

City of Piedmont
CITY COUNCIL AGENDA REPORT

DATE: February 3, 2025

TO: Mayor and Council

FROM: Rosanna Bayon Moore, City Administrator

SUBJECT: Public Hearing – Introduction and First Reading of Ordinance No. 778 N.S. Adopting Amendments to the Zoning Ordinance and Consideration of Resolution Adopting Amendments to Piedmont Design Standards and Guidelines related to Wireless Communication Facilities and Correcting Section 3.04 City of Piedmont List of Streets (CEQA Review: exempt under CEQA Guidelines 15061 (b)(3), §15378, and Public Resources Code §21065)

RECOMMENDED ACTION

- 1) Conduct a First Reading of Ordinance 778 N.S., Attachment A, amending division 17.46 Wireless Communications Facilities and 17.78 Appeals to bring the City Code into compliance with State and Federal regulations.
- 2) Adopt the attached Resolution, Attachment B, amending Piedmont Design Standards and Guidelines to add a new Chapter 8 Wireless Communications Facilities and make a technical correction to existing Section 3.04 City of Piedmont List of Streets.
- 3) Find the Ordinance 778 N.S. and Proposed Amendments to Piedmont Design Standards and Guidelines exempt under California Environmental Quality Act (CEQA) Guidelines 15061 (b)(3), §15378, and Public Resources Code §21065, as provided in Attachments A and B.

EXECUTIVE SUMMARY

The City of Piedmont seeks to update its regulations for Wireless Communication Facilities (WCFs) to bring them into conformance with telecommunications regulations and case law. Key changes include:

- A streamlined permit process for WCFs that meet specific criteria and standards.
- Updated definitions, standards, and language throughout.

The goal for the proposed changes is to increase clarity for WCF companies, the community, and City staff regarding acceptable WCF designs in Piedmont and to encourage the development of aesthetically pleasing and compatible WCFs.

Beginning in 2018, the City of Piedmont began to develop design standards for wireless communication facilities (WCF) in response to evolving changes to telecommunications law. Over the last several years, staff has researched telecom facilities, performed community outreach,

closely followed various Federal court rulings, and collaborated with experts and advisors about WCF. The Planning & Building Department has developed a draft set of comprehensive design standards for WCFs that are proposed in a new chapter of the *Piedmont Design Standards and Guidelines*, entitled “Chapter 8 - Wireless Communication Facilities.”

Preceding this agenda item were three Planning Commission study sessions and one City Council study session covering the same material. Comments and direction provided by both bodies have informed a final draft of the Code changes and design standards.

Finally, staff recommends a technical correction in *Piedmont Design Standards and Guidelines* Section 3.04 City of Piedmont List of Streets, which establishes which streets require street yard setback on properties that front them. The technical correction would eliminate “Red Rock Road” from this list of streets because staff has conducted further research and determined that Red Rock Road is not a public right-of-way. Instead, it is located on a much larger City-owned parcel and it is not bounded by property lines from which a street yard setback would apply.

STUDY SESSIONS SUMMARIZED

On March 11, July 8 and September 2024, the Planning Commission held study sessions on the proposed revisions to the City Code and to the *Piedmont Design Standards and Guidelines* regarding WCF. While generally supportive of the proposed updates, the Commissioners focused their discussion on batch processing. They suggested revisions to the process to allow for sites to be removed from a batch process permit without requiring the applicant to withdraw the permit in its entirety.

On October 21, 2024, the City Council held a study session discussing the proposed revisions to WCF regulations. Key areas of discussion included the feasibility of establishing buffer zones between small cell facilities in the public right-of-way and residential homes, the potential benefits and drawbacks of allowing for the withdrawal of a limited number of permits from a batch while continuing the review process for the remaining applications, the practicality of implementing underground vaults for equipment associated with small cell facilities in public right-of-way, and whether or not there are appropriate methods for publicly notifying residents about WCF permit applications that are subject to only ministerial review.

The comments and discussions of the Planning Commission, City Council, and community members informed the proposed regulations and policies currently under consideration. Responses to Planning Commission and City Council comments are included in the below identified discussion sections.

