government Official’s Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance” regarding the lawful scope and limits their authority, duties, and responsibilities connected with radio frequency emissions review under federal law and regulations, the City Council, Planning Commission, Park Commission, and City staff have solely relied upon the evidence provided in the statement prepared by William Hammett, P.E., of Hammett & Edison Consulting Engineers, dated August 4, 2017 (the “Statement”), included in the Administrative Record, that the project as described in the application demonstrated planned compliance with FCC guidelines limiting human exposure to radio frequency (“RF”) electromagnetic fields, and accordingly the public correspondence and comments received in connection to radio frequency emissions regarding this planning matter were not considered, nor were they factors in the Planning Commission and Park Commission decisions to recommend denial of the designs shown in the May 2017 plans, nor in City staff’s recommendation to City Council to deny the designs shown in the September 2017 plans, nor factors in the City Council’s decision to direct staff to prepare resolutions of denial, nor factors in the City Council’s decision to deny the application based solely on the other independent grounds contained in this Resolution for the site across from 428 El Cerrito Avenue; and

WHEREAS, pursuant to Piedmont City Code Section 17.46.080.D, the City Council must make five (5) required findings before being able to approve a

wireless communication facilities permit, and the required findings include required satisfaction of the development standards and Piedmont Design Guidelines as outlined in the staff report and as addressed by City Council members, staff, and members of the public during the public hearing; and

WHEREAS, the magnitude of the missing, incomplete, and inconsistent information and details in the application and project plans are material to the City Council's understanding of the proposed wireless communication facilities permit application and create uncertainty in the minds of the City Council for the design and future execution of the proposed design for the site across from 428 El Cerrito Avenue. As detailed in the staff report prepared for the October 2, 2017 City Council public hearing, the September 2017 application forms and plans for installations across from 428 El Cerrito Avenue are missing the following information or have the following inconsistencies of each of the following jointly and severally:

1. The application forms are not signed by the applicant and the applicant has not authorized Beacon Development to be its agent;
2. Sheet SP-2 plan view detail is incorrectly titled "Top View" (the site plans provide a symbol for the utility pole but do not show actual placement of the antenna and equipment in relationship to the sidewalk, curb ramps, driveways, planter strips, trees, and other features in the public right-of-way – a "top view" may mean a conceptual illustration only) and it is not drawn to scale, all plan sets;
3. Required story poles were not provided for the proposed installations;
4. Sheet O-1, survey is not provided in a copy reproduced to scale;
5. Sheets LP-1 and SP-1 inaccurately label the existing sidewalk on Jerome Avenue as 6 feet wide where field measurements show that it is 4 feet 5 inches wide in the area of the proposed installation and Sheet EP-1 notes it as 4 feet wide;
6. Sheets EP-1, LP-1, and SP-1, show the existing and proposed utility pole location as being set back 1 foot to the back of curb where field measurements show that it is 7 inches to the back of curb;
7. Sheet SP-2 site plan detail does not define the curb location;
8. Sheet D-1 omits some or all relevant contents of the underground vault;
9. Sheet D-2 does not specify the finish of the proposed vault cover;
10. Sheet O-1 omits the driveway location and curb cut for the residence at 419 El Cerrito Avenue located adjacent to the proposed installation; and

WHEREAS, pursuant to Piedmont City Code Section 17.46.080.D, the following requirements have not been satisfied by the Applicant in the applications and plans for the proposed wireless communication facility proposed by the applicant for the site across from 428 El Cerrito Avenue because of each of the following jointly and severally:

- A. Pursuant to Section 17.46.080.D.1.b, the applicant has not met the

priority for location standards of section 17.46.040.A because under the particular circumstances of the proposed installation and site, the wireless communication facility across from 428 El Cerrito Avenue is not concealed or collocated as required by Section 17.46.040.A.3 because the antenna would be conspicuous on the existing utility pole and in the residential landscape;

B. Pursuant to Section 17.46.080.D.1.c, the applications and plans for the proposed wireless communication facility proposed by the applicant for the site across from 428 El Cerrito Avenue have not satisfied each of the applicable development standards in section 17.46.070, because

a. The applicant has not satisfied Piedmont City Code Section 17.46.070.A.3, Visual impact, because the wireless communication facility has not been designed to minimize visual impacts because of each of the following jointly and severally:

i. As demonstrated by the proposed concealment elements of the applicant's proposed facilities on street lights, concealment of cabling is feasible and a smaller profile antenna is feasible. The proposed installation on the particular utility pole and this site across from 428 El Cerrito Avenue is not adequately concealed in that the canister type antenna is proposed at the end of a bulky 3-foot-long arm extension, no collar is proposed to screen the cabling where it connects to the antenna, and cabling would be exposed along the arm extension.

ii. The bulk of the proposed antenna and 3-foot extension arm connecting it to the utility pole in a direction parallel to the street at a height approximately 26.5 feet above grade will negatively impact existing significant scenic views of Oakland's downtown skyline and San Francisco Bay as seen from properties along El Cerrito Avenue directly across the street from the proposed site.

iii. The project plans filed on September 8, 2017 are incomplete. It is unknown what additional visual impacts may be created by details omitted from the plans such as additional equipment, brackets, structural elements, guy wires, and cabling required by the proposed installation.

iv. The antenna proposed for the site across from 428 El Cerrito Avenue is not as concealed as possible and would be 2 feet tall and 14.6 inches in diameter at the end of a 3-foot-long arm extension, which adds to its visibility and visual massing in the residential setting. Feasible alternative designs that would mitigate negative visual impacts are available but were not proposed.

C. The applicant has not satisfied Piedmont City Code section 17.46.070.A.4, Public Health, Peace and Safety, nor section 17.46.070.A.5, Public Right-of-Way, for this particular installation and site, because the inconsistent information on the existing and proposed site plan fail to establish a reliable plan, the existing narrow roadways and 13% grade limits access and creates safety concerns, and the proposed irregular sidewalk design inconveniences the public use of the public right-of-way, because of each of the following jointly and severally:

1. The proposed vault remains on a slope in the sidewalk in this particular location and area, and on an approach to Piedmont Unified School District facilities within 152 feet of the proposed installation.
 2. The Proposed Site Plan on Sheet SP-1 shows a 6-foot-wide sidewalk in the area of the proposed vault. Actual field measurement of the sidewalk is 4 feet 5 inches.
 3. Plans show a 13% slope in the area of the underground vault and the proposed metal vault cover. The creation of a slippery surface is anticipated through the common accumulation of leaves and berries from the adjacent tree on the metal vault, creating safety concerns.
 4. Plans show that the underground vault would extend beyond the sidewalk and into the sloping planter along the front of 460 Jerome Avenue, creating an irregular walking surface and dimension in this particular location.
 5. The curb-to-curb width of the roadways on El Cerrito Avenue and Jerome Avenue are 24 feet wide and marginally adequate for existing traffic circulation and access as determined by the Piedmont General Plan, and the site would be further limited by additional utilities and proposed maintenance and other on-going and long-term site-related work, requiring commercial vehicles, such as “bucket trucks,” traffic control, and lane closures. Although existing utilities are present on the proposed utility pole site, the addition of new utilities will further burden the public right-of-way in this particular location.
 6. The proposed installation at the location across from 428 El Cerrito Avenue will cause an inconvenience to the public’s use of the right-of-way and will interfere with the public’s use of the right-of-way. Existing utility poles and other encroachments reduce the narrow sidewalk width in areas of sidewalk associated with the proposed installations. The Plans show the replacement utility poles proposed as part of the wireless communication facility installation encroaching into the pedestrian path of travel which further constrains the existing and historic flow of pedestrian traffic at this location.
 7. The proposed changes to the utility pole are likely to create sidewalk obstructions because the plans do not accurately show the relative locations of the power and communication risers on the sides of the replacement utility poles, the street curb, and sidewalk width.
 8. The proposed changes to the utility poles and addition of power and communication risers will create additional sight line obstructions, because plans do not confirm the relative locations, width, and offsets of the power and communication risers on the sides of the replacement utility poles, the street curb, and sidewalk width.
- D. Pursuant to 17.46.080.D.1.d, the applicant has not provided a design for the site across from 428 El Cerrito that is consistent with the Piedmont Design Guidelines because the Piedmont Design Guidelines call for harmony and integration in new construction (Guideline I-1.c.) and require compliance with the Piedmont General Plan, and the proposals are not

harmonious or well-integrated into the residential setting. Piedmont Design Guidelines include Guideline I-1 which reads, “Where one architectural style is predominant in the neighborhood, the new residential construction should be compatible with this predominant existing architectural style. Where no one architectural style is predominant in the neighborhood, the new residential construction should be compatible with the architectural style of the houses near it. The proponent of the new construction shall be responsible for including graphic materials in his/her submission to the City documenting compatibility,” and sub-section I-1(c), reads, “In both conditions, a single predominant style or several styles, the goals of this guideline are harmony and integration...” The proposed installation does not comply with the guidelines above because of the following jointly and severally:

a. The proposed wireless communication facility is not harmonious or integrated into the residential setting because the stark and industrial appearing pole assembly in the view zone of a residential street would look out of scale and negatively impact the residential character of the neighborhood, the proposed installation is conspicuous due to its industrial appearance, exposed cabling, visual massing, and placement in a view corridor of Oakland’s downtown skyline and San Francisco Bay. The antenna proposed for the site across from 428 El Cerrito Avenue is not as concealed as possible and would be 2 feet tall and 14.6 inches in diameter at the end of a 3-foot-long arm extension, which adds to its visibility and visual massing in the residential setting. Other less conspicuous designs are feasible but were not proposed. Plans show that the underground vault would extend beyond the sidewalk and into the sloping planter along the front of 460 Jerome Avenue, creating an irregular walking surface and dimension thus further interfering with the existing community aesthetics in this particular location and area.

b. The proposed installation does not comply with the first goal of the Land Use Element which is “Residential Character - Maintain the character of Piedmont as a residential community,” nor with Land Use Element Policy 1.2, Neighborhood Conservation, which reads, “Sustain the balance between homes, private yards, and public space that defines Piedmont’s residential neighborhoods. The essential form of the city’s residential areas—including the scale and appearance of its homes, the mature vegetation, the views and vistas, the appearance of streets and public places, and the street layout—should be maintained for the long-term future.” The proposed installation does not comply with the policy above because the proposed installation would be a canister antenna at the end of a 3-foot-long arm extension, construction and exposed cabling would have a stark and industrial appearance, construction requires clearance pruning of a City street tree, and the installation would partially obstruct a scenic view of Oakland’s downtown skyline and San Francisco Bay.

c. The proposed installation does not comply with Transportation Element goal 10, which states “Walking and Bicycling - Encourage walking and bicycling as viable modes of transportation for traveling within Piedmont,” because project plans do not demonstrate that the project will comply with minimum sidewalk clearance widths required by the ADA.

d. The proposed installation does not comply with Natural Resources and Sustainability Element goal 14, which states “Urban Forest - Conserve and expand Piedmont’s tree canopy to create visual beauty, provide shade, prevent erosion and absorb runoff, reduce noise and air pollution, and provide habitat for birds and other wildlife,” nor NR&S Policy 14.1: Street Tree Maintenance which reads, “Maintain the city’s street trees and recognize their essential contribution to the character and environmental health of Piedmont. The City should continue to perform pruning and tree care on a regular basis to ensure the long-term health of trees and to address conflicts with views, utilities, and public safety.” The proposed installation does not comply with the policy above because the replacement of the utility pole will require severe clearance pruning of an existing *Tristanopsis Laurina* street tree that is already compromised by a substandard tree well location and adjacent utilities, and the replacement of the pole is not required for the provision of utility-delivered electrical power; and

e. The proposed installation does not comply with Parks, Recreation, and Open Space Element the goal 23, which states “Park Planning and Management - Provide attractive, high-quality parks that accommodate a wide range of recreational needs” nor PR&OS Policy 23.8, Landscaped Medians, Traffic Islands, and Parking Strips, which reads “Recognize the importance of landscaped medians and roadsides, traffic “islands”, parking strips, and other planted public open spaces to Piedmont’s character and beauty. Encourage and support the planting and care of such areas by community groups and volunteers. See also Design and Preservation Element policies on parking strips and the “public realm.”” The proposed installation does not comply with the policy above because the plans show placement of the underground vault partially in the sidewalk and partially in the sloped planter which would create an unusual, awkward, irregular, and discontinuous streetscape which is not beautiful nor in character with the residential setting; and

f. The proposed installation does not comply with Design and Preservation Element goal 27, which states “City Identity and Aesthetics - Ensure that streets, parks, civic buildings, and other aspects of the “public realm” contribute to Piedmont’s overall identity, beauty and visual quality;” nor the following policies: D&P Policy 27.1 which reads “Streets as Public Space - Recognize that streets are important public spaces as well as transportation routes. Sidewalks, street trees, landscaping, and other amenities should be provided and maintained to keep these spaces attractive;” nor D&P Policy 27.2, which reads “Sidewalks and Planting Strips - Manage sidewalk space and planting strips along Piedmont streets to promote pedestrian safety and comfort, enhance visual character, and reduce the impact of vehicle traffic on adjacent yards.” The proposed installation does not comply with the goal and policies above because the installation’s industrial appearance, exposed cabling, visual massing, and placement has a detrimental effect on the visual quality and beauty of the streetscape. The antenna proposed for the site across from 428 El Cerrito Avenue is not as concealed as possible and would be 2 feet tall and 14.6 inches in diameter at the end of a 3-foot-long arm extension, which adds to its aesthetically disruptive visibility and visual massing in the residential

setting.

g. The proposed installation does not comply with Design and Preservation Element goal 31, which states “Historic Preservation - Identify, preserve, and maintain Piedmont’s cultural and historic resources and recognize these resources as an essential part of the city’s character and heritage,” nor D&P Policy 31.6, Historic Landscapes, which reads, “...Ensure that new public works such as street lights, street furniture, and sidewalks are compatible with the historic context of Piedmont’s neighborhoods.” The proposed installation does not comply with the policy above because the design of the proposed installation at the location across from 428 El Cerrito Avenue does not integrate design elements characteristic of the surrounding neighborhood and therefore is out of place within the historic context of the residences in the project vicinity; and

h. The proposed installation does not comply with Community Services and Facilities Element goal 37, which reads “Infrastructure - Provide water, sewer, storm drainage, energy, and telecommunication services in the most efficient, cost-effective, and environmentally sound manner possible,” nor CS&F Policy 37.4, Siting and Design of Infrastructure, which reads “Ensure that the siting and design of infrastructure facilities, including water tanks and telecommunication towers, mitigates the potential for adverse visual impacts and is consistent with policies in the Design and Preservation Element.” Due to the unnecessary bulk and stark industrial appearance of the antenna and 3-foot-long bracket and exposed cabling on the utility pole, the irregular and unusual sidewalk and vault configuration, the partial obstruction of a significant scenic view, the proposed installation does not comply with the policies above because the design does not adequately mitigate potential adverse visual impacts related to significant views and aesthetics; and

WHEREAS, the City Council held a duly noticed public hearing on October 2, 2017 for the requested WCF applications, plans, and previously proposed variance applications, took public comment, and, at the conclusion of the public hearing, continued the item to the October 16, 2017 regular meeting and directed staff to prepare resolutions of denial for the proposed installations at 428 El Cerrito Avenue, as well as 150 Highland Avenue, 303 Hillside Avenue, 352 Jerome Avenue, and 1159 Winsor Avenue; and

WHEREAS, the adoption of this resolution of denial is not subject to the California Environmental Quality Act (CEQA) because it is not a project within the meaning of CEQA and it can be seen with certainty that there is no possibility that the denial of the applications may have a significant effect on the environment (Public Resources Code section 21065; CEQA Guidelines, 14 Cal. Code of Regs. Sections 15061(b)(3), 15378.); and

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

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

SECTION 2. Based on the findings and facts set forth heretofore, the Piedmont

City Council denies the application for wireless communication facilities permit for a proposed wireless communication facility sited across from 428 El Cerrito Avenue, identified in plans as PHS06.

SECTION 3. All portions of this resolution are severable. If an individual component of this Resolution is adjudged by a court to be invalid and unenforceable, then the remaining portions will continue in effect.

Moved by Rood, Seconded by Cavanaugh

Ayes: Andersen, Cavanaugh, King, Rood, McBain

Noes: None

(1127)

Resolution No. 78-17

WHEREAS, between 1907 and 1940, 2,500 homes, nearly 70% of the City's existing housing stock, were built, and most of Piedmont's streets were laid out during the early days of the automobile, before modern engineering standards evolved and were adopted. The Piedmont General Plan and Design Guidelines have been developed by City decision-makers over time to apply rigorous aesthetic and health and safety standards to new development on private and public property due to the unusually dense development of Piedmont neighborhoods, high-quality natural and historic resources, and the existing limited transportation circulation and access; and

WHEREAS, the Piedmont General Plan, adopted April 6, 2009, provides direction for development on public land including policies, programs, and actions in the Land Use Element, Transportation Element, Design and Preservation Element, Parks, Recreation, and Open Space Element, and Natural Resources and Sustainability Element, and the first guiding principle of the Framework section reads, "While a limited amount of change is inevitable, the essential quality of and character of Piedmont's homes, natural features, and open space will be protected. The ambiance of the city's residential streets and public spaces will be conserved. These are the things that make Piedmont special, and they are central to the city's vision for its future. This basic principle underpins all elements of the General Plan;" and

WHEREAS, on November 2, 2016, Crown Castle NG West LLC through Beacon Development (the "Applicant") filed wireless communication facilities (WCF) permit applications for nine sites in Piedmont near Piedmont Park, Piedmont High School, and surrounding neighborhoods (Applications #16-0385), and one of the nine proposed WCF installations was proposed for a site at 1159 Winsor Avenue in the public right-of-way, a site identified in the application materials as PHS08. The plans for the proposed installation PHS08 are incomplete but show the installation of a single new three-sector directional antenna on a three-foot-long arm extension affixed to a new replacement utility pole at 1159 Winsor Avenue, along with the installation of communication equipment in a new pole-mounted shroud in the public right-of-way on Winsor Avenue; and

WHEREAS, as provided in Piedmont City Code section 17.46.080.c, the City Council is hearing this application for Wireless Communication Facilities permit because the proposal at 1159 Winsor Avenue is a WCF permit installation proposed in zone A within the City-owned public right-of-way; and

WHEREAS, the roadways adjacent to the site at 1159 Winsor Avenue have curb-to-curb width of 24 feet, and these roadway widths are only "marginally

adequate” for access according to the General Plan Transportation Element; and

WHEREAS, Winsor Avenue leads to an entrance to Witter Field and Piedmont Unified School District (“PUSD”) buildings and facilities, including Piedmont High School, Piedmont Middle School, and Millennium High School, and the proposed installation at 1159 Winsor Avenue is within 30 feet of the PUSD entrance; and

WHEREAS, City staff sent the applicant seven (7) letters and emails outlining the missing, inconsistent, and incomplete information in the proposed plans and applications, each letter and email was a timely response to the applicant’s submittals in accordance with Federal Communication Commission and State of California requirements, and these letters and emails were sent on November 10, 2016; December 19, 2016; February 19, 2017; April 17, 2017; May 29, 2017; June 9, 2017; and August 13, 2017; and

WHEREAS, the Piedmont Park Commission held a duly noticed public hearing on June 7, 2017 for the proposed installation at 1159 Winsor Avenue, and recommended City Council denial of the designs shown in the iteration of the plans filed by the applicant on May 19, 2017 (henceforth referred to as “May 2017 Plans”); and

WHEREAS, the Piedmont Planning Commission held a duly noticed public hearing on June 12, 2017 for variance applications, WCF application, and plans for the proposed installation at 1159 Winsor Avenue and, at the close of the public hearing, recommended City Council denial of the requested variance applications and WCF application for the design shown in the May 2017 plans, because the installations shown in the May 2017 Plans did not comply with Division 17.46 of the Piedmont City Code or Division 17.70 of the Piedmont City Code; and

WHEREAS, on June 23, 2017, the Applicant and City mutually agreed to an extension to October 31, 2017 of the applicable shot clock timelines set forth by the Federal Communications Commission (Petition for Declaratory Ruling (“Shot Clock Rule”), 24 F.C.C. Red. 13994 (2009) and the applicable State of California-required shot clock for application processing time lines (collectively, the “Shot Clock”). The purpose of the shot clock extension was to provide the Applicant with additional time to investigate and propose alternate designs intended to address the various concerns expressed by the Planning Commission and Park Commission regarding the May 2017 Plans during the meeting of June 12, 2017 and the meeting of June 7, 2017; and

WHEREAS, on September 8, 2017, the applicant filed the latest applications and plans for the nine (9) installations. The application and plans still contained incomplete information and inconsistent information.

WHEREAS, the September 2017 Plans were analyzed by staff, and staff reports were prepared for the City Council hearing of October 2, 2017 for the proposed installation at 1159 Winsor Avenue and the other eight (8) WCF installations requested by the applicant; and

WHEREAS, on September 19, 2017, the applicant withdrew the previously proposed designs filed in May 2017, referred to herein as the May 2017 Plans, that were reviewed by the Park Commission and Planning Commission in June 2017 and the applicant transferred all previously filed application fees and

applications, including variance applications, toward the review of the September 2017 plans; and

WHEREAS, the City Council, Planning Commission, Park Commission, and City staff are aware of the federal Telecommunications Act of 1996 and the Federal Communications Commission rules regarding radio frequency emissions safety, and the City Council has solicited and received specific legal education from the co-author of the FCC guide, “Local Government Official’s Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance” regarding the lawful scope and limits their authority, duties, and responsibilities connected with radio frequency emissions review under federal law and regulations, the City Council, Planning Commission, Park Commission, and City staff have solely relied upon the evidence provided in the statement prepared by William Hammett, P.E., of Hammett & Edison Consulting Engineers, dated August 4, 2017 (the “Statement”), included in the Administrative Record, that the project as described in the application demonstrated planned compliance with FCC guidelines limiting human exposure to radio frequency (“RF”) electromagnetic fields, and accordingly the public correspondence and comments received in connection to radio frequency emissions regarding this planning matter were not considered, nor were they factors in the Planning Commission and Park Commission decisions to recommend denial of the designs shown in the May 2017 plans, nor in City staff’s recommendation to City Council to deny the designs shown in the September 2017 plans, nor factors in the City Council’s decision to direct staff to prepare resolutions of denial, nor factors in the City Council’s decision to deny the application based solely on the other independent grounds contained in this Resolution for the site at 1159 Winsor Avenue; and

WHEREAS, pursuant to Piedmont City Code Section 17.46.080.D, the City Council must make five (5) required findings before being able to approve a wireless communication facilities permit, and the required findings include required satisfaction of the development standards and Piedmont Design Guidelines as outlined in the staff report and as addressed by City Council members, staff, and members of the public during the public hearing; and

WHEREAS, the magnitude of the missing, incomplete, and inconsistent information and details in the application and project plans are material to the City Council’s understanding of the proposed wireless communication facilities permit application and create uncertainty in the minds of the City Council for the design and future execution of the proposed design for the site at 1159 Winsor Avenue. As detailed in the staff report prepared for the October 2, 2017 City Council public hearing, the September 2017 application forms and plans for installations at 1159 Winsor Avenue are missing the following information or have the following inconsistencies of each of the following jointly and severally:

1. The application forms are not signed by the applicant and the applicant has not authorized Beacon Development to be its agent;
2. Sheet SP-2 plan view detail misidentifies the adjacent street as “Park View Ave” and is incorrectly titled “Top View” (the site plans provide a symbol for the utility pole but do not show actual placement of the antenna and equipment in relationship to the sidewalk, curb ramps, driveways, planter strips, trees, and other features in the public right-of-way – a “top view” may mean a conceptual illustration only) and it is not drawn to scale, all plan sets;

3. Required story poles were not provided for the proposed installations;
4. Sheet O-1, survey is not provided in a copy reproduced to scale;
5. Sheet D-1 does not specify the material of the proposed equipment shroud and the plan references the location of "RRU-12" not the proposed RRU-11 equipment;
6. Proposed site plan and elevation drawing, Sheet SP-1 and Sheet SP-2, do not define the full scope of work, for example it is not clear if the location of the utility pole changes, if the applicant intends to cut the pole at the base to protect tree roots, and if the location of the guy wire anchor changes.
7. Sheets EP-1, LP-1, and SP-1 appear to show the Winsor Avenue roadway extending through the Piedmont Unified School District property where actually the street ends in an abrupt cul-de-sac with only a narrow driveway leading onto School District property; and
8. Sheets EP-1, LP-1, and SP-1 state that the existing and proposed utility pole is 1 foot to back of curb where field measurements show it is actually 4.5 inches to back of curb; and

WHEREAS, pursuant to Piedmont City Code Section 17.46.080.D, the following requirements have not been satisfied by the Applicant in the applications and plans for the proposed wireless communication facility proposed by the applicant for the site at 1159 Winsor Avenue because of each of the following jointly and severally:

- A. Pursuant to Section 17.46.080.D.1.b, the applicant has not met the priority for location standards of section 17.46.040.A because under the particular circumstances of the proposed installation and site, the wireless communication facility at 1159 Winsor Avenue is not concealed or collocated as required by Section 17.46.040.A.3 because the antenna would be conspicuous on the existing utility pole and in the residential landscape;
- B. Pursuant to Section 17.46.080.D.1.c, the applications and plans for the proposed wireless communication facility proposed by the applicant for the site at 1159 Winsor Avenue have not satisfied each of the applicable development standards in section 17.46.070, because

- a. The applicant has not satisfied Piedmont City Code Section 17.46.070.A.3, Visual impact, because the wireless communication facility has not been designed to minimize visual impacts because of each of the following jointly and severally:

- i. As demonstrated by the proposed concealment elements of the applicant's proposed facilities on street lights, concealment of cabling is feasible and a smaller profile antenna is feasible. The proposed installation on the particular utility pole and this site at 1159 Winsor Avenue is not adequately concealed in that the canister type antenna is proposed at the end of a bulky 3-foot-long arm extension, no collar is proposed to screen the cabling where it connects to the antenna, cabling would be exposed along the arm

extension, and the proposed pole-mounted shroud would increase the appearance of bulk and visual mass.

ii. The bulk of the proposed antenna and 3-foot extension arm connecting it to the utility pole in a direction overhanging the sidewalk at a height approximately 35 feet above grade and the communication equipment mounted at a height approximately 11 feet above grade in a direction overhanging the sidewalk will negatively impact the character of the residential sidewalk and add to the visibility of the equipment.

iii. The project plans filed on September 8, 2017 are incomplete. It is unknown what additional visual impacts may be created by details omitted from the plans such as additional equipment, brackets, structural elements, guy wires, and cabling required by the proposed installation.

iv. The antenna proposed for the at 1159 Winsor Avenue is not as concealed as possible and would be 2 feet tall and 14.6 inches in diameter at the end of a 3-foot-long arm extension and communication equipment would be installed on the side of the pole, both conditions add to their visibility and visual massing in the residential setting. Feasible alternative designs that would mitigate negative visual impacts are available but were not proposed. Alternative locations for communication equipment are not readily apparent in the project vicinity.

C. The applicant has not satisfied Piedmont City Code section 17.46.070.A.4, Public Health, Peace and Safety, nor section 17.46.070.A.5, Public Right-of-Way, for this particular installation and site, because the inconsistent information on the existing and proposed site plan fail to establish a reliable plan, the existing narrow roadways limits access and creates safety concerns, and the proposed constricted sidewalk access inconveniences the public use of the public right-of-way, because of each of the following, jointly and severally:

1. The proposed installation is within a narrow and substandard sidewalk in this particular location and area, and on an approach within 30 feet of an entrance to Piedmont Unified School District facilities. The proposed plans show the roadway continuing uninterrupted through the PUSD property. The proposed installation would create conflicts with use of the public right-of-way by pedestrians, including school-age children, to access PUSD facilities.

2. Sheets EP-1, LP-1, and SP-1 state that the existing and proposed utility pole is 1 foot to back of curb where field measurements show it is actually 4.5 inches to back of curb.

3. The curb-to-curb width of the roadways on Winsor Avenue and Park View Way are 24 feet wide and marginally adequate for existing traffic circulation and access as determined by the Piedmont General Plan, and the site would be further limited by additional utilities and proposed maintenance and other on-going and long-term site-related work, requiring commercial vehicles, such as "bucket trucks," traffic control, and lane closures. Although existing utilities are

present on the proposed utility pole site, the addition of new utilities will further burden the public right-of-way in this particular location. A vehicle cannot turn around unless the vehicle accesses PUSD property, and PUSD may not grant access, resulting in potential unsafe traffic maneuvers.

4. The proposed installation at the location at 1159 Winsor Avenue will cause an inconvenience to the public's use of the right-of-way and will interfere with the public's use of the right-of-way. Existing utility poles and other encroachments reduce the narrow sidewalk width in areas of sidewalk associated with the proposed installations. The Plans show the replacement utility poles proposed as part of the wireless communication facility installation encroaching into the pedestrian path of travel which further constrains the existing and historic flow of pedestrian traffic at this location.

5. The proposed changes to the utility pole are likely to create sidewalk obstructions because the plans do not accurately show the relative locations of the power and communication risers on the sides of the replacement utility poles, the street curb, and sidewalk width.

6. The proposed changes to the utility poles and addition of power and communication risers will create additional sight line obstructions, because plans do not confirm the relative locations, width, and offsets of the power and communication risers on the sides of the replacement utility poles, the street curb, and sidewalk width.

7. The location of pole-mounted equipment within the canopy of the existing Queen Palm tree and adjacent trees creates safety concerns because Fire Department staff cannot apply water to extinguish a fire in proximity to electrical equipment, CO2 could not be contained around the communication equipment which is exposed on all sides, and nearby vegetation would cause a fire to spread rapidly.

D. Pursuant to 17.46.080.D.1.d, the applicant has not provided a design for the site at 1159 Winsor Avenue that is consistent with the Piedmont Design Guidelines because the Piedmont Design Guidelines call for harmony and integration in new construction (Guideline I-1.c.) and require compliance with the Piedmont General Plan, and the proposals are not harmonious or well-integrated into the residential setting. Piedmont Design Guidelines include Guideline I-1 which reads, "Where one architectural style is predominant in the neighborhood, the new residential construction should be compatible with this predominant existing architectural style. Where no one architectural style is predominant in the neighborhood, the new residential construction should be compatible with the architectural style of the houses near it. The proponent of the new construction shall be responsible for including graphic materials in his/her submission to the City documenting compatibility," and sub-section I-1(c), reads, "In both conditions, a single predominant style or several styles, the goals of this guideline are harmony and integration..." The proposed installation does not comply with the guidelines above because of the following jointly and severally:

a. The proposed wireless communication facility is not harmonious or integrated into the residential setting because the stark

and industrial appearing pole assembly in the context of a residential street would look out of scale and negatively impact the residential character of the neighborhood, the proposed installation is conspicuous due to its industrial appearance, exposed cabling, exposed equipment, pole-mounted shroud, and visual massing. The antenna proposed for the site at 1159 Winsor Avenue is not as concealed as possible and would be 2 feet tall and 14.6 inches in diameter at the end of a 3-foot-long arm extension, which adds to its visibility and visual massing in the residential setting. Other less conspicuous designs are feasible but were not proposed. Plans show that the antenna and pole-mounted equipment would extend over the sidewalk, creating an irregular, looming, and visually massive appearance, interfering with the existing community aesthetics in this particular location and area.

b. The proposed installation does not comply with the first goal of the Land Use Element which is “Residential Character - Maintain the character of Piedmont as a residential community,” nor with Land Use Element Policy 1.2, Neighborhood Conservation, which reads, “Sustain the balance between homes, private yards, and public space that defines Piedmont’s residential neighborhoods. The essential form of the city’s residential areas—including the scale and appearance of its homes, the mature vegetation, the views and vistas, the appearance of streets and public places, and the street layout—should be maintained for the long-term future.” The proposed installation does not comply with the policy above because the proposed installation would be a canister antenna at the end of a 3-foot-long arm extension, the pole assembly and exposed cabling would have a stark and industrial appearance, the pole-mounted equipment would have a looming and visually massive appearance, and construction requires clearance pruning and disturbance of the root zone of City street trees.

c. The proposed installation does not comply with Transportation Element goal 10, which states “Walking and Bicycling - Encourage walking and bicycling as viable modes of transportation for traveling within Piedmont,” because project plans do not demonstrate that the project will comply with minimum sidewalk clearance widths required by the ADA.

d. The proposed installation does not comply with Natural Resources and Sustainability Element goal 14, which states “Urban Forest - Conserve and expand Piedmont’s tree canopy to create visual beauty, provide shade, prevent erosion and absorb runoff, reduce noise and air pollution, and provide habitat for birds and other wildlife,” nor NR&S Policy 14.1: Street Tree Maintenance which reads, “Maintain the city’s street trees and recognize their essential contribution to the character and environmental health of Piedmont. The City should continue to perform pruning and tree care on a regular basis to ensure the long-term health of trees and to address conflicts with views, utilities, and public safety.” The proposed installation does not comply with the policy above because the replacement of the utility pole will require severe clearance pruning of an existing Palm street tree and Horse Chestnut tree that are already compromised by a substandard tree well location and adjacent utilities, and the replacement of the pole is not required for the provision of utility-delivered electrical power; and

e. The proposed installation does not comply with Parks, Recreation, and Open Space Element the goal 23, which states “Park Planning and Management - Provide attractive, high-quality parks that accommodate a wide range of recreational needs” nor PR&OS Policy 23.8, Landscaped Medians, Traffic Islands, and Parking Strips, which reads “Recognize the importance of landscaped medians and roadsides, traffic “islands”, parking strips, and other planted public open spaces to Piedmont’s character and beauty. Encourage and support the planting and care of such areas by community groups and volunteers. See also Design and Preservation Element policies on parking strips and the “public realm.”” The proposed installation does not comply with the policy above because the plans require disturbance of the root zones of City street trees; proposed clearance pruning for construction would reduce the tree canopy, and the canopies of the existing Queen Palm and Horse Chestnut trees soften and screen the entrance to the PUSD facilities, continue and are part of groupings of other Palm and Horse Chestnut trees, and provide privacy between adjacent residences and the street; and the removal of this screening would create an unusual, awkward, irregular, and discontinuous streetscape which is not beautiful nor in character with the residential setting; and

f. The proposed installation does not comply with Design and Preservation Element goal 27, which states “City Identity and Aesthetics - Ensure that streets, parks, civic buildings, and other aspects of the “public realm” contribute to Piedmont’s overall identity, beauty and visual quality;” nor the following policies: D&P Policy 27.1 which reads “Streets as Public Space - Recognize that streets are important public spaces as well as transportation routes. Sidewalks, street trees, landscaping, and other amenities should be provided and maintained to keep these spaces attractive;” nor D&P Policy 27.2, which reads “Sidewalks and Planting Strips - Manage sidewalk space and planting strips along Piedmont streets to promote pedestrian safety and comfort, enhance visual character, and reduce the impact of vehicle traffic on adjacent yards.” The proposed installation does not comply with the goal and policies above because the installation’s industrial appearance, exposed cabling, visual massing, and placement has a detrimental effect on the visual quality and beauty of the streetscape and would remove tree canopy which screens residences from the adjacent street. The antenna proposed for the site at 1159 Winsor Avenue is not as concealed as possible and would be 2 feet tall and 14.6 inches in diameter at the end of a 3-foot-long arm extension hanging over the sidewalk, which adds to its aesthetically disruptive visibility and visual massing in the residential setting. Furthermore, the communication equipment would extend over the sidewalk creating a looming and visually disruptive presence in the proposed residential location.

g. The proposed installation does not comply with Design and Preservation Element goal 31, which states “Historic Preservation - Identify, preserve, and maintain Piedmont’s cultural and historic resources and recognize these resources as an essential part of the city’s character and heritage,” nor D&P Policy 31.6, Historic Landscapes, which reads, “...Ensure that new public works such as street lights, street furniture, and sidewalks are compatible with the historic context of Piedmont’s neighborhoods.” The proposed installation does not comply with the policy above because the design of the proposed

installation at the location at 1159 Winsor Avenue does not integrate design elements characteristic of the surrounding neighborhood and therefore is out of place within the historic context of the residences in the project vicinity; and

h. The proposed installation does not comply with Community Services and Facilities Element goal 37, which reads “Infrastructure - Provide water, sewer, storm drainage, energy, and telecommunication services in the most efficient, cost-effective, and environmentally sound manner possible,” nor CS&F Policy 37.4, Siting and Design of Infrastructure, which reads “Ensure that the siting and design of infrastructure facilities, including water tanks and telecommunication towers, mitigates the potential for adverse visual impacts and is consistent with policies in the Design and Preservation Element.” Due to the unnecessary bulk and stark industrial appearance of the antenna and 3-foot-long bracket and exposed cabling on the utility pole, the looming appearance of the communication equipment over the sidewalk, and the adverse impacts to City street trees, the proposed installation does not comply with the policies above because the design does not adequately mitigate potential adverse visual impacts related to aesthetics; and

WHEREAS, the City Council held a duly noticed public hearing on October 2, 2017 for the requested WCF applications, plans, and previously proposed variance applications, took public comment, and, at the conclusion of the public hearing, continued the item to the October 16, 2017 regular meeting and directed staff to prepare resolutions of denial for the proposed installations at 1159 Winsor Avenue, as well as 150 Highland Avenue, 303 Hillside Avenue, 352 Jerome Avenue, and 428 El Cerrito Avenue; and

WHEREAS, the adoption of this resolution of denial is not subject to the California Environmental Quality Act (CEQA) because it is not a project within the meaning of CEQA and it can be seen with certainty that there is no possibility that the denial of the applications may have a significant effect on the environment (Public Resources Code section 21065; CEQA Guidelines, 14 Cal. Code of Regs. Sections 15061(b)(3), 15378.); and

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

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

SECTION 2. Based on the findings and facts set forth heretofore, the Piedmont City Council denies the application for wireless communication facilities permit for a proposed wireless communication facility sited at 1159 Winsor Avenue, identified in plans as PHS08.

SECTION 3. All portions of this resolution are severable. If an individual component of this Resolution is adjudged by a court to be invalid and unenforceable, then the remaining portions will continue in effect.

Moved by Rood, Seconded by Cavanaugh
Ayes: Andersen, Cavanaugh, King, Rood, McBain
Noes: None
(1127)

The Council considered the applications at sites PHS01, PHS03 and PHS04.

Resolution No. 79-17

RESOLVED, to approve, subject to standard and special conditions, the application at Site PHS01, located at 340-370 Highland Avenue and adopt the resolution on Pages 53-64 of the staff report, amended to correct the date in the 3rd finding from 2017 to 2016.

Moved by Rood, Seconded by McBain

Ayes: McBain, Rood

Noes: Andersen, Cavanaugh, King

MOTION FAILED

(1127)

Resolution No. 80-17

RESOLVED, to approve, subject to standard and special conditions, the application at Site PHS03, located at 799 Magnolia Avenue and adopt the resolution on Pages 65-77 of the staff report, amended to correct the date in the 3rd finding from 2017 to 2016.

Moved by Rood, Seconded by McBain

Ayes: McBain, Rood

Noes: Andersen, Cavanaugh, King

MOTION FAILED

(1127)

Resolution No. 81-17

RESOLVED, to approve, subject to standard and special conditions, the application at Site PHS04, located at 740 Magnolia Avenue and adopt the resolution on Pages 79-91 of the staff report, amended to correct the date in the 3rd finding from 2017 to 2016.

Moved by Rood, Seconded by McBain

Ayes: McBain, Rood

Noes: Andersen, Cavanaugh, King

MOTION FAILED

(1127)

The Council discussed, at length, the acoustical characteristics of the proposed vaults and requested additional information on noise which would emanate from vault proposed, including the Santa Cruz acoustical study. The Council suggested that staff develop a condition of approval requiring that noise tests performed by Crown Castle be peer reviewed. The Council agreed, on the condition that the engineer performing the peer review be selected by the City. City Administrator Benoit discussed the condition related to noise and the proposed vaults.

Resolution No. 82-17

RESOLVED, that the City Council continues consideration of the applications for Sites PHS01, PHS03 and PHS04 to a special meeting on October 30, 2017, at 7:30 p.m.

Moved by Cavanaugh, Seconded by King

Ayes: Andersen, Cavanaugh, King, Rood, McBain

Noes: None

(1127)

The Council thanked the residents who expressed their opinions on these proposals and had dedicated so much time to this issue.

Councilmember Cavanaugh announced that she must recuse herself from the consideration of the Linda/Kingston/Rose Avenues Preferential Parking District because her residence is within 500 feet of the proposed District. She left the Council Chambers.

**Lake/Linda/Kingston/
Rose Avenue
Preferential Parking
District**

City Administrator Benoit introduced the concept of a preferential parking district located along Lake, Linda, Kingston, and Rose Avenues.

Public Works Director Chester Nakahara reported this issue has been under consideration for several years. He stated that initially, 24 of the 36 parcels along Kingston Avenue had signed a petition requesting a preferential parking district. He indicated that from this initial petition, neighborhood interest had grown and the proposed district had expanded to include several other streets.

Mr. Nakahara reviewed the process of indicating that staff and the traffic engineer started collecting data including a neighborhood survey, town hall meeting, and identification of parkers to determine if they were residents or not. He reviewed the discussions about the possible inclusion of Greenbank Avenue in the district. He continued explaining the process, including a second town hall meeting. He described the difference in opinion between different blocks within the proposed district regarding when the parking impacts are worst and what the best remedy in terms of parking restrictions would be. He explained that each block segment had selected a representative and that the representatives had come to a consensus on the parking restriction which is proposed tonight. He recommended parking restrictions from 10 p.m. to 7 a.m. with review after six months.

Mr. Nakahara noted that on Rose Avenue, the City limit runs on the northerly edge of the street, meaning that the housing on the north side of the street was in Oakland, but that vehicles parked on this side of the street are in Piedmont. He indicated that residences on the Oakland side of the street would receive parking passes.

Resolution No. 83-17

RESOLVED, that the City Council extends the meeting to 12 a.m.

Moved by Rood, Seconded by Andersen

Ayes: Andersen, King, Rood, McBain

Noes: None

Recused: Cavanaugh

Amy Lopez, representing traffic engineer Kittleson & Associates, presented the data collection methodology, the community meetings, and the conclusions reached.

Public Works Director Nakahara referenced the dwelling unit inventory and inclusion of Oakland residents that live on Rose. He stated Piedmont would enforce parking on both sides of Rose Avenue and he clarified the parking district areas.

Resolution No. 84-17

RESOLVED, that the City Council extends the meeting to 12:30 a.m.

Moved by Rood, Seconded by King

Ayes: Andersen, King, Rood, McBain
Noes: None
Recused: Cavanaugh

Public Testimony was received from:

Andy Skov, representing Kingston Avenue, supported the formation of the district. He summarized the process and the frustration with the Kittleson study because it did not evaluate the district block by block.

Doug Paton and David Weiner expressed support for the district and discussed the possible impacts to Greenbank Avenue

Max Woodruff-Madeira suggested the overnight restriction start at 11 p.m.

Arden Hall expressed frustration with overflow parking in his neighborhood and inability to park overnight in front of his home.

Rem Kinne indicated opposition to the proposed parking district and discussed the need to consider pedestrian safety.

Martin Hall stated that residents of Greenbank Avenue did not see a parking problem and did not see the need for a preferential parking district. He expressed concern that the Greenbank representative was not included in the proposal and would not be included after the trial period.

Councilmember King read a statement from Debra Dinerman expressing frustration with lack of parking.

Resolution No. 85-17

RESOLVED, that the City Council extends the meeting to 1:30 a.m.

Moved by Rood, Seconded by Andersen

Ayes: Andersen, King, Rood, McBain

Noes: None

Recused: Cavanaugh

Council discussed the proximity of the proposed district to the city limit and notification of both the elected officials and staff of the City of Oakland. Mr. Benoit stated staff should have and would make notifications to Oakland, although the parking restriction would be to its benefit.

The Council expressed concern with the cost of a pilot program, the findings necessary under the City Code to create such a district, and potential unintended consequences. Mr. Benoit suggested updating the code provisions regarding preferential parking districts.

Assistant City Attorney Herrington noted a correction to the resolution indicating both Vehicle 22507 and City Code section 11.80 should be referenced.

Resolution No. 86-17

WHEREAS, on-street parking on Kingston Avenue, Rose Avenue, Lake Avenue, and Linda Avenue in the City of Piedmont ("City") is congested; and

WHEREAS, since July of 2015, the City has conducted several studies and held several public forums to discuss the possibility of creating a preferential parking district pursuant to City Code Section 11.80 and Vehicle Code section 22507 on Kingston Avenue, Rose Avenue, Lake Avenue, and Linda Avenue.

WHEREAS, on-street parking congestion on Kingston Avenue, Rose Avenue, Lake Avenue, and Linda Avenue creates substantial inconvenience for the residents of those streets; and

WHEREAS, on-street parking on Kingston Avenue, Rose Avenue, Lake Avenue, and Linda Avenue constitutes a safety hazard; and

WHEREAS, use of existing off-street parking spaces on Kingston Avenue, Rose Avenue, Lake Avenue, and Linda Avenue is inadequate; and

WHEREAS, creating a preferential parking district on Kingston Avenue, Rose Avenue, Lake Avenue, and Linda Avenue will not adversely affect the neighborhoods next to the proposed parking district; and

WHEREAS, creating a preferential parking district will not adversely affect the general safety and welfare of the residents of the City as a whole.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PIEDMONT AS FOLLOWS:

1. The above recitals are true and correct and are hereby incorporated into this Resolution as findings of the City Council of the City of Piedmont.
2. Pursuant to City Code Section 11.80 and Vehicle Code section 22507, the City hereby establishes a preferential parking district on Kingston Avenue, Rose Avenue, Lake Avenue, and Linda Avenue, as more particularly depicted on Exhibit A ("Parking District").
3. Vehicles are prohibited from parking within the Parking District between the hours of 10:00 p.m. and 7:00 a.m., 7 days a week, holidays included, unless an approved resident parking permit is displayed on the vehicle.
4. City staff is hereby directed to implement all necessary measures to install signage to notify residents and visitors of the parking restrictions and to distribute approved parking permits to residents within the Parking District.
5. Two parking permits will be issued to each dwelling unit within the Parking District. Residents may not obtain additional permits. Dwelling units in large complexes greater than eight units are excluded from receiving parking permits. The dwelling units on the north (or Oakland) side of Rose Avenue will be entitled to receive parking permits. This includes the following addresses on Rose Avenue: 1075, 1069, 1063, 1057, 1051, 1045, 1039, 1053, 1027, 1021 (four units), 1015, 1007, 1001, 995 (three units), 957, 951, 945-943, 939-937, 933, 927-925, 921, 901 (four units), 849, 847, 843, 839-837, 785 and 781. The three dwelling units on 142 Echo Avenue will also be entitled to receive parking permits.
6. Subsequent to the installation of approved signage, City staff is directed to establish an effective date of enforcement and to notify the affected residents of that effective date.

7. \$60,000 is hereby appropriated for the cost of permits and parking sign installation.

8. The Director of Public Works is directed to report back to the City Council, approximately six months after the effective date of enforcement, on the effectiveness of the District as well as the potential impacts to adjacent, non-regulated streets.

9. The Director of Public Works is directed to reach out to colleagues in the City of Oakland to apprise them of the creation of this preferential parking district. The Director of Public Works shall forward his six month report to the Council on the effectiveness of the district to the City of Oakland.

9. This Resolution shall become effective immediately.

10. All portions of this resolution are severable. Should any individual component of this Resolution be adjudged to be invalid and unenforceable by a body of competent jurisdiction, then the remaining resolution portions shall be and continue in full force and effect, except as to those resolution portions that have been adjudged invalid. The City Council of the City of Piedmont hereby declares that it would have adopted this Resolution and each section, subsection, clause, sentence, phrase and other portion thereof, irrespective of the fact that one or more section subsection, clause sentence, phrase or other portion may be held invalid or unconstitutional.

Moved by King, Seconded by Andersen

Ayes: Andersen, King, Rood, McBain

Noes: None

Absent: Cavanaugh

(0735)

Councilmember Cavanaugh returned to the Council Chambers and took her seat at the dais.

**2017 Pavement
Contract**

Due to the lateness of the evening, the Council tabled this item for consideration at a future meeting.
(0045)

**2017/18 COPS Grant
and Spending Plan**

City Administrator Benoit discussed grant funds received through COPS and the requirement to formally accept the annual grant award and develop a spending plan. He reaffirmed that the plan was developed to meet grant criteria but significant expenditures would be individually approved by the Council. He stated the spending plan could be amended by the Council.

Chief Bowers stated the funds must be used to fill the need for additional resources at the local level. He explained regulations and the proposed spending plan.

Public Testimony was received from:

Mike Katz-Lacabe, Susy Struble, and Michael Rufo expressed concerns regarding the privacy of Automated License Plate Reader and Public Safety Camera records and suggested the creation of a comprehensive privacy policy for the City, with extensive community outreach.

The Council discussed the prior approval of license plate readers and indicated support for the plan.

Resolution No. 87-17

RESOLVED, that Council hereby accepts the 2017/18 California Citizens Option for Public Safety (COPS) grant in the amount of \$130,950 as allocated in the Supplemental Law Enforcement Services Account (SLESA) for the Piedmont Police Department and approves the spending plan outlined in the staff report.

Moved by Cavanaugh, Seconded by Rood

Ayes: Andersen, Cavanaugh, King, Rood, McBain

Noes: None

(0085, 0785)

**REPORTS AND
ANNOUNCEMENTS**

Councilmember King reminded residents that drop-in Schoolmates would not be available during parent teacher conferences but there were camps available.

Councilmember Cavanaugh announced the School Board Special Meeting October 17, from 9 a.m. to 11 a.m. on the topic of restorative justice.

ADJOURNMENT

There being no further business, Mayor McBain adjourned the meeting at 12:55 a.m.