City of Piedmont
COUNCIL AGENDA REPORT

DATE: August 18, 2025

TO: Mayor and Council

FROM: Rosanna Bayon Moore, City Administrator

SUBJECT: Consideration of Resolution Rescinding City Council Resolution 18-2024 and Approval of Design Review Permit for 139 Lexford Road (DRPC2023-018) with Applicant's Requested Amended Conditions of Approval and Finding the Project Exempt Under CEQA

RECOMMENDATION

By a single motion, take the following action:

> Adopt the attached resolution (Attachment A), rescinding City Council Resolution 18-2024 and approving a Design Review Permit for 139 Lexford Road (DRPC2023-018) with the Applicant's requested amended conditions of approval and finding the Project exempt under CEQA.

EXECUTIVE SUMMARY

The property owner of 139 Lexford Road, ("Applicant"), requests City Council approval to change the conditions of approval placed on the Design Review Permit to construct a new 4,573-square-foot, single-family residence ("Project") on a vacant lot at 139 Lexford Road (application number DRPC2023-018). The Design Review Permit and conditions of approval were approved by Resolution 18-2024 by the City Council on April 1, 2024, upon appeal. Pursuant to City Code section 17.66.040.B, the decision-making body that approved the Design Review Permit is also the decision-making body that must review proposed changes to the conditions of approval. The Applicant does not request any changes to the design of the new residence reviewed and approved by the Planning Commission and City Council at this time.

BACKGROUND

On April 1, 2024, the City Council denied two appeals and approved the Design Review Permit for the construction of a new residence at 139 Lexford Road. In approving the project, the City Council approved conditions of approval recommended by staff, consisting of 29 conditions of approval that had been approved previously by the Planning Commission, as well as four additional conditions; and the Council amended condition number 22.

On January 8, 2024, the Planning Commission approved the construction of a new 4,573-square-foot single-family residence on an existing vacant lot at 139 Lexford Road in Zone A (Single-Family Residential). The approved new Mediterranean style residence will have four levels, terraced up the hillside, and will have three bedrooms, two bathrooms, a half bath, dining room,

kitchen, family room, office, laundry room, elevator, and conforming two-car garage. The new residence will have a front terrace at the upper level, and patios at the rear of the house. The Design Review Permit approval included a landscape plan with retaining walls, stairs, walkways, and exterior lighting.

On January 8, 2024, the Planning Commissioners reviewed the application materials, the staff report and the written comments submitted by members of the public (see agenda report pages 3 and 4 for hyperlinks to these documents). The Commissioners also made site visits to the Applicant's property. At the Planning Commission hearing, the majority of oral public comments related to concerns regarding the construction phase of the project. Community members generally stated that although they are supportive of the project, the concerns they have regarding the construction of the project pertain to the geotechnical characteristics of the hillside.

The Commission determined that the Project was categorically exempt from the California Environmental Quality Act ("CEQA") under Sections 15303 and 15304 of the CEQA guidelines and found that the project met the standards for approval. As noted in the meeting minutes, the Commission found that none of the comments received were opposed to the design of the residence, and that evidence had been provided from multiple geotechnical engineers that indicated the site is viable for development. The January 8, 2024, meeting minutes are provided via a hyperlink on pages 3 and 4 of this agenda report.

The application was approved by the Planning Commission on January 8, 2024, subject to 29 conditions of approval. The Planning Commission action was appealed by two appellants on January 18, 2024.

DISCUSSION

This section details the requirements for considering changes to conditions of approval.

A. Conditions of Approval Change Criteria

Because the property owners do not request changes to the Project design, but are requesting changes to the approved conditions of approval, Section 17.66.040.B.6 of the Piedmont City Code applies. Section 17.66.040.B.6 explicitly states that changes to the conditions of approval may only be made by "the approving hearing body …unless the condition provides otherwise." In this instance, the Project was last approved by the City Council on April 1, 2024, and so the decision-making body for the proposed changes to the conditions of approval is the City Council.

B. General Requirements for Conditions of Approval

As required for all decision-makers considering possible conditions of approval for development applications in Piedmont, City Code section 17.64.030 Conditions of approval, establishes the regulations for applying conditions of approval, as follows.

> Section 17.64.030, Conditions of approval.
>
> A. General. In its review of an application, the reviewing body may impose reasonable conditions necessary to:

1. Achieve the general purposes of this chapter or the specific purposes of the zoning district in which the site is located, or to make it consistent with the general plan and Piedmont Design Standards and Guidelines;

2. Protect the public health, safety, and general welfare; or

3. Ensure operation and maintenance of the use in a manner compatible with existing and potential uses on adjoining properties or in the surrounding area.

City staff members recommend that the Applicant's requested conditions of approval meet the three requirements above, and staff members have prepared a draft resolution (Attachment B) for the consideration of the City Council. The draft resolution rescinds City Council Resolution 18-2024 and re-adopts the project approval with the requested new and amended conditions of approval.

ENVIRONMENTAL REVIEW

The approved residence was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303, Class 3(a), New Construction or Conversion of Small Structures and Section 15304, Class 4(b), Minor Alterations to Land. The proposed changes to the conditions of approval are also categorically exempt from CEQA pursuant to CEQA Guidelines Section 15303, Class 3(a), New Construction or Conversion of Small Structures and Section 15304, Class 4(b), Minor Alterations to Land. There are no unusual circumstances or exceptions to the exemptions because the property is within an urbanized area, adjacent to all public utilities and infrastructure necessary to serve the development, similar site conditions exist on properties in the project vicinity and in other areas of Piedmont, and the Project is consistent with General Plan policies and programs.

CITY COUNCIL ACTION REQUIRED

City Council action is required to add or amend conditions of approval applied to the Design Review Permit for 139 Lexford Road.

By: Kevin Jackson, Planning & Building Director
Pierce Macdonald, Senior Planner

ATTACHMENTS:

A Applicants' letter requesting changes to the conditions of approval applied to the design review permit DRPC2023-018 for 139 Lexford Road, approved by City Council on April 1, 2024.

B Draft Resolution Rescinding City Council Resolution 18-2024 and Approval of Design Review Permit for 139 Lexford Road (DRPC2023-018) with the Applicant's Requested Amended Conditions of Approval and Finding the Project Exempt under CEQA

Documents provided through hyperlink:

Application Materials, Design Review Permit Application DRPC2023-018

Planning Commission Staff Report, dated January 8, 2024, *Consideration of an Application for*

Design Review Permit for Proposed Construction at 139 Lexford Road

Meeting Minutes, Piedmont Planning Commission, January 8, 2024 (see minutes pages 10-21)

Public Comments submitted up to January 8, 2024, for the Planning Commission's consideration

Meeting Minutes, Piedmont City Council, April 1, 2024

Meeting Video:

April 1, 2024 City Council:
https://piedmont.granicus.com/player/clip/2905?view_id=9&redirect=true

January 8, 2024 Planning Commission:
https://piedmont.granicus.com/player/clip/2846?view_id=3&redirect=true&h=b7d0f2f019add19527e9325444bf4f73

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August 7, 2025

Via Email:
City of Pie
Kevin Jackson kjackson@piedmont.ca.gov
Pierce Macdonald pmacdonald@piedmont.ca.gov

Re: 139 Lexford Road Project

Dear Messrs. Jackson and Macdonald,

We, the undersigned owners of 139 Lexford Road, Piedmont, CA, hereby request changes to the conditions of approval for the above-mentioned project. Attached are the revised conditions we are seeking to have approved. Thank you.

Signed by:
Willis Yu
1152C59BC882E34C3...
Willis Yu

Signed by:
EF9416350D924E9...
Winnie Tam

139 Lexford Road Project Revised Conditions of Approval

1. **Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be aluminum.
2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.
3. **Window Recess.** All new windows shall be recessed 3 inches from the exterior wall to the face of window sash in order to maintain consistency with the proposed Mediterranean style architecture, as required by the City's Design Guidelines and Standards and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.
4. **Exterior Lighting.** All new exterior light fixtures surface-mounted to walls and ceilings shall be downward directed with an opaque or translucent shade that completely covers the light bulb.
5. **Sound.** The proposed air conditioning unit shall meet the sound requirements of a maximum 50 decibels (dBA) at the nearest property line as proscribed in Building Code Section 8.02.020 EE. Any modifications in order to meet the sound requirements including a sound barrier or an enclosure are subject to staff review and approval.
6. **Garage Door.** To facilitate vehicular access, the garage door shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review. In addition and in compliance with California Health and Safety Code Section 19892, an automatic garage door opener for the garage door(s) shall have a battery backup function that is design to operate when activated in the event of an electrical outage.
7. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the 139 Lexford Road Property Owner ("Property Owner") shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than $2,000,000 per occurrence. The insurance shall include an endorsement requiring a minimum of 10 days prior notice to the City if the insurance is to be cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the contractor's insurance carrier states in writing that it is unable to provide the required endorsement, Property Owner shall be responsible for providing the City with the required notice if the insurance is to be cancelled or changed. Property Owner's failure to provide such notice shall constitute grounds for revocation of the City's design review approval and/or permit. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.
8. **Modifications to Conditions.** The City may impose modifications to Conditions of Approval #7, #22, and #24 in the event such modification is necessary in the opinion of the Director of Planning and Building in consultation with the City Attorney.
9. **C&D Compliance.** Compliance with Section 9.04 of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

10. **Double Trailer Truck Prohibition.** To reduce potential damage to the streets and to avoid traffic hazards on narrow curving city streets, no double trailers of any kind shall be used as part of the Project.
11. **Defense of Legal Challenges.** The Property Owner shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the Property Owner's project ("Challenge"). City may, but is not obligated to, defend such Challenge as City, in its sole discretion, determines appropriate, all at Property Owner's sole cost and expense. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney's fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Property Owner, City, and/or parties initiating or bringing such Proceeding. If the Property Owner is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City. Per Government Code Section 66474.9, the City shall promptly notify Property Owner of any Proceeding and shall cooperate fully in the defense.
12. **Setback from Property Line Verification.** Prior to foundation inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from North, East, and South property lines as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property lines.
13. **Building Height and Floor Level Verification.** Prior to foundation and frame inspections, the applicant shall provide the Building Official written verification by a licensed land surveyor stating that the floor levels and roof of the new structure are constructed at the approved heights above grade.
14. **Encroachment Permit.** Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction within the public right-of-way.
15. **Sewer Main Condition and Repair.** City records indicate that City storm and sewer mains and associated easement(s) may be located near the proposed construction next to the east property line. Prior to the issuance of a building permit, the Property Owner shall submit a revised copy of the survey prepared by Moran Engineering to show sewer manhole covers and any easements. Said easements and manhole covers shall also be shown on the building permit drawings. The applicant shall also work with City staff to verify the location and depth of the storm and sanitary sewer mains. In addition, the City shall videotape the existing sanitary and storm sewer mains to assess their pre-construction condition in order to make a determination as to whether any repairs to or replacement of the sewer main is required prior to the commencement of excavation and/or construction. (The City is responsible for the cost of the main line, and the property owner for costs of

the lateral.) As part of the final inspection the same sanitary and storm sewer lines shall be inspected as required by the Director of Public Works, who shall also determine if the sewer lines were damaged as a result of the construction and therefore must be repaired at the applicant's expense. The applicant is responsible to locate their private sewer lateral and note such location on the building permit drawings.

16. **Stormwater Design.** The California Regional Water Quality Control Board requires all projects, or a combination of related projects, that create and/or replace 2,500 square feet or more of impervious surface to comply with Provision C.3.i of the Municipal Regional Stormwater NPDES Permit. As required by the Chief Building Official, the Property Owner shall verify the total area of impervious surface to be created and/or replaced within the scope of this project, or this project combined with other related projects and/or permits, and incorporate the site design measure(s) required under Provision C.3.i into the plans submitted for a building permit. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

17. **Final Landscape Plan.**

a. **Requirements**. Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows trees proposed for retention. The final plan shall comply with City Code Division 17.34 and Section 17.33.30 and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. Upon the determination of the Director, minor differences in the number, size and/or species of vegetation between those shown on the approved landscape plan and those installed at the time of final inspection that do not involve an increase in hardscape or structure coverage may be subject to staff review and approval. Significant differences between the vegetation installed at the time of final inspection and vegetation shown on the approved landscape plan are subject to a design review permit.

b. **Greater Neighboring Property Owners' Review and Comment**. Upon submission of the Final Landscape Plan to the City, the Property Owner shall, on the date of submission to the City, email or deliver via overnight mail a copy of the submitted Final Landscape Plan to the residents located at 124 Lexford Road, 125 Lexford Road, 132 Lexford Road, 135 Lexford Road, 145 Lexford Road, 168 Lexford Road, 87 Huntleigh, 130 Somerset Road, 140 Somerset Road, and 150 Somerset Road (collectively, the "Greater Neighboring Property Owners"). To confirm that the Greater Neighboring Property Owners have received a copy of the Plan, the Property Owner shall copy the Building Official on the e-mail(s), or provide proof of delivery to the Building Official. The Greater Neighboring Property Owners may submit comments to the City on the proposed Final Landscape Plan, provided that any such comments must be received by the City within 14 days of the Property Owner's submittal of the Plan to the City. Any allegations regarding a neighboring resident's failure to receive the Plan shall not interrupt or otherwise interfere with the City's review. The City may consider the Greater Neighboring Property Owners' timely received comments, but final review and approval of the Plan rests with the Director.

18. **Arborist's Report and Certified Tree Preservation Plan.**

a. **Requirements.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures to preserve the existing Oak trees in the upper left portion of the property and the Eucalyptus trees along the east property line. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.

b. **Greater Neighboring Property Owners' Review and Comment**. Upon submission of the Arborist's Report and Certified Tree Preservation Plan to the City, the Property Owner shall, on the date of submission to the City, email or deliver via overnight mail a copy of the submitted Arborist's Report and Certified Tree Preservation Plan to each of the Greater Neighboring Property Owners, which Owners were previously defined in Condition #17. To confirm that the Greater Neighboring Property Owners have received a copy of the Plan, the Property Owner shall copy the Building Official on the e-mail(s), or provide proof of delivery to the Building Official. The Greater Neighboring Property Owners may submit comments to the City on the proposed Arborist's Report and Certified Tree Preservation Plan, provided that any such comments must be received by the City within 14 days of the Property Owner's submittal of the Plan to the City. Any allegations regarding a neighboring resident's failure to receive the Plan shall not interrupt or otherwise interfere with the City's review. The City may consider the Greater Neighboring Property Owners' comments, but final review and approval of the Plan rests with the Director.

19. **Neighboring Property Inspection**. At the Property Owner's sole expense, should the neighboring property owner provide consent after 7 days' notice from the Property Owner, the Property Owner shall have a licensed civil or structural engineer inspect neighboring homes, including foundations and retaining walls at 125 Lexford Road, 135 Lexford Road, 145 Lexford Road, 168 Lexford Road, 87 Huntleigh, 130 Somerset Road, 140 Somerset Road, and 150 Somerset Road (collectively, the "Neighboring Property Owners"), for the purpose of establishing base-line information to be used later in determining whether damage was caused by any activities of the Property Owner, which damage assessment shall include impacts of vibrations or other factors due to excavation, construction or related activities. The inspection shall occur prior to construction, and shall include both foundations and non-foundation related details (walls, windows, general overall condition, etc.). The inspection shall include readily visible and accessible areas of the neighboring homes including both

finished and unfinished basements and available crawl spaces. The licensed civil or structural engineer shall provide a full report to the Neighboring Property Owners. Property Owner shall notify the City within 5 days of completing the requirements provided by the condition.

Within 45 days after the completion of the foundation excavation, pier boring, shoring, trenching, grading, soil off-haul, and concrete pouring for foundation for the Project, the same licensed civil or structural engineer (or a substitute licensed civil or structural engineer) shall inspect the same area in each neighboring home and property initially inspected, and shall provide a report to the Neighboring Property Owners. The Report shall detail any evidence of apparent damage that has been or reasonably might have been caused by the Property Owner. The Report must include text, photographs, diagrams, or other evidence that would document the apparent damage. The Report may be used in connection with private causes of action.

20. **Geotechnical Report and Review.**

a. **Requirements.** The Property Owner shall submit to the City a report prepared by a licensed geotechnical engineer who possesses a valid and active license within the State of California. The report shall, to the City's satisfaction, fully assess the existing site conditions, including soil and ground composition, and address all issues regarding excavation and grading, foundations and their construction, drainage, retaining wall systems, periodic on-site observations, and other related items involving the Project (the "Geotechnical Report").

b. **Greater Neighboring Property Owners' Review and Comment**. Upon submission of the Property Owner's Geotechnical Report to the City, the Property Owner shall, on the date of submission to the City, email or deliver via overnight mail a copy of the submitted Report to each of the Greater Neighboring Property Owners, which owners were previously defined in Condition #17 above. To confirm that the Greater Neighboring Property Owners have received a copy of the Report, the Property Owner shall copy the Building Official on the e-mail(s), or provide proof of delivery to the Building Official. The Greater Neighboring Property Owners may appoint a licensed geotechnical engineer who possesses a valid and active license within the State of California, to provide comments to the City on the Report. The Greater Neighboring Property Owners' comments must be received by the City within 14 days of the Property Owner's submittal of the Report to the City. Before visiting the Project site, the Greater Neighboring Property Owners' geotechnical consultant must provide the Property Owner with reasonable notice and evidence of professional liability insurance, which insurance names Property Owner as additional insureds. The City and the Property Owner will not be liable for any acts or omissions of the Neighboring Property Owners' geotechnical engineer. Any allegations regarding a neighboring resident's failure to receive the Property Owner's Report shall not interrupt or otherwise interfere with the City's review.

c. **Peer Review by City**. The City, at the Property Owner's sole expense, shall retain an independent geotechnical consultant to perform a peer-review of the Property Owner's Geotechnical Report and advise the City in connection with the Property Owner's proposals. The independent geotechnical consultant must be a licensed geotechnical engineer who possesses a valid and active license within the State of California. The City Engineer shall

select this independent geotechnical consultant, whose services shall be provided for the sole benefit of the City and whose reports and recommendations can be relied upon only by the City. The Greater Neighboring Property Owners' timely received comments, if any, shall be reviewed as part of the peer review conducted by the City's independent geotechnical consultant. The independent geotechnical consultant shall also review the building plans during the permit approval process, and may provide periodic on-site observations during excavation and construction of the foundations as deemed necessary by the City Engineer. The Property Owner shall provide payment for this at the time of the Building Permit submittal. The City may consider the Greater Neighboring Property Owners' timely received comments, but final review and approval of the Geotechnical Report rests with the City.

21. **Foundation/Shoring/Excavation Plan.**

a. **Requirements.** The Property Owner shall submit foundation, excavation, and shoring plans prepared by a licensed civil or structural engineer licensed to practice in California and is in good standing that fully address issues of ground and soil composition, site shoring, fencing and hillside security issues. The plans shall not require any trespassing or intruding into neighboring properties (without prior written consent), and shall mitigate against any subsidence or other damage to neighboring properties. Such plans shall incorporate as appropriate the recommendations of the Property Owner's geotechnical engineer of record, who must be licensed to practice in California and must be in good standing, as well as comments and recommendations of the City's geotechnical consultant, who must be licensed to practice in California and must be in good standing. The plans shall be subject to approval by the City Engineer and the Chief Building Official. The final plans shall include the signature of the Property Owner's geotechnical engineer, verifying that they have reviewed the proposed plans and they find them in the conformance with the recommendations of the Geotechnical Report for this project and the City's peer review.

b. **Greater Neighboring Property Owners' Review and Comment.** The Property Owner shall, on the date of submission to the City, email or deliver via overnight mail a copy of the submitted foundation, excavation, and shoring plans to each of the Greater Neighboring Property Owners, which Owners were previously defined in Condition #17 above. To confirm that the Greater Neighboring Property Owners have received a copy of the Plans, the Property Owner shall copy the Building Official on the e-mail(s), or provide proof of delivery to the Building Official. The Greater Neighboring Property Owners' comments on the Plans, if any, must be received by the City within 14 days of the Property Owner's submittal of the Plans to the City. The City shall review the Greater Neighboring Property Owners' comments, and recommend incorporation of comments as necessary as part of its peer review. Any allegations regarding a neighboring resident's failure to receive the Property Owner's Report shall not interrupt or otherwise interfere with the City's review. The City may consider the Neighboring Property Owners' timely received comments, but final review and approval of the Plans rests with the City.

22. **Sound and Vibration Mitigation Plan and Review.**

a. **Requirements**. To the Director of Public Works's satisfaction, the Property Owner shall submit a plan prepared by a licensed engineer of the Property Owner's choice that fully assesses the existing site conditions and ground and soil composition for the mitigation and monitoring of vibration and decibel levels at the Project during construction (including being periodically present at the construction site during excavation and foundation work) (the "Sound and Vibration Mitigation Plan"). The Plan shall comply with the City's General Plan policies regarding noise. If, in the City Engineer's sole discretion, such monitoring indicates that the sound or vibration levels exceed those anticipated in the Property Owner's Construction Management Plan and/or the Sound and Vibration Mitigation Plan, all work on the Project may be immediately stopped by the City and may not resume until the City Engineer is fully assured that the sound and vibration transmissions generated by work on the Project can be maintained at or below a reasonable level and duration. The Sound and Vibration Mitigation Plan shall provide for continuous monitoring during work hours to ensure compliance with the maximum decibel levels established in the Construction Management Plan.

b. **Greater Neighboring Property Owners' Review and Comment**. Upon submission of the Property Owner's Sound and Vibration Mitigation Plan to the City, the Property Owner shall, on the date of submission to the City, email or deliver via overnight mail a copy of the submitted Plan to each of the Greater Neighboring Property Owners, which Owners were previously defined in Condition #17 above. To confirm that the Greater Neighboring Property Owners have received a copy of the Plans, the Property Owner shall copy the Building Official on the e-mail(s), or provide proof of delivery to the Building Official. The Greater Neighboring Property Owners' comments on the Plans, if any, must be received by the City within 14 days of the Property Owner's submittal of the Plans to the City. Any allegations regarding a neighboring resident's failure to receive the Property Owner's Plans shall not interrupt or otherwise interfere with the City's review.

c. **Peer Review by City**. The City, at the Property Owner's sole expense, shall retain an independent engineering consultant to perform a peer-review of the Property Owner's Sound and Vibration Mitigation Plan and advise the City in connection with the Property Owner's proposals. The City Engineer shall select this independent engineering consultant, whose services shall be provided for the sole benefit of the City and whose reports and recommendations can be relied upon only by the City. The independent engineering consultant shall also review the building plans during the permit approval process, and will provide during construction days and hours periodic on-site observations during excavation and construction as deemed necessary by the City Engineer. The Property Owner shall provide payment for this at the time of the Building Permit submittal. The City may consider the Greater Neighboring Property Owners' timely received comments, but final review and approval of the Plans rests with the City.

23. **City Facilities Security.**

a. At the time of Building Permit submittal, the Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("City Facilities Security") in the amount of $125,000 as established by the Director of Public

Works. This financial vehicle serves as an initial sum to cover the cost of any potential damage to City property or facilities (including, but not limited to, the streets, sidewalks and city trees) in any way caused by Property Owner, Property Owner's contractors or subcontractors, or any of their agents, employees or assigns, and related in any way to the Project. The Property Owner is responsible for the full cost of repair including in excess of $125,000 as determined by the City Engineer prior to final inspections. The form and terms of such City Facilities Security shall be determined by the Director of Public Works after consultation with the Property Owner. The Director may take into account any of the following factors: the cost of construction; past experience and costs; the amount of excavation; the number of truck trips; the physical size of the proposed project; the logistics of construction; the geotechnical circumstances at the site; and City right-of-way and repaving costs.

b. To provide clear baseline information to assist in determining whether damage to the City's facilities has been caused by the Property Owner or others working for or on behalf of Property Owner, the City will document such facilities (including, without limitation, streets and facilities along the approved construction route as specified in the Construction Management Plan), to establish the baseline condition of the streets and facilities. The City shall further re-document the streets as deemed appropriate after the Project commences until the Director of Public Works determines that further documentation is no longer warranted. As part of the documentation, the City may water down the streets to better emphasize any cracks or damage in the surface. The Property Owner is responsible for the full cost of the documentation and repair work as determined by the City Engineer, and shall reimburse the City for those costs prior to the scheduling of final inspection.

c. When the City Facilities Security is in a form other than cash deposit with the City, the proceeds from the City Facilities Security shall be made payable to the City upon demand, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of the proceeds are due to the City.

24. **Site Safety Security**.

a. The City and the public have an interest in not having an unfinished project blighting the neighborhood and undermining property values. These public interests are primarily safety and aesthetics, and diminishment of property values. Prior to the issuance of a Building Permit, the Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("Site Safety Security") in the amount of $316,143 including to stabilize the foundation of the Project, to ensure the Project site is not left in a dangerous or unfinished state, and if any funds are remaining, to landscape the site to ensure that the Project site is not blighted or a nuisance. If the cost of to complete the stabilization and landscape of the unfinished state of the project is more than $316,143, the Property Owner will be responsible and liable for any additional costs to complete this condition as determined by the Director of Public Works and the Director of Building and Planning.

b. The Site Safety Security shall be in an amount to include three components:

i. safety, which means the cost to make the site and structure safe if construction should cease mid-way through the Project;
ii. aesthetics, which means an amount to install and maintain landscaping all around the Project to protect the immediate local views from neighbors and public property; and
iii. staff and consultant time to evaluate and implement this condition.

If as the Project proceeds, the expected cost of these components increases beyond the original estimate in the opinion of the Director of Planning & Building, the City may require the Property Owner to increase the amount of the Site Safety Security by the additional amount. The Property Owner shall provide City with written evidence of compliance within 15 working days after receiving written notice of the additional required amount. The City shall retain, at the Property Owner's expense, an independent estimator to verify the total expected costs to complete the Project and any subsequent revisions.

c. The form and amount of the Site Safety Security is subject to the approval of the Director of Planning & Building. Payment to City under the Site Safety Security shall be made payable upon demand by the City and prior to the issuance of the Building Permit, conditioned solely on the Director of Planning & Building's certification on information and belief that all or any specified part of such Performance Security is due to the City.

d. City shall release such security to the Property Owner upon the Project's receipt of the Certificate of Occupancy.

25. **Neighboring Property Damage Security**. Prior to issuance of a Building Permit, the Property Owner shall provide adequate and appropriate neighboring property damage security in the form of a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle, including bonds, and/or insurance, as approved by the Director of Public Works, which security shall be the for the purpose of addressing damage to the neighboring properties at 125 Lexford Road, 135 Lexford Road, 145 Lexford Road, 168 Lexford Road, 87 Huntleigh, 130 Somerset Road, 140 Somerset Road, and 150 Somerset Road, by any construction, excavation, and related work in any way involving the Project, in the amount of $4,742,146. If the Director of Public Works determines that obtaining any particular insurance would be extremely difficult for the Property Owner due to its lack of availability even at an increased cost, the Director of Public Works may authorize an alternative method of providing equal or more dollar amount protection to neighboring properties, including but not limited to partial coverage by Umbrella Insurance if that appears appropriate. Such insurance or any alternative method shall allow for claims occurring during the covered period to be made for up to one year after the issuance of the Certificate of Occupancy on Applicant's project. Any and all such insurance or any alternative method shall specifically indicate that it covers damages to the above properties, and if such insurance is meant to also cover other potential damages, such as personal injuries or damages to other than the above named properties, any such further coverage shall be in addition to the $4,742,146 amount. The Property Owner shall notify the City and the Neighboring Property Owners of any insurance obtained hereunder within five business days of obtaining said insurance.

26. **Grading Bond**. Prior to issuance of a building permit, the Property Owner shall post a Grading Bond, the amount of which shall be determined by City staff in reviewing the proposed plans, ensuring restoration of site grades if the Project is abandoned. The Property Owner shall be fully responsible for any and all costs in any event.

27. **Consultant Cost Recovery**. In order to accommodate the scope and nature of the Project proposed by the Property Owner, if the Director of Public Works deems it reasonably necessary to retain independent consultants with specialized expertise, including the City Engineer, the Property Owner shall make a cash deposit with the City at the time of the Building Permit Application in the amount of $10,000 to be used to pay for the fees and expenses of such City consultants, or in any way otherwise required to be expended by the City for professional consultant assistance. If the cash deposit has been reduced to $2,500 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained by the City on a regular basis specifically for the Property Owner's Project. Any unexpended amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

28. **City Attorney Cost Recovery**. If there is a substantial additional commitment of City Attorney's time required to accommodate the scope and nature of the Project, the Property Owner shall, at the time of the Building Permit Application, make a cash deposit with the City in the amount of $5,000 to be used to offset time and expenses of the City Attorney relating to the Project. If such cash deposit has been reduced to $2,500.00 or less at any time, the Director of Public Works will require the Property Owner to deposit additional funds to cover any further estimated additional City Attorney time and expenses. Any unused amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

29. **Subsidence**. The Property Owner acknowledges and agrees that all work on the Project may be immediately stopped by the City in the event of any unanticipated landslides, subsidence, creep, erosion or other geologic instability, and may not resume until the City Engineer is fully assured that no further subsidence or erosion will occur. If in the opinion of the City Engineer, the instability poses a danger to public or private property, and Property Owner is not responding in a diligent manner, the Director of Public Works may use proceeds from the Site Safety Security required above to address the instability. If additional funds are needed as determined by the City Engineer, the Property Owner will be fully responsible for such additional costs.

30. **Construction Management Plan**.

a. **Requirements**. The Property Owner shall submit a comprehensive Construction Management Plan, and shall meet and confer with the Greater Neighboring Property Owners as defined in Condition #17 above or their appointed representative(s) prior to submission of the proposed Plan to the City no later than 14 days prior to the start of construction as set forth below. Property Owner shall verify that that this meet-and-confer

requirement has been complied with in its submission of the Plan to the City. The Property Owner shall, on the date of submission to the City, email or deliver via overnight mail a copy of the submitted Plan to each of the Greater Neighboring Property Owners, which Owners were previously defined in Condition #17 above. To confirm that the Greater Neighboring Property Owners have received a copy of the Plans, the Property Owner shall copy the Building Official on the e-mail(s), or provide proof of delivery to the Building Official.

The Construction Management Plan shall: identify the point(s) for access to the property for construction and address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security, continual street access for emergency vehicles, and other potential construction impacts, as well as other details involving the day and hours permitted for heavy excavation. Outside construction involving high levels of noise, including excavation, hammering, drilling, and tile sawing, shall be limited to Monday through Saturday, from 8:30 a.m. to 5:30 p.m. except that Sunday construction may proceed to complete excavation with the consent of Greater Neighboring Property Owners, which consent shall not be unreasonably withheld. Concrete pours can occur Monday through Saturday from 7:00 a.m. to 5:30 p.m. The plan shall specify the sequencing of grading, excavation, shoring, foundation and construction activities. The plan shall incorporate compliance with the City's General Plan policies regarding noise and air pollution. The Property Owner shall, on the date of submission to the City, email or deliver via overnight mail a copy of the submitted Plan to each of the Greater Neighboring Property Owners, which Owners were previously defined in Condition #17 above. To confirm that the Greater Neighboring Property Owners have received a copy of the Plans, the Property Owner shall copy the Building Official on the e-mail(s), or provide proof of delivery to the Building Official. The Greater Neighboring Property Owners' comments on the Plans, if any, must be received by the City within 14 days of the Property Owner's submittal of the Plans to the City. Any allegations regarding a neighboring resident's failure to receive the Property Owner's Plans shall not interrupt or otherwise interfere with the City's review. The City Building Official shall review the Greater Neighboring Property Owners' timely submitted comments prior to approving the Construction Management Plan. The City may consider the Greater Neighboring Property Owners' comments, but final review and approval of the Plan rests with the City. The City Building Official may require modifications and amendments to the Construction Management Plan throughout the course of the Project and until the Final Inspection. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.

b. **Haul Routes**. Haul routes shall be included in the Construction Management Plan for City review and approval. To the extent possible, haul routes shall attempt to minimize or eliminate use of minor residential roadways. Street and pavement conditions shall be observed and documented by the City on all haul routes prior to commencement of construction. Damage or observable and unusual wear and tear to haul routes as specified by the City on Hampton Road, Huntleigh Road and Lexford Road as specified by the City shall be repaired at the Property Owner's expense after final inspection. If Property Owner elects to repair any damage, the Property Owner shall be required to obtain an encroachment permit.

c. **Construction Site Control of Stormwater**. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

31. **Construction Completion Schedule**. Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Property Owner shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage of the project as a whole for each phase. Property Owner shall provide copies of the approved Construction Completion Schedule to the Greater Neighboring Property Owners.

a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation including drilling and pier boring; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Planning and Building.

b. Before the Project begins, the Director of Planning and Building shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the Approved Construction Completion Schedule and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Planning and Building a reasonable completion date for any benchmark.

c. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Property Owner fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Applicant shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Planning and Building. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Planning

and Building shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval. Property Owner shall provide copies of any new or modified Approved Construction Completion Schedule to the Greater Neighboring Property Owners.

d. The failure of the Property Owner to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code ("City Code"). The failure of the Property Owner to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Property Owner fails to comply with the Approved Construction Completion Schedule, the Director of Planning and Building, at his or her sole discretion, may make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Planning and Building, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

32. **California's Water Efficient Landscape Ordinance**. Property Owner shall comply with the requirements of California's Model Water Efficient Landscape Ordinance that went into effect December 1, 2015, by submitting the following required information to the Building Department:

a. Landscape Documentation Package that includes the following 6 items: i) Project Information; ii) Water Efficient Landscape Worksheet; iii) Soil Management Report; iv) Landscape Design Plan; v) Irrigation Design Plan; and vi) Grading Design Plan. The Landscape Documentation Package is subject to staff review and approval before the issuance of a building permit.

b. Once a building permit has been issued, the Property Owner shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District.

c. After completion of work, the Property Owner shall submit to the City and East Bay Municipal Utility District a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report. The City may approve or deny the Certificate of Completion.

33. **Blasting**. Absolutely no blasting of any kind regardless of scale shall be allowed for any purpose on this Project, including but not limited to rock, soil or dirt removal.

34. **Archaeological and Paleontological Resources – Discovery During Construction**. Pursuant to CEQA Guidelines section 15064.5(f), in the event that any historic or prehistoric subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant shall notify the City and consult with a qualified archaeologist or paleontologist, as applicable, to assess the significance of the find. In the case of discovery of

paleontological resources, the assessment shall be done in accordance with the Society of Vertebrate Paleontology standards. If any find is determined to be significant, appropriate avoidance measures recommended by the consultant and approved by the City must be followed unless avoidance is determined unnecessary or infeasible by the City. Feasibility of avoidance shall be determined with consideration of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery, excavation) shall be instituted. Work may proceed on other parts of the project site while measures for the cultural resources are implemented. In the event of data recovery of archaeological resources, the project applicant shall submit an Archaeological Research Design and Treatment Plan (ARDTP) prepared by a qualified archaeologist for review and approval by the City. The ARDTP is required to identify how the proposed data recovery program would preserve the significant information the archaeological resource is expected to contain. The ARDTP shall identify the scientific/historic research questions applicable to the expected resource, the data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. The ARDTP shall include the analysis and specify the curation and storage methods. Data recovery, in general, shall be limited to the portions of the archaeological resource that could be impacted by the proposed project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if nondestructive methods are practicable. Because the intent of the ARDTP is to save as much of the archaeological resource as possible, including moving the resource, if feasible, preparation and implementation of the ARDTP would reduce the potential adverse impact to less than significant. The project applicant shall implement the ARDTP at his/her expense.

In the event of excavation of paleontological resources, the Property Owner shall submit an excavation plan prepared by a qualified paleontologist to the City for review and approval. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by a qualified paleontologist, as appropriate, according to current professional standards and at the expense of the project applicant. To be required when it is clear from the application that the project entails soil disturbance.

35. **Biological Site Assessment.** A biological site assessment shall be prepared by a qualified biologist and provide evidence regarding the presence of sensitive biological resources, determine the property's habitat value relative to any special status species, and provide conclusions regarding how the project may affect those resources. Stream channels, tops of banks, and edges of riparian vegetation and any Stream Conservation Areas or stream buffer areas must be clearly mapped. In addition, the biological site assessment shall evaluate the habitat value of any watercourses adjacent to the proposed project, and whether the project would result in adverse effects to the riparian vegetation surrounding the watercourse or the water quality of the watercourse. If there are wetlands adjacent to the project, then a wetland delineation shall be submitted, and the boundary of any riparian vegetation shall be clearly identified in the report. The report shall also indicate whether there are any exotic species of plants on the site and whether any species are invasive. If the report finds that the project could result in a significant impact, then a further evaluation of potential mitigation measures may be required. The biological assessment is subject to peer review at the Director's

discretion.

City's Peer Review. The Property Owner shall provide City full payment for the retention of an independent qualified biologist to perform a peer-review of the Applicant's biological site assessment. Applicant shall provide a deposit of $5,000 at the time of the Building Permit application submittal.

a) **San Francisco Dusky Footed Woodrat Protection.** For development projects where construction would take place within 50 feet of woodland or riparian habitat (excluding remodels of existing structures), a qualified biologist shall conduct a pre-construction survey for woodrats no more than 14 days prior to construction. Middens (woodrat or other packrat nest structure) within 50 feet of project activity that would not be directly impacted by project activity should be demarcated with a 10-foot avoidance buffer and left intact. If a midden(s) that cannot be avoided is found during the pre-construction survey, an approved biologist should monitor the dismantling of the midden by a construction contractor to assist with the goal of ensuring the individuals are allowed to leave the work areas unharmed before on site activities begin.
b) **Roosting Bat Protection.** For development projects that involve the removal of on-site trees or demolition of vacant structures, a qualified biologist shall conduct a focused survey of trees and structures to be removed to determine whether active roosts of special-status bats are present. Trees and/or structures containing suitable potential bat roost habitat features shall be clearly marked or identified. If active roosts are present, the biologist shall prepare a site-specific roosting bat protection plan to be implemented by the contractor following the City's approval.
c) **Nesting Bird Protection.** Development projects that involve tree removal or significant tree trimming shall take steps to avoid impacts to nesting birds. Initial site disturbance activities for construction, including vegetation and concrete removal, shall be avoided during the general avian nesting season (February 1 to August 30). If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest.

36. **Natural Resources and Sustainability Element Policy 15.7 Construction Emissions Control Measures**. As part of the City's development approval process, the City shall require Property Owner to comply with the current Bay Area Air Quality Management District's (BAAQMD) basic control measures for reducing construction emissions of PM10 (Table 5-2, Basic Best Management Practices for Construction-Related Fugitive Dust Emissions Recommended for All Proposed Projects, of the 2022 BAAQMD CEQA Guidelines, or applicable best management practices in BAAQMD's guidelines in place at the time of development), outlined below.

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times a day.

2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.

5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

6. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.

7. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.

8. Unpaved roads providing access to sites located 100 feet or further from a paved road shall be treated with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.

9. Publicly visible signs shall be posted with the telephone number and name of the person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's General Air Pollution Complaints number shall also be visible to ensure compliance with applicable regulations

37. **Environmental Hazards Element Policy 22.7: Construction Noise Reduction**. For projects within 500 feet of a noise sensitive land use and that involve subterranean parking, large excavation, construction over 18 months in duration, and/or the use of heavy-duty equipment, a Construction Noise Study prepared by a qualified noise expert shall be required. The Construction Noise Study shall characterize sources of construction noise, quantify noise levels at noise-sensitive uses, and identify feasible measures to reduce noise exposure. The project shall incorporate the feasible measures identified in the study. Noise reduction techniques may include, but are not limited to, shielding and silencing construction equipment, enclosing and screening outdoor fixed equipment, placing construction staging areas away from noise-sensitive uses, using smart adjusting back-up alarms for mobile construction equipment, controlling worker radio noise, installing temporary sound barriers, designating a noise complaint response protocol, shall be used as appropriate.

Resolution _____
A RESOLUTION OF THE PIEDMONT CITY COUNCIL
RESCINDING CITY COUNCIL RESOLUTION 18-024 AND APPROVING
DESIGN REVIEW PERMIT DRPC2023-018 FOR 139 LEXFORD ROAD WITH THE
APPLICANT'S REQUESTED CONDITIONS OF APPROVAL AND FINDING THE
PROJECT EXEMPT UNDER CEQA

WHEREAS, Willis Yu, ("Applicant"), has requested modification of conditions of approval applied to the Design Review Permit approved by the City Council on April 1, 2024 pursuant to Piedmont City Code section 17.66.040.B.6; and

WHEREAS, on October 2, 2023, the Applicant applied for a Design Review Permit to construct a new 4,573-square-foot single-family residence on an existing vacant lot in Zone A (Single-Family Residential). The new Mediterranean style residence will be four levels terraced up the hillside and contain three bedrooms, two bathrooms, a half bath, dining room, kitchen, family room, office, laundry room, elevator, and conforming two-car garage. A front terrace is proposed at the upper level, and patios are proposed at the rear of the house. A landscape plan has been approved with retaining walls, stairs, walkways, and exterior lighting (the "Project"); and

WHEREAS, on January 8, 2024, the Planning Commission held a public hearing to consider the Project, reviewed written comments from the public, received oral comments from the public, discussed the matter, and at the conclusion of the public hearing, the Planning Commission conditionally approved the Project, finding that the Project is categorically exempt from CEQA per Sections 15303 (a) and 15304 and that none of the exceptions to the exemptions apply, and that the project is consistent with the City's General Plan and Piedmont Design Standards and Guidelines; and

WHEREAS, on January 18, 2024, Douglas A. Crosby, on behalf of Sven Khatri and Poppy Crum of 145 Lexford Road ("Appellant A) and Christopher Van Gundy and Stuart Block ("Appellant B") of 132 Lexford Road appealed the Planning Commission decision in accordance with Division 17.78, Appeals; Calls for review, of the Piedmont City Code ("Appeal"); and

WHEREAS, on March 18, 2024, a 14-day public notice was duly given to the Applicant, the Appellants, the surrounding property owners notified in the original application hearing, and to any other person requesting notice, in accordance with Section 17.78.030 and Section 17.66.050 of the City Code; and

WHEREAS, On April 1, 2024, the City Council held a duly noticed hearing of the Appeal, and based upon all of the evidence in the record and after reviewing the application, plans and any and all oral or written testimony and documentation submitted in connection with the Project, the Piedmont City Council denied the appeals and upheld the findings rendered by the Planning Commission to conditionally approve the application for Design Review Permit, and found that the Planning Commission's decision is supported by the weight of the evidence; and

WHEREAS, furthermore, on April 1, 2024, the City Council of the City of Piedmont found that: the Project complies with the design review criteria set forth in Section 17.66.060 of the Piedmont City Code for the following reasons:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Standards and Guidelines. The following building features are consistent with the original

architecture and neighborhood development including the wall material, the building articulation, the roof form, the roof material, stepping of the building into the slope, the window and door material, the fenestration pattern, the eave overhang design and dimension, the guardrail material, and the relationship of the proposed residence to the site, to existing topography, and to neighboring residences including the locations of driveways.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate. The view is not a significant view. There is sufficient vegetative screening. The topographical differences are appropriate to preserve privacy, views and light as exemplified by the slope and trees. The height of the project has been kept as low as possible and tucks into the slope wherever possible.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project maintains adequate visibility for entering and exiting the driveway and adjacent driveways are common in Piedmont. The new handrails and on-grade steps should facilitate pedestrian safety. The separation between the proposed driveway and the pedestrian path of travel on the property and in the public right-ofway is safe and appropriate because the project includes both the construction of a sidewalk along the frontage on Lexford Road and pedestrian access that is distinct from the garage access.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: Site Design 3.03, 3.05, 3:08, 3.09, 3.11, 3.12, 3.13, Building Design: General 4.01, 4.02, 4.03, 4.04, 4.05, and Design: Single Family Residential 5.01, 5.02, 5.04. 5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 18.4 (Soil and Geologic Reports), Design and Preservation Element Policy 22.1 (Noise Insulation for New Development), Design and Preservation Element Policy 22.2 (Noise Reduction Measures), Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.7 (Hillside Home Design), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Policy 28.12 (Creativity and Innovation), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), Design and Preservation Element Policy 29.4 (Maintaining Privacy), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.6 (Retaining Walls), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Design and Preservation Element Policy 29.8 (Exterior Lighting), and Design and Preservation Element Policy 29.9 (Sight Obstructions); and

WHEREAS, On April 1, 2024, the City Council applied to its approval of the Design Review Permit with modifications to Conditions of Approval #22, and adding #30, #31, #32, #33; and

WHEREAS, in July 2025, the Applicant voluntarily requested changes to the conditions of approval applied to Design Review Permit number DRPC2023-018, as referenced in Attachment A to the Staff Report of this item.

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

SECTION 1. The above recitals are correct and that the Piedmont City Council finds that the conditions of approval requested by the Applicant complies with City Code section17.66.040.B.6 and the general requirements for conditions of approval regulated by City Code section 17.64.030, as follows:

> A. General. In its review of an application, the reviewing body may impose reasonable conditions necessary to:
>
> 1. Achieve the general purposes of this chapter or the specific purposes of the zoning district in which the site is located, or to make it consistent with the general plan and Piedmont Design Standards and Guidelines;
>
> 2. Protect the public health, safety, and general welfare; or
>
> 3. Ensure operation and maintenance of the use in a manner compatible with existing and potential uses on adjoining properties or in the surrounding area.
>
> B. Guarantee. The Director, Planning Commission, or City Council may impose a condition of approval requiring a guarantee that specified conditions of approval will be met. The guarantee may be in the form of a bond, cash deposit, letter of credit or other guarantee. The city may also require that the applicant agree in writing to the city's right to complete or repair incomplete or incorrect work on the applicant's property, to recover the costs incurred from the applicant, and if unpaid, to impose a lien against the property for the costs. The costs may include staff time, contractor and consultant services, and legal services. If the conditions are not met, the City may use the guarantee to meet the conditions. The guarantee will be released upon a showing that all the specified conditions of approval have been met.

The City Council finds that the Applicant's request complies with City Code section 17.66.040.B.6 because the City Council was the decision-making body that approved the project conditions of approval on April 1, 2024 and has the authority to change the conditions of approval, and the conditions of approval requested by the Applicant comply with general requirements for conditions pursuant to City Code Section 17.64.030 because the Applicant's requested conditions impose additional safeguards and guarantees during the construction of the approved residence and other site changes.

SECTION 2. The City Council rescinds Resolution 18-2024 and re-approves the development plans filed with Design Review Permit application DRPC2023-018 , making all of the findings pursuant to City Code section 17.66.060, Standards, made by the Council on April 1, 2024 and cited below, to construct a new 4,573-square-foot single-family residence on an existing vacant lot in Zone A (Single-Family Residential). The approved new Mediterranean style residence will have four levels terraced up the hillside and three bedrooms, two bathrooms, a half bath, dining room, kitchen, family room, office, laundry room, elevator, and conforming two-car garage. The residence will have a front terrace at the upper level, and patios at the rear of the house. The approved Design Review Permit includes a landscape plan with retaining walls, stairs, walkways, and exterior lighting. The City Council finds the Project complies with the design review criteria set forth in Section 17.66.060 of the Piedmont City Code for the following reasons:

1. The proposed design is consistent with the City's General Plan and Piedmont Design Standards and Guidelines. The following building features are consistent with the original architecture and neighborhood development including the wall material, the building articulation, the roof form, the roof material, stepping of the building into the slope, the window and door material, the fenestration pattern, the eave overhang design and dimension, the guardrail material, and the relationship of the proposed residence to the site, to existing topography, and to neighboring residences including the locations of driveways.

2. The design has little or no effect on neighboring properties' existing views, privacy, and access to direct and indirect light because the distance between the project and neighboring homes is appropriate. The view is not a significant view. There is sufficient vegetative screening. The topographical differences are appropriate to preserve privacy, views and light as exemplified by the slope and trees. The height of the project has been kept as low as possible and tucks into the slope wherever possible.

3. The proposed design does not adversely affect pedestrian or vehicular safety because the project maintains adequate visibility for entering and exiting the driveway and adjacent driveways are common in Piedmont. The new handrails and on-grade steps should facilitate pedestrian safety. The separation between the proposed driveway and the pedestrian path of travel on the property and in the public right-of-way is safe and appropriate because the project includes both the construction of a sidewalk along the frontage on Lexford Road and pedestrian access that is distinct from the garage access.

4. As conditioned, the application complies with the following Design Review Guidelines and General Plan policies and programs: Site Design 3.03, 3.05, 3:08, 3.09, 3.11, 3.12, 3.13, Building Design: General 4.01, 4.02, 4.03, 4.04, 4.05, and Design: Single Family Residential 5.01, 5.02, 5.04. 5. The project is consistent with General Plan policies and programs, including the land use element, housing element, and design and preservation element, including: Design and Preservation Element Policy 18.4 (Soil and Geologic Reports), Design and Preservation Element Policy 22.1 (Noise Insulation for New Development), Design and Preservation Element Policy 22.2 (Noise Reduction Measures), Design and Preservation Element Policy 28.1 (Scale, Height, and Bulk Compatibility), Design and Preservation Element Policy 28.2 (Style Compatibility), Design and Preservation Element Policy 28.4 (Setback Consistency), Design and Preservation Element Policy 28.5 (Garages, Decks, and Porches), Design and Preservation Element Policy 28.6 (Exterior Materials), Design and Preservation Element Policy 28.7 (Hillside Home Design), Design and Preservation Element Policy 28.8 (Acoustical and Visual Privacy), Design and Preservation Policy 28.12 (Creativity and Innovation), Design and Preservation Element Policy 29.1 (Conserving Residential Yards), Design and Preservation Element Policy 29.2 (Landscape Design), Design and Preservation Element Policy 29.3 (Front Yard Enclosures), Design and Preservation Element Policy 29.4 (Maintaining Privacy), Design and Preservation Element Policy 29.5 (Fence and Wall Design), Design and Preservation Element Policy 29.6 (Retaining Walls), Design and Preservation Element Policy 29.7 (Driveway and Parking Location), Design and Preservation Element Policy 29.8 (Exterior Lighting), and Design and Preservation Element Policy 29.9 (Sight Obstructions).

SECTION 3. The City Council finds that the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15303 and 15304. Section 15303 (a) of the CEQA guidelines ("Small Structure Exemption") explicitly provides for a categorical exemption for the "construction and location of limited numbers of new, small facilities or structures," and cites "[o]ne single-family residence, or a second dwelling unit in a residential zone" as an example of an exempt project under Section 15303. The exemption covers up to 6 dwelling units in urbanized areas. The application proposes a single-family residence in Zone A, which is one of Piedmont's residential zones. Section 15304 (b) of the CEQA guidelines explicitly provides for a categorical exemption for "new gardening or landscaping, including the replacement of existing conventional landscaping with water efficient or fire-resistant landscaping". The project proposes installing new landscaping throughout the site. Additionally, the Council finds that there are no unusual circumstances, including because the characteristics of the project as a single-family residence, proposed for a sloped lot, requiring grading and excavation activities, where the lot features hard bedrock at a level of 6 feet or of a shallower depth. Such conditions are not unusual, as demonstrated by the characteristics and history of multiple properties throughout Piedmont, including 43-47 Bellevue Avenue, 67 Glen Alpine Road, 89 Maxwelton Road, 40 Crocker Avenue, 519 Hampton Road, and 183 Somerset Road. This finding is based on substantial evidence, and in making this finding the City Council incorporates all staff reports, public comments, and any documentary evidence by reference.

SECTION 4. The new and modified conditions of approval applied to Design Review Permit number DRPC2023-018, approved herein, are the following:

1.**Window and Door Material.** As specified in the plans, the building material for the new windows and doors shall be aluminum.

2. **Window Color Scheme.** All the windows on the house shall have a consistent color scheme.

3. **Window Recess.** All new windows shall be recessed 3 inches from the exterior wall to the face of window sash in order to maintain consistency with the proposed Mediterranean style architecture, as required by the City's Design Guidelines and Standards and Window Replacement Policy. Window details shall be submitted for review and approval at the time of building permit application.

4. **Exterior Lighting.** All new exterior light fixtures surface-mounted to walls and ceilings shall be downward directed with an opaque or translucent shade that completely covers the light bulb.

5. **Sound.** The proposed air conditioning unit shall meet the sound requirements of a maximum 50 decibels (dBA) at the nearest property line as proscribed in Building Code Section 8.02.020 EE. Any modifications in order to meet the sound requirements including a sound barrier or an enclosure are subject to staff review and approval.

6. **Garage Door.** To facilitate vehicular access, the garage door shall be motorized. If design modifications are required to accomplish this, those modifications shall be subject to staff review. In addition and in compliance with California Health and Safety Code Section 19892, an automatic garage door opener for the garage door(s) shall have a battery backup function that is design to operate when activated in the event of an electrical outage.

7. **Contractor's General Liability Insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, the 139 Lexford Road Property Owner ("Property Owner") shall require all contractors performing work on the Project to maintain General Liability Insurance for protection from claims for damages because of bodily injury, including death, and claims for damages, other than to the contractor's work itself, to property which may arise out of or result from the contractor's operations. Such insurance shall be written for not less than $2,000,000 per occurrence. The insurance shall include an endorsement requiring a minimum of 10 days prior notice to the City if the insurance is to be cancelled or changed, and Property Owner shall immediately arrange for substitute insurance coverage. If the contractor's insurance carrier states in writing that it is unable to provide the required endorsement, Property Owner shall be responsible for providing the City with the required notice if the insurance is to be cancelled or changed. Property Owner's failure to provide such notice shall constitute grounds for revocation of the City's design review approval and/or permit. If the Property Owner does not have a general contractor, the Property Owner shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

8. **Modifications to Conditions.** The City may impose modifications to Conditions of Approval #7, #22, and #24 in the event such modification is necessary in the opinion of the Director of Planning and Building in consultation with the City Attorney.

9. **C&D Compliance.** Compliance with Section 9.04 of the Municipal Code, which governs the recycling of construction and demolition debris, is required for all phases of this project.

10. **Double Trailer Truck Prohibition.** To reduce potential damage to the streets and to avoid traffic hazards on narrow curving city streets, no double trailers of any kind shall be used as part of the Project.

11. **Defense of Legal Challenges.** The Property Owner shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the Property Owner's project ("Challenge"). City may, but is not obligated to, defend such Challenge as City, in its sole discretion, determines appropriate, all at Property Owner's sole cost and expense. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney's fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Property Owner, City, and/or parties initiating or bringing such Proceeding. If the Property Owner is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City. Per Government Code Section 66474.9, the City shall promptly notify Property Owner of any Proceeding and shall cooperate fully in the defense.

12. **Setback from Property Line Verification.** Prior to foundation inspection, the applicant shall submit to the Building Official written verification by a licensed land surveyor stating that the construction is located at the setback dimension from North, East, and South property lines as shown on the approved plans. The intent is to verify that the approved features are constructed at the approved dimension from the property lines.

13. **Building Height and Floor Level Verification.** Prior to foundation and frame inspections, the applicant shall provide the Building Official written verification by a licensed land surveyor stating that the floor levels and roof of the new structure are constructed at the approved heights above grade.

14. **Encroachment Permit.** Before the issuance of a building permit, the Property Owner shall apply for an encroachment permit to allow for the construction within the public right-ofway.

15. **Sewer Main Condition and Repair.** City records indicate that City storm and sewer mains and associated easement(s) may be located near the proposed construction next to the east property line. Prior to the issuance of a building permit, the Property Owner shall submit a revised copy of the survey prepared by Moran Engineering to show sewer manhole covers and any easements. Said easements and manhole covers shall also be shown on the building permit drawings. The applicant shall also work with City staff to verify the location and depth of the storm and sanitary sewer mains. In addition, the City shall videotape the existing sanitary and storm sewer mains to assess their pre-construction condition in order to make a determination as to whether any repairs to or replacement of the sewer main is required prior to the commencement of excavation and/or construction. (The City is responsible for the cost of the main line, and the property owner for costs of the lateral.) As part of the final inspection the same sanitary and storm sewer lines shall be inspected as required by the Director of Public Works, who shall also determine if the sewer lines were damaged as a result of the construction and therefore must be repaired at the applicant's expense. The applicant is responsible to locate their private sewer lateral and note such location on the building permit drawings.

16. **Stormwater Design.** The California Regional Water Quality Control Board requires all projects, or a combination of related projects, that create and/or replace 2,500 square feet or more of impervious surface to comply with Provision C.3.i of the Municipal Regional Stormwater NPDES Permit. As required by the Chief Building Official, the Property Owner shall verify the total area of impervious surface to be created and/or replaced within the scope of this project, or this project combined with other related projects and/or permits, and incorporate the site design measure(s) required under Provision C.3.i into the plans submitted for a building permit. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

17. **Final Landscape Plan**.
a. Requirements. Before issuance of a building permit, the Property Owner shall submit for staff review and approval a Final Landscape Plan that shows trees proposed for retention. The final plan shall comply with City Code Division 17.34 and Section 17.33.30 and shall not propose plants near the driveway that could obscure visibility of pedestrians on the sidewalk or vehicles on the street from drivers backing out of the driveway. Upon the determination of the Director, minor differences in the number, size

and/or species of vegetation between those shown on the approved landscape plan and those installed at the time of final inspection that do not involve an increase in hardscape or structure coverage may be subject to staff review and approval. Significant differences between the vegetation installed at the time of final inspection and vegetation shown on the approved landscape plan are subject to a Design Review Permit.

b. Greater Neighboring Property Owners' Review and Comment. Upon submission of the Final Landscape Plan to the City, the Property Owner shall, on the date of submission to the City, email or deliver via overnight mail a copy of the submitted Final Landscape Plan to the residents located at 124 Lexford Road, 125 Lexford Road, 132 Lexford Road, 135 Lexford Road, 145 Lexford Road, 168 Lexford Road, 87 Huntleigh, 130 Somerset Road, 140 Somerset Road, and 150 Somerset Road (collectively, the "Greater Neighboring Property Owners"). To confirm that the Greater Neighboring Property Owners have received a copy of the Plan, the Property Owner shall copy the Building Official on the e-mail(s), or provide proof of delivery to the Building Official. The Greater Neighboring Property Owners may submit comments to the City on the proposed Final Landscape Plan, provided that any such comments must be received by the City within 14 days of the Property Owner's submittal of the Plan to the City. Any allegations regarding a neighboring resident's failure to receive the Plan shall not interrupt or otherwise interfere with the City's review. The City may consider the Greater Neighboring Property Owners' timely received comments, but final review and approval of the Plan rests with the Director.

18. **Arborist's Report and Certified Tree Preservation Plan.**
a. Requirements. Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures to preserve the existing Oak trees in the upper left portion of the property and the Eucalyptus trees along the east property line. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction.
b. Greater Neighboring Property Owners' Review and Comment. Upon submission of the Arborist's Report and Certified Tree Preservation Plan to the City, the Property Owner shall, on the date of submission to the City, email or deliver via overnight mail a copy of the submitted Arborist's Report and Certified Tree Preservation Plan to each of the Greater Neighboring Property Owners, which Owners were previously defined in Condition #17. To confirm that the Greater Neighboring Property Owners have received a copy of the Plan, the Property Owner shall copy the Building Official on the e-mail(s), or provide proof of delivery to the Building Official. The Greater Neighboring Property Owners may submit comments to the City on the proposed Arborist's Report and Certified Tree Preservation Plan, provided that any such comments must be received by the City within 14 days of the Property Owner's submittal of the

Plan to the City. Any allegations regarding a neighboring resident's failure to receive the Plan shall not interrupt or otherwise interfere with the City's review. The City may consider the Greater Neighboring Property Owners' comments, but final review and approval of the Plan rests with the Director.

19. **Neighboring Property Inspection**. At the Property Owner's sole expense, should the neighboring property owner provide consent after 7 days' notice from the Property Owner, the Property Owner shall have a licensed civil or structural engineer inspect neighboring homes, including foundations and retaining walls at 125 Lexford Road, 135 Lexford Road, 145 Lexford Road, 168 Lexford Road, 87 Huntleigh, 130 Somerset Road, 140 Somerset Road, and 150 Somerset Road (collectively, the "Neighboring Property Owners"), for the purpose of establishing base-line information to be used later in determining whether damage was caused by any activities of the Property Owner, which damage assessment shall include impacts of vibrations or other factors due to excavation, construction or related activities. The inspection shall occur prior to construction, and shall include both foundations and nonfoundation related details (walls, windows, general overall condition, etc.). The inspection shall include readily visible and accessible areas of the neighboring homes including both finished and unfinished basements and available crawl spaces. The licensed civil or structural engineer shall provide a full report to the Neighboring Property Owners. Property Owner shall notify the City within 5 days of completing the requirements provided by the condition. Within 45 days after the completion of the foundation excavation, pier boring, shoring, trenching, grading, soil off-haul, and concrete pouring for foundation for the Project, the same licensed civil or structural engineer (or a substitute licensed civil or structural engineer) shall inspect the same area in each neighboring home and property initially inspected, and shall provide a report to the Neighboring Property Owners. The Report shall detail any evidence of apparent damage that has been or reasonably might have been caused by the Property Owner. The Report must include text, photographs, diagrams, or other evidence that would document the apparent damage. The Report may be used in connection with private causes of action.

20. **Geotechnical Report and Review.**
a. Requirements. The Property Owner shall submit to the City a report prepared by a licensed geotechnical engineer who possesses a valid and active license within the State of California. The report shall, to the City's satisfaction, fully assess the existing site conditions, including soil and ground composition, and address all issues regarding excavation and grading, foundations and their construction, drainage, retaining wall systems, periodic on-site observations, and other related items involving the Project (the "Geotechnical Report").

b. Greater Neighboring Property Owners' Review and Comment. Upon submission of the Property Owner's Geotechnical Report to the City, the Property Owner shall, on the date of submission to the City, email or deliver via overnight mail a copy of the submitted Report to each of the Greater Neighboring Property Owners, which owners were previously defined in Condition #17 above. To confirm that the Greater Neighboring Property Owners have received a copy of the Report, the Property Owner shall copy the Building Official on the e-mail(s), or provide proof of delivery to the Building Official. The Greater Neighboring Property Owners may appoint a licensed geotechnical engineer who possesses a valid and active license within the State of California, to provide comments to the City on the Report. The Greater Neighboring Property Owners' comments must be received by the City within 14 days of the Property Owner's submittal of the Report to the City. Before visiting the Project

site, the Greater Neighboring Property Owners' geotechnical consultant must provide the Property Owner with reasonable notice and evidence of professional liability insurance, which insurance names Property Owner as additional insureds. The City and the Property Owner will not be liable for any acts or omissions of the Neighboring Property Owners' geotechnical engineer. Any allegations regarding a neighboring resident's failure to receive the Property Owner's Report shall not interrupt or otherwise interfere with the City's review.

c. Peer Review by City. The City, at the Property Owner's sole expense, shall retain an independent geotechnical consultant to perform a peer-review of the Property Owner's Geotechnical Report and advise the City in connection with the Property Owner's proposals. The independent geotechnical consultant must be a licensed geotechnical engineer who possesses a valid and active license within the State of California. The City Engineer shall select this independent geotechnical consultant, whose services shall be provided for the sole benefit of the City and whose reports and recommendations can be relied upon only by the City. The Greater Neighboring Property Owners' timely received comments, if any, shall be reviewed as part of the peer review conducted by the City's independent geotechnical consultant. The independent geotechnical consultant shall also review the building plans during the permit approval process, and may provide periodic on-site observations during excavation and construction of the foundations as deemed necessary by the City Engineer. The Property Owner shall provide payment for this at the time of the Building Permit submittal. The City may consider the Greater Neighboring Property Owners' timely received comments, but final review and approval of the Geotechnical Report rests with the City.

21. **Foundation/Shoring/Excavation Plan.**
a. Requirements. The Property Owner shall submit foundation, excavation, and shoring plans prepared by a licensed civil or structural engineer licensed to practice in California and is in good standing that fully address issues of ground and soil composition, site shoring, fencing and hillside security issues. The plans shall not require any trespassing or intruding into neighboring properties (without prior written consent), and shall mitigate against any subsidence or other damage to neighboring properties. Such plans shall incorporate as appropriate the recommendations of the Property Owner's geotechnical engineer of record, who must be licensed to practice in California and must be in good standing, as well as comments and recommendations of the City's geotechnical consultant, who must be licensed to practice in California and must be in good standing. The plans shall be subject to approval by the City Engineer and the Chief Building Official. The final plans shall include the signature of the Property Owner's geotechnical engineer, verifying that they have reviewed the proposed plans and they find them in the conformance with the recommendations of the Geotechnical Report for this project and the City's peer review.

b. Greater Neighboring Property Owners' Review and Comment. The Property Owner shall, on the date of submission to the City, email or deliver via overnight mail a copy of the submitted foundation, excavation, and shoring plans to each of the Greater Neighboring Property Owners, which Owners were previously defined in Condition #17 above. To confirm that the Greater Neighboring Property Owners have received a copy of the Plans, the Property Owner shall copy the Building Official on the e-mail(s), or provide proof of delivery to the Building Official. The Greater Neighboring Property Owners' comments on the Plans, if any, must be received by the City within 14 days of the Property Owner's submittal of the Plans to the City. The City shall review the Greater Neighboring Property Owners' comments, and recommend incorporation of comments as necessary as part of its peer review. Any

allegations regarding a neighboring resident's failure to receive the Property Owner's Report shall not interrupt or otherwise interfere with the City's review. The City may consider the Neighboring Property Owners' timely received comments, but final review and approval of the Plans rests with the City.

22. **Sound and Vibration Mitigation Plan and Review.**
a. Requirements. To the Director of Public Works's satisfaction, the Property Owner shall submit a plan prepared by a licensed engineer of the Property Owner's choice that fully assesses the existing site conditions and ground and soil composition for the mitigation and monitoring of vibration and decibel levels at the Project during construction (including being periodically present at the construction site during excavation and foundation work) (the "Sound and Vibration Mitigation Plan"). The Plan shall comply with the City's General Plan policies regarding noise. If, in the City Engineer's sole discretion, such monitoring indicates that the sound or vibration levels exceed those anticipated in the Property Owner's Construction Management Plan and/or the Sound and Vibration Mitigation Plan, all work on the Project may be immediately stopped by the City and may not resume until the City Engineer is fully assured that the sound and vibration transmissions generated by work on the Project can be maintained at or below a reasonable level and duration. The Sound and Vibration Mitigation Plan shall provide for continuous monitoring during work hours to ensure compliance with the maximum decibel levels established in the Construction Management Plan.

b. Greater Neighboring Property Owners' Review and Comment. Upon submission of the Property Owner's Sound and Vibration Mitigation Plan to the City, the Property Owner shall, on the date of submission to the City, email or deliver via overnight mail a copy of the submitted Plan to each of the Greater Neighboring Property Owners, which Owners were previously defined in Condition #17 above. To confirm that the Greater Neighboring Property Owners have received a copy of the Plans, the Property Owner shall copy the Building Official on the e-mail(s), or provide proof of delivery to the Building Official. The Greater Neighboring Property Owners' comments on the Plans, if any, must be received by the City within 14 days of the Property Owner's submittal of the Plans to the City. Any allegations regarding a neighboring resident's failure to receive the Property Owner's Plans shall not interrupt or otherwise interfere with the City's review.

c. Peer Review by City. The City, at the Property Owner's sole expense, shall retain an independent engineering consultant to perform a peer-review of the Property Owner's Sound and Vibration Mitigation Plan and advise the City in connection with the Property Owner's proposals. The City Engineer shall select this independent engineering consultant, whose services shall be provided for the sole benefit of the City and whose reports and recommendations can be relied upon only by the City. The independent engineering consultant shall also review the building plans during the permit approval process, and will provide during construction days and hours periodic on-site observations during excavation and construction as deemed necessary by the City Engineer. The Property Owner shall provide payment for this at the time of the Building Permit submittal. The City may consider the Greater Neighboring Property Owners' timely received comments, but final review and approval of the Plans rests with the City.

23. **City Facilities Security.**
a. At the time of Building Permit submittal, the Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("City Facilities Security") in the amount of $125,000 as established by the Director of Public

Works. This financial vehicle serves as an initial sum to cover the cost of any potential damage to City property or facilities (including, but not limited to, the streets, sidewalks and city trees) in any way caused by Property Owner, Property Owner's contractors or subcontractors, or any of their agents, employees or assigns, and related in any way to the Project. The Property Owner is responsible for the full cost of repair including in excess of $125,000 as determined by the City Engineer prior to final inspections. The form and terms of such City Facilities Security shall be determined by the Director of Public Works after consultation with the Property Owner. The Director may take into account any of the following factors: the cost of construction; past experience and costs; the amount of excavation; the number of truck trips; the physical size of the proposed project; the logistics of construction; the geotechnical circumstances at the site; and City right-of-way and repaving costs.

b. To provide clear baseline information to assist in determining whether damage to the City's facilities has been caused by the Property Owner or others working for or on behalf of Property Owner, the City will document such facilities (including, without limitation, streets and facilities along the approved construction route as specified in the Construction Management Plan), to establish the baseline condition of the streets and facilities. The City shall further re-document the streets as deemed appropriate after the Project commences until the Director of Public Works determines that further documentation is no longer warranted. As part of the documentation, the City may water down the streets to better emphasize any cracks or damage in the surface. The Property Owner is responsible for the full cost of the documentation and repair work as determined by the City Engineer, and shall reimburse the City for those costs prior to the scheduling of final inspection.

c. When the City Facilities Security is in a form other than cash deposit with the City, the proceeds from the City Facilities Security shall be made payable to the City upon demand, conditioned solely on the Director of Public Works' certification on information and belief that all or any specified part of the proceeds are due to the City.

24. **Site Safety Security**.
a. The City and the public have an interest in not having an unfinished project blighting the neighborhood and undermining property values. These public interests are primarily safety and aesthetics, and diminishment of property values. Prior to the issuance of a Building Permit, the Property Owner shall provide a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle ("Site Safety Security") in the amount of $316,143 including to stabilize the foundation of the Project, to ensure the Project site is not left in a dangerous or unfinished state, and if any funds are remaining, to landscape the site to ensure that the Project site is not blighted or a nuisance. If the cost of to complete the stabilization and landscape of the unfinished state of the project is more than $316,143, the Property Owner will be responsible and liable for any additional costs to complete this condition as determined by the Director of Public Works and the Director of Building and Planning.

b. The Site Safety Security shall be in an amount to include three components:

i. safety, which means the cost to make the site and structure safe if construction should cease mid-way through the Project;

ii. aesthetics, which means an amount to install and maintain landscaping all around the Project to protect the immediate local views from neighbors and public

property; and

iii. staff and consultant time to evaluate and implement this condition.

If as the Project proceeds, the expected cost of these components increases beyond the original estimate in the opinion of the Director of Planning & Building, the City may require the Property Owner to increase the amount of the Site Safety Security by the additional amount. The Property Owner shall provide City with written evidence of compliance within 15 working days after receiving written notice of the additional required amount. The City shall retain, at the Property Owner's expense, an independent estimator to verify the total expected costs to complete the Project and any subsequent revisions.

c. The form and amount of the Site Safety Security is subject to the approval of the Director of Planning & Building. Payment to City under the Site Safety Security shall be made payable upon demand by the City and prior to the issuance of the Building Permit, conditioned solely on the Director of Planning & Building's certification on information and belief that all or any specified part of such Performance Security is due to the City.

d. City shall release such security to the Property Owner upon the Project's receipt of the Certificate of Occupancy.

25. **Neighboring Property Damage Security**. Prior to issuance of a Building Permit, the Property Owner shall provide adequate and appropriate neighboring property damage security in the form of a specific cash deposit, letter of credit, bank guarantee, or other similar financial vehicle, including bonds, and/or insurance, as approved by the Director of Public Works, which security shall be the for the purpose of addressing damage to the neighboring properties at 125 Lexford Road, 135 Lexford Road, 145 Lexford Road, 168 Lexford Road, 87 Huntleigh, 130 Somerset Road, 140 Somerset Road, and 150 Somerset Road, by any construction, excavation, and related work in any way involving the Project, in the amount of $4,742,146. If the Director of Public Works determines that obtaining any particular insurance would be extremely difficult for the Property Owner due to its lack of availability even at an increased cost, the Director of Public Works may authorize an alternative method of providing equal or more dollar amount protection to neighboring properties, including but not limited to partial coverage by Umbrella Insurance if that appears appropriate. Such insurance or any alternative method shall allow for claims occurring during the covered period to be made for up to one year after the issuance of the Certificate of Occupancy on Applicant's project. Any and all such insurance or any alternative method shall specifically indicate that it covers damages to the above properties, and if such insurance is meant to also cover other potential damages, such as personal injuries or damages to other than the above named properties, any such further coverage shall be in addition to the $4,742,146 amount. The Property Owner shall notify the City and the Neighboring Property Owners of any insurance obtained hereunder within five business days of obtaining said insurance.

26. **Grading Bond**. Prior to issuance of a building permit, the Property Owner shall post a Grading Bond, the amount of which shall be determined by City staff in reviewing the proposed plans, ensuring restoration of site grades if the Project is abandoned. The Property Owner shall be fully responsible for any and all costs in any event.

27. **Consultant Cost Recovery**. In order to accommodate the scope and nature of the Project proposed by the Property Owner, if the Director of Public Works deems it reasonably necessary to retain independent consultants with specialized expertise,

including the City Engineer, the Property Owner shall make a cash deposit with the City at the time of the Building Permit Application in the amount of $10,000 to be used to pay for the fees and expenses of such City consultants, or in any way otherwise required to be expended by the City for professional consultant assistance. If the cash deposit has been reduced to $2,500 or less at any time, the Director of Public Works may require the Property Owner to deposit additional funds to cover any further estimated fees and expenses associated with consultants retained by the City on a regular basis specifically for the Property Owner's Project. Any unexpended amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

28. **City Attorney Cost Recovery**. If there is a substantial additional commitment of City Attorney's time required to accommodate the scope and nature of the Project, the Property Owner shall, at the time of the Building Permit Application, make a cash deposit with the City in the amount of $5,000 to be used to offset time and expenses of the City Attorney relating to the Project. If such cash deposit has been reduced to $2,500.00 or less at any time, the Director of Public Works will require the Property Owner to deposit additional funds to cover any further estimated additional City Attorney time and expenses. Any unused amounts shall be refunded to the Property Owner within 90 days after the Project has an approved Final Inspection by the Chief Building Official.

29. **Subsidence**. The Property Owner acknowledges and agrees that all work on the Project may be immediately stopped by the City in the event of any unanticipated landslides, subsidence, creep, erosion or other geologic instability, and may not resume until the City Engineer is fully assured that no further subsidence or erosion will occur. If in the opinion of the City Engineer, the instability poses a danger to public or private property, and Property Owner is not responding in a diligent manner, the Director of Public Works may use proceeds from the Site Safety Security required above to address the instability. If additional funds are needed as determined by the City Engineer, the Property Owner will be fully responsible for such additional costs.

30. **Construction Management Plan**.

a. Requirements. The Property Owner shall submit a comprehensive Construction Management Plan, and shall meet and confer with the Greater Neighboring Property Owners as defined in Condition #17 above or their appointed representative(s) prior to submission of the proposed Plan to the City no later than 14 days prior to the start of construction as set forth below. Property Owner shall verify that that this meet-and-confer requirement has been complied with in its submission of the Plan to the City. The Property Owner shall, on the date of submission to the City, email or deliver via overnight mail a copy of the submitted Plan to each of the Greater Neighboring Property Owners, which Owners were previously defined in Condition #17 above. To confirm that the Greater Neighboring Property Owners have received a copy of the Plans, the Property Owner shall copy the Building Official on the e-mail(s), or provide proof of delivery to the Building Official.

The Construction Management Plan shall: identify the point(s) for access to the property for construction and address noise, vibrations, traffic control, parking, debris removal, dust control, sanitary facilities, site safety security, continual street access for emergency vehicles, and other potential construction impacts, as well as other details involving the day and hours permitted for heavy excavation. Outside construction involving high levels of noise, including excavation, hammering, drilling, and tile sawing, shall be limited to

Monday through Saturday, from 8:30 a.m. to 5:30 p.m. except that Sunday construction may proceed to complete excavation with the consent of Greater Neighboring Property Owners, which consent shall not be unreasonably withheld. Concrete pours can occur Monday through Saturday from 7:00 a.m. to 5:30 p.m. The plan shall specify the sequencing of grading, excavation, shoring, foundation and construction activities. The plan shall incorporate compliance with the City's General Plan policies regarding noise and air pollution. The Property Owner shall, on the date of submission to the City, email or deliver via overnight mail a copy of the submitted Plan to each of the Greater Neighboring Property Owners, which Owners were previously defined in Condition #17 above. To confirm that the Greater Neighboring Property Owners have received a copy of the Plans, the Property Owner shall copy the Building Official on the e-mail(s), or provide proof of delivery to the Building Official. The Greater Neighboring Property Owners' comments on the Plans, if any, must be received by the City within 14 days of the Property Owner's submittal of the Plans to the City. Any allegations regarding a neighboring resident's failure to receive the Property Owner's Plans shall not interrupt or otherwise interfere with the City's review. The City Building Official shall review the Greater Neighboring Property Owners' timely submitted comments prior to approving the Construction Management Plan. The City may consider the Greater Neighboring Property Owners' comments, but final review and approval of the Plan rests with the City. The City Building Official may require modifications and amendments to the Construction Management Plan throughout the course of the Project and until the Final Inspection. The City Building Official has the authority to require modifications and amendments to the Construction Management Plan as deemed necessary throughout the course of the Project and until the Final Inspection.

b. Haul Routes. Haul routes shall be included in the Construction Management Plan for City review and approval. To the extent possible, haul routes shall attempt to minimize or eliminate use of minor residential roadways. Street and pavement conditions shall be observed and documented by the City on all haul routes prior to commencement of construction. Damage or observable and unusual wear and tear to haul routes as specified by the City on Hampton Road, Huntleigh Road and Lexford Road as specified by the City shall be repaired at the Property Owner's expense after final inspection. If Property Owner elects to repair any damage, the Property Owner shall be required to obtain an encroachment permit.

c. Construction Site Control of Stormwater. The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. As required by the Chief Building Official and prior to the issuance of a building permit, the Applicant shall develop and submit a construction management plan as part of the Construction Management Plan to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that may be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

31. **Construction Completion Schedule**. Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely

completion of this Project is of the essence, the Property Owner shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage of the project as a whole for each phase. Property Owner shall provide copies of the approved Construction Completion Schedule to the Greater Neighboring Property Owners.

a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation including drilling and pier boring; ii) Completion of Retaining Walls; iii) Completion of Foundation; iv) Completion of Rough Framing; v) Completion of Electrical; vi) Completion of Plumbing; vii) Completion of Mechanical; viii) Completion of Fire Sprinklers; ix) Completion of Home; x) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions of occupancy as may be determined by the Director of Planning and Building.

b. Before the Project begins, the Director of Planning and Building shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the Approved Construction Completion Schedule and be binding on the Property Owner. The City may, at the Property Owner's sole cost, engage the services of a consultant to review the proposed Construction Completion Schedule and, to the extent the period allocated for any work appears unjustifiable, recommend to the Director of Planning and Building a reasonable completion date for any benchmark.

c. In the event of a change in scope of the Project that would alter the benchmarks dates set forth in the Approved Construction Completion Schedule, or in the event the Property Owner fails to meet a benchmark set forth in the Approved Construction Completion Schedule, the Applicant shall immediately submit a request to amend the Approved Construction Completion Schedule to the Director of Planning and Building. The request to amend shall be accompanied by a new proposed Construction Completion Schedule in compliance with subsection (a) of this condition of approval and the Director of Planning and Building shall evaluate the proposed amendments to the Approved Construction Completion Schedule in accordance with subsection (b) of this condition of approval. Property Owner shall provide copies of any new or modified Approved Construction Completion Schedule to the Greater Neighboring Property Owners.

d. The failure of the Property Owner to comply with the Approved Construction Completion Schedule, or any amendments to it approved in conformance with subsection (d) of this condition of approval, shall constitute a nuisance under the City of Piedmont City Code ("City Code"). The failure of the Property Owner to comply with the Approved Construction Completion Schedule may result in the City pursuing administrative citations pursuant to Chapter 1 of the City Code, nuisance abatement pursuant to Chapter 6 of the City Code, or any other remedy available to the City under the law. Additionally, if the Property Owner fails to comply with the Approved Construction Completion Schedule, the Director of Planning and Building, at his or her sole discretion, may make a claim against the Property Owner's Site Security, if one is required, in order to complete the benchmark. The Director of Planning and Building, at his or her sole discretion, may refer the application to the Planning Commission for public review and direction.

32. **California's Water Efficient Landscape Ordinance**. Property Owner shall comply with the requirements of California's Model Water Efficient Landscape Ordinance that went into effect December 1, 2015, by submitting the following required information to the Building Department:

a. Landscape Documentation Package that includes the following 6 items: i) Project Information; ii) Water Efficient Landscape Worksheet; iii) Soil Management Report; iv) Landscape Design Plan; v) Irrigation Design Plan; and vi) Grading Design Plan. The Landscape Documentation Package is subject to staff review and approval before the issuance of a building permit.

b. Once a building permit has been issued, the Property Owner shall submit a copy of the Water Efficient Landscape Worksheet, to the local water purveyor, East Bay Municipal Utility District.

c. After completion of work, the Property Owner shall submit to the City and East Bay Municipal Utility District a Certificate of Completion, including an irrigation schedule, an irrigation maintenance schedule, and an irrigation audit report. The City may approve or deny the Certificate of Completion.

33. **Blasting**. Absolutely no blasting of any kind regardless of scale shall be allowed for any purpose on this Project, including but not limited to rock, soil or dirt removal.

34. **Archaeological and Paleontological Resources – Discovery During Construction**. Pursuant to CEQA Guidelines section 15064.5(f), in the event that any historic or prehistoric subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant shall notify the City and consult with a qualified archaeologist or paleontologist, as applicable, to assess the significance of the find. In the case of discovery of paleontological resources, the assessment shall be done in accordance with the Society of Vertebrate Paleontology standards. If any find is determined to be significant, appropriate avoidance measures recommended by the consultant and approved by the City must be followed unless avoidance is determined unnecessary or infeasible by the City. Feasibility of avoidance shall be determined with consideration of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery, excavation) shall be instituted. Work may proceed on other parts of the project site while measures for the cultural resources are implemented. In the event of data recovery of archaeological resources, the project applicant shall submit an Archaeological Research Design and Treatment Plan (ARDTP) prepared by a qualified archaeologist for review and approval by the City. The ARDTP is required to identify how the proposed data recovery program would preserve the significant information the archaeological resource is expected to contain. The ARDTP shall identify the scientific/historic research questions applicable to the expected resource, the data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. The ARDTP shall include the analysis and specify the curation and storage methods. Data recovery, in general, shall be limited to the portions of the archaeological resource that could be impacted by the proposed project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if nondestructive methods are practicable. Because the intent

of the ARDTP is to save as much of the archaeological resource as possible, including moving the resource, if feasible, preparation and implementation of the ARDTP would reduce the potential adverse impact to less than significant. The project applicant shall implement the ARDTP at his/her expense.
In the event of excavation of paleontological resources, the Property Owner shall submit an excavation plan prepared by a qualified paleontologist to the City for review and approval. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by a qualified paleontologist, as appropriate, according to current professional standards and at the expense of the project applicant. To be required when it is clear from the application that the project entails soil disturbance.

35. **Biological Site Assessment.** A biological site assessment shall be prepared by a qualified biologist and provide evidence regarding the presence of sensitive biological resources, determine the property's habitat value relative to any special status species, and provide conclusions regarding how the project may affect those resources. Stream channels, tops of banks, and edges of riparian vegetation and any Stream Conservation Areas or stream buffer areas must be clearly mapped. In addition, the biological site assessment shall evaluate the habitat value of any watercourses adjacent to the proposed project, and whether the project would result in adverse effects to the riparian vegetation surrounding the watercourse or the water quality of the watercourse. If there are wetlands adjacent to the project, then a wetland delineation shall be submitted, and the boundary of any riparian vegetation shall be clearly identified in the report. The report shall also indicate whether there are any exotic species of plants on the site and whether any species are invasive. If the report finds that the project could result in a significant impact, then a further evaluation of potential mitigation measures may be required. The biological assessment is subject to peer review at the Director's discretion. **City's Peer Review.** The Property Owner shall provide City full payment for the retention of an independent qualified biologist to perform a peer-review of the Applicant's biological site assessment. Applicant shall provide a deposit of $5,000 at the time of the Building Permit application submittal.

a) **San Francisco Dusky Footed Woodrat Protection.** For development projects where construction would take place within 50 feet of woodland or riparian habitat (excluding remodels of existing structures), a qualified biologist shall conduct a pre-construction survey for woodrats no more than 14 days prior to construction. Middens (woodrat or other packrat nest structure) within 50 feet of project activity that would not be directly impacted by project activity should be demarcated with a 10-foot avoidance buffer and left intact. If a midden(s) that cannot be avoided is found during the pre-construction survey, an approved biologist should monitor the dismantling of the midden by a construction contractor to assist with the goal of ensuring the individuals are allowed to leave the work areas unharmed before on site activities begin.

b) **Roosting Bat Protection.** For development projects that involve the removal of on-site trees or demolition of vacant structures, a qualified biologist shall conduct a focused survey of trees and structures to be removed to determine whether active roosts of special-status bats are present. Trees and/or structures containing suitable potential bat roost habitat features shall be clearly marked or identified. If active roosts are present, the biologist shall prepare a site-specific roosting bat protection plan to be implemented by the contractor following the City's approval.

c) **Nesting Bird Protection.** Development projects that involve tree removal or significant tree trimming shall take steps to avoid impacts to nesting birds. Initial site disturbance activities for construction, including vegetation and concrete removal, shall be avoided during the general avian nesting season (February 1 to August 30). If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest.

36. **Natural Resources and Sustainability Element Policy 15.7 Construction Emissions Control Measures**. As part of the City's development approval process, the City shall require Property Owner to comply with the current Bay Area Air Quality Management District's (BAAQMD) basic control measures for reducing construction emissions of PM10 (Table 5-2, Basic Best Management Practices for Construction-Related Fugitive Dust Emissions Recommended for All Proposed Projects, of the 2022 BAAQMD CEQA Guidelines, or applicable best management practices in BAAQMD's guidelines in place at the time of development), outlined below.

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times a day.
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
6. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
7. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
8. Unpaved roads providing access to sites located 100 feet or further from a paved road shall be treated with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.
9. Publicly visible signs shall be posted with the telephone number and name of the person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's General Air Pollution Complaints number shall also be visible to ensure compliance with applicable regulations

37. **Environmental Hazards Element Policy 22.7: Construction Noise Reduction**. For projects within 500 feet of a noise sensitive land use and that involve subterranean parking, large excavation, construction over 18 months in duration, and/or the use of heavy-duty equipment, a

Construction Noise Study prepared by a qualified noise expert shall be required. The Construction Noise Study shall characterize sources of construction noise, quantify noise levels at noise-sensitive uses, and identify feasible measures to reduce noise exposure. The project shall incorporate the feasible measures identified in the study. Noise reduction techniques may include, but are not limited to, shielding and silencing construction equipment, enclosing and screening outdoor fixed equipment, placing construction staging areas away from noise-sensitive uses, using smart adjusting back-up alarms for mobile construction equipment, controlling worker radio noise, installing temporary sound barriers, designating a noise complaint response protocol, shall be used as appropriate.

SECTION 5. The Planning & Building Director is the custodian of documents and other materials that were considered by the City Council and constitute the record of proceedings on which this decision was based. The City Council Minutes for August 18, 2025 records are located at the Planning & Building Department, 120 Vista Avenue, Piedmont, CA 94611.

SECTION 6. 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.

[END OF RESOLUTION]