BACKGROUND

Wireless Communication Facilities

The City’s authority to regulate WCF has become more constrained over time, as various State and Federal regulations have been adopted, including: the Telecommunications Act of 1996 (47 USC sec332), the Middle Class Tax Relief and Jobs Creation Act of 2012 (47 USC sec 6409), 47

CFR sec 1.40001 Wireless Facility Modifications-2015, State Preemption- Public Utility Code Section 7901, and the Federal Communications Commission (FCC) Declaratory Ruling-2018.

These regulations:

- Limit the City from either conditioning or denying projects based on concerns stemming from the environmental effects of radio frequency (RF) emissions if the emissions are compliant with Federal RF emissions standards;
- Require the City to approve a request for an eligible wireless facility if the proposed modification does not result in a “substantial change” and meets all other federal requirements;
- Regulates the construction of wireless communications equipment in the public right-of-way including installations on street lights and utility poles; and
- Acknowledges time limits and deadlines for the review of WCF permit applications consistent with Federal and State requirements.

List of Streets

The City provides a list of streets in *Piedmont Design Standards and Guidelines* Section 3.04. The sole purpose of this list is to establish which streets require street yard setbacks on properties that front them. The list explicitly excludes public alleys and private roadways.

Following a review of the current street list, staff recommends the removal of "Red Rock Road." This entry was determined to be in error because Red Rock Road is not bounded by the property lines of abutting lots from which a street yard setback would be required. It is located across two City-owned parcels totaling approximately 12.8 acres in area and basically serves as a driveway to the City's Corporation Yard and parking lots for Coaches Field.

ZONING ORDINANCE AMENDMENTS

Provided below is an outline and description of the draft revisions to the Wireless Communication Facilities Code and related appeals process in Divisions 17.46 and 17.78. Division 17.46 of the City Code provides a set of standards for the development and installation of wireless communications facilities and Division 17.78 set outs standards and regulations surrounding appeals of various types of permits. **A redlined version of the edits to the current Zoning Ordinance is included as Attachment C.**

- 1) Staff recommends updates and revisions to the definitions section. The new definitions conform to State and Federal regulations.

2) Location Preferences

Staff recommends that the sites in Zone B (Public Facilities), Zone D (Commercial and Mixed-Use), and in the public right-of-way continue to be the preferred and incentivized locations, so long as the properties are not already used for residential purposes. If located in an alternate site or less preferred location, the facility must be located on a non-residential property.

3) Standards

Staff recommends revisions to the height limits to meet the underlying zoning district or State and Federal requirements. The applicant shall use all reasonable means to minimize the visual impacts of the WCF through stealthing or concealment. Additionally, proposed revisions include requirements that facilities in the right-of-way, such as WCF on streetlights, shall follow standards outlined in the City of Piedmont Public Works Department Standard Details.

Staff recommends an initial term of ten years for a WCF permit. At the expiration of this term, the City may be able to avail itself of technological advances that result in improved designs.

4) Decision-Making Body and Permitting Process

Federal regulations place greatly abbreviated timelines for the review and approval of WCF permit applications. To comply with these timelines and to help ensure that the design of WCF fit within the Piedmont landscape and streetscape, Staff recommends that WCF permit applications that meet strict design standards be reviewed ministerially for approval by staff, and that the Planning Commission be the decision-making body for WCF permit applications that do not meet the strict design standards. As proposed, the City Council would no longer be a decision-making body for WCF permit applications, including appeals (discussed in next section).

Generally, the Planning Commission is proposed to be the reviewing body, with the following exceptions:

- Facilities meeting specific standards (preferred locations, design standards, and modifications under Section 6409 of the Spectrum Act and *Piedmont Design Standards and Guidelines*) will undergo a ministerial review by the Director of Planning & Building or the Director's designee. This allows for streamlined approval if the application complies with the established criteria.
- The Director shall review small cells (typically installed on infrastructure in the rights-of way) and any telecommunications facilities that propose colocations or modifications on existing structures but do not qualify for ministerial review. The processing of non-ministerial WCF permit applications will include consideration of public comments.

A table showing the proposed permit process and review body is included in the draft Zoning Ordinance.

Staff recommends revisions to the findings and exceptions requirements to be consistent with Federal law.

5) Appeal Process

Staff recommends that applications reviewed ministerially will not be subject to an appeals process since the facilities will need to meet strict design standards to be eligible for ministerial review, and the strict standards will have been established through the public review process via adoption of the proposed ordinance and guidelines. Appeals of decisions made by the Director or by the Planning Commission would be considered by the City Administrator. The proposed new City

Code section 17.46.100 Appeals outlines the appeals process for decisions made by staff and the Planning Commission regarding WCF applications. The proposed appeal hearing process for WCF applications maintains the principle of not being a de novo hearing consistent with City's current appeal process. Staff also recommends revisions to City Code Division 17.78, Appeals, for consistency with section 17.46.100.

6) Batch Processing

Under Assembly Bill 965, the City must accept applications for "batch broadband processing permits" when it receives two or more broadband permit applications for substantially similar broadband project sites, submitted at the same time by the same applicant. In conformance with this State law, staff is proposing a new Code section detailing the standards for an application submitted under "batch processing", including when a batch is deemed incomplete and withdrawn. Proposed language allows for withdrawing of up to 50% of the sites without the entire batch being deemed as withdrawn.

AMENDMENTS TO *PIEDMONT DESIGN STANDARDS AND GUIDELINES*

In 2019, when the Piedmont City Council adopted a comprehensive update to the City's Design Guidelines, Chapter 8 was included as a placeholder for standards and guidelines for wireless communication facilities (WCF) that were yet to be drafted. The purpose of the *Piedmont Design Standards and Guidelines* is to implement design and appearance policies outlined in the General Plan and Chapter 17 of the Piedmont City Code. To prepare the recommended standards and guidelines for WCF, staff has conducted research on telecom facilities, engaged with and received input from the community, followed Federal court rulings, changes in State law, and collaborated with experts and advisors on WCF matters. The draft Chapter 8, Wireless Communications Facilities, is included as Attachment B to this report. Provided below is an outline and description of the new Chapter.

Goals and Approach

The intent of the proposed WCF standards is to minimize the impact on Piedmont's unique aesthetics environment while enhancing wireless coverage and capacity. The standards prioritize seamless integration with existing infrastructure and the natural landscape.

Organization

The design and format of Chapter 8 is consistent with the other chapters in the *City of Piedmont Design Standards and Guidelines*. Chapter 8 includes concise statements, illustrative photos of successful and unsuccessful WCF examples, and sections on:

- Location and structure preferences,
- Application processing,
- Standards for WCF in the public right-of-way and on private or public land, and
- Submittal checklists.

The overall goal is to create a user-friendly document for staff, applicants and the public.

Stealth Facilities

A priority of the draft WCF design standards is to encourage the implementation of “stealth” facilities. A stealth facility refers to a concealment element to ensure that a WCF is concealed to the extent that it appears to look like something other than a WCF installation or otherwise not readily visible to the public. Stealthed WCFs minimize the aesthetic impacts of future installations on new or existing WCFs, consistent the rules of the Federal Communication Commission. Pursuant to the recommended draft of the WCF design standards, all WCF shall provide a concealment strategy unless located on a transmission tower. If the standards outlined are not met, the facility shall undergo a discretionary design review process.

General Standards

The draft design standards are subdivided into sections for WCFs located within the public right-of-way and for WCFs located outside the right-of-way. Generally, the proposed standards establish requirements for equipment concealment (stealth design), distance standards between facilities of the same carrier collocation, and access requirements for WCF in the public right-of-way. For small cell facilities in the public right-of-way, staff recommends against placing radios and accessory equipment in underground vaults. This approach can necessitate frequent access for equipment repairs and maintenance (potentially requiring sidewalk or street closures), introduce potential noise issues related to cooling equipment and/or metal covers, introduce conflicts with underground utilities or city infrastructure, and significantly increase project costs.

The *Design Standards and Guidelines* also include a summary of the permit process, checklists for application submittals, and information on the shot clock timelines. While ministerial processing of certain WCF permits may not require formal public or adjacent neighbor notification, an informational report is presented at each regular Planning Commission meeting (second Monday of every month). This report, provided by the Planning and Building Department, summarizes the number and types of permits applied for and approved during the previous month, including a specific breakdown of each permit type such as WCF.

Shot Clock

As recommended by staff, Chapter 8 reflects the strict FCC-mandated timelines for WCF application review. Shot clock durations vary depending on the type of application:

- Shortest (60 days): New facilities in the public right-of-way and modifications to existing facilities.
- Moderate (90 days): Macro cell facilities on existing structure.
- Longest (150 days): New structures outside the right-of-way.

The chapter outlines rules for pausing and resetting the shot clock, including provisions for incomplete applications. Ministerial review is recommended for applications meeting specific City requirements to ensure timely processing within the shot clock deadlines.

The chapter incorporates relevant FCC rulings, including Declaratory Rulings 09-99, 14-153, and 18-133, as well as the Middle-Class Tax Relief and Jobs Creation Act of 2012 (Section 6409).

Section 6409 of the Act establishes the "Eligible Facilities Request" process for modifying existing facilities with limited impact.

Piedmont List of Streets

As noted above, staff recommends an additional change to *The City of Piedmont Design Standards and Guidelines* to make a technical correction to section 3.04 City of Piedmont List of Streets (see Attachment B to this report).

CALIFORNIA ENVIRONMENTAL QUALITY ANALYSIS (CEQA REVIEW)

Pursuant to CEQA Guidelines §15378 and Public Resources Code §21065, the proposed amendments to the Zoning Ordinance and *Piedmont Design Standards and Guidelines*, including the elimination of Red Rock Road from the list of streets, is not a “project” because their adoption is not an activity that has the potential for a direct physical change or reasonably foreseeable indirect physical change in the environment. Accordingly, the Ordinance, proposed amendments to *Piedmont Design Standards and Guidelines*, including the change to the list of streets, is not subject to CEQA. Even if the Ordinance, proposed amendments to *Piedmont Design Standards and Guidelines*, including the change to the list of streets, were considered to be a “project” subject to CEQA, pursuant to CEQA Guidelines § 15061(b)(3) CEQA would not apply to this “project” as there is no possibility that this project will have a significant impact on the physical environment. The Ordinance merely amends existing provisions in the Piedmont City Code and current *Piedmont Design Standards and Guidelines* to allow the City to be more responsive to and the amendments to the *Piedmont Design Standards and Guidelines* are in response to changes in Federal and State laws related to local authority over wireless facilities. And the change to the list of streets merely corrects a technical error made in relation to listing a street as a public-right-of-way when it is not. The Ordinance, the proposed amendments to the *Piedmont Design Standards and Guidelines*, including the change to the list of streets, does not directly or indirectly authorize or approve any actual changes in the physical environment. Although this Ordinance would allow the City to amend the permit(s) required for a particular wireless facility, it does not change the existing requirements for a wireless communications facilities permit. All applications for any new wireless facility or change to an existing wireless facility would be subject to additional environmental review on a case-by-case basis. Accordingly, this Ordinance would be exempt from CEQA under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

CITY CHARTER

The proposed modifications to the City Code are in conformance with the City Charter, including Charter section 9.02, relating to zoning. No zones would be reduced or enlarged, and no zones would be reclassified. City Charter provisions are expressly referred to in City Code Section 17.02.010.C.

FISCAL IMPACT

If adopted by City Council, the proposed Code revisions are not anticipated to result in a fiscal impact. The proposed amendments to the City Code are a routine component of project review and approval administered by the Planning & Building Department, which collects fees established in the Master Fee Schedule to help cover the costs of the services provided. The Master Fee Schedule will need to be amended to include new WCF permit application types. Staff will seek Council's consideration of Fee Schedule amendments in coordination with the effective date of the Code Changes. Cities are obligated to expend resources needed to regulate development in compliance with both local goals and State law. City staff will develop application materials using existing resources and personnel.

PUBLIC PARTICIPATION

Wireless Communication Facilities

Developing WCF design standards tailored to Piedmont involved extensive public engagement. From forum discussions in 2018 to booths at community events (2018-2019), City staff reached out to many residents of Piedmont. Online surveys, media announcements, and presentations further facilitated input. Residents overwhelmingly favored "stealth" designs integrating antennas seamlessly into existing structures or landscaping, with exposed elements being highly unpopular. This community feedback, along with recent project approvals, forms the foundation for these new standards. Here is the [link to October 17, 2018, Open House posters](#). More recently, in the Piedmont Harvest Festival held in September 2024, City staff were present to discuss the draft updates to wireless communication facilities City Code and the new Chapter 8 to the *Piedmont Design Standards and Guidelines*.

Additionally, the public had the opportunity to comment on the draft updates to the WCF regulations at the four study sessions held at the Planning Commission and City Council in 2024. No written or verbal comments were received. In addition, public hearing notice of this agenda item was posted on January 24, 2024. This report, information on the proposed changes to the regulations for WCFs, other technical corrections, and methods to submit comments on the proposed amendments can be found on the City's website at: [City Council - City of Piedmont : https://piedmont.ca.gov/government/city_council/staff_reports](https://piedmont.ca.gov/government/city_council/staff_reports)

PLANNING COMMISSION DISCUSSION AND RECOMMENDATION

On January 13, 2025, the Planning Commission held a public hearing to consider the proposed amendments to the Zoning Ordinance and *Piedmont Design Standards and Guidelines*. After careful review, the Commission unanimously recommended that the City Council adopt the proposed updates. No public comments were received.

Following the Planning Commission's recommendation, and after further consultation with the City Attorney, staff made the following amendments to the Zoning Ordinance and *Piedmont Design Standards and Guidelines*:

- All references to "Public Hearing" were changed to "Public Meeting." This change aims to ensure the City's compliance with applicable legally mandated timelines while maintaining the opportunity for public input.
- References to specific materials like "FRP" (Fiber Reinforced Plastic) were removed. This allows for greater flexibility as stealth techniques evolve. If specific materials are deemed crucial for a project, they can be included as a condition of approval during the review process.
- The definition of "Macrocell" was modified to encompass "Eligible Facilities Requests," ensuring a comprehensive and accurate classification.
- References to "broadband" within the context of Batch Processing were replaced with "WCF" (Wireless Communication Facilities) to enhance clarity and consistency.
- A photo example of an installation in the right-of-way was replaced with a more current and relevant example for improved visual communication.

CITY ATTORNEY REVIEW

The proposed amendments to City Code chapter 17 and to the *Piedmont Design Standards and Guidelines* have been reviewed by the City Attorney.

CONCLUSION AND NEXT STEPS

As noted above, the proposed updates to provisions for Wireless Communication Facilities in the City Code and *Design Standards and Guidelines* are a response to recent Federal and State law and are intended to provide clarity for permit requirements to applicants. The goal is to provide a streamlined process for wireless permit applications as required by State and Federal laws while also establishing strong design standards to ensure that high-quality facilities are installed in Piedmont in the least intrusive manner technologically possible. An additional recommended amendment to the list of streets in the *Piedmont Design Standards and Guidelines* implements a technical correction.

The City Council is the decision-making body for the adoption of proposed amendments to the City Code and to the *Piedmont Design Standards and Guidelines*. Should the Council approve a first reading of the recommended ordinance on February 3, 2025, a second reading could occur as soon as February 18, 2025, and the Code amendments would go into effect thirty days after that time. City Council approval by resolution of the recommended changes to the *Piedmont Design Standards and Guidelines* would be effective immediately.

Staff recommends that the City Council adopt the resolutions as recommended by the Planning Commission, thereby adopting of amendments to the Zoning Ordinance and *Design Standards and Guidelines*.

Report By: Kevin Jackson, Director of Planning & Building
Gopika Nair, Associate Planner

ATTACHMENTS:

	<u>Pages</u>	
A	11-26	Draft Ordinance 778 N.S. - Amendments to Piedmont City Code Chapter 17, Planning and Land Use
B	27-46	Draft Resolution Recommending Adoption of Amendments to <i>Piedmont Design Standards and Guidelines</i> (Exhibit A – Draft Chapter 8 Wireless Communication Facilities and Draft Section 3.04 City of Piedmont List of Streets)
C	47-64	Redline Edits of the Zoning Ordinance

LINKS TO RELEVANT DOCUMENTS:

Link to City Council Staff Reports:

https://piedmont.ca.gov/government/city_council/staff_reports

Link to Planning Commission Staff Reports:

https://piedmont.ca.gov/government/commissions__committees/planning_commission

Link to all meeting videos:

https://piedmont.ca.gov/news/kcom-tv/live_content_and_video_archive

Piedmont City Code Chapter 17, Planning and Land Use:

https://piedmont.ca.gov/government/charter__city_code

Individual Links for Online Readers

March 11, 2024, Planning Commission study session [report](#) and [meeting minutes](#)

July 8, 2024, Planning Commission study session [report](#) and [meeting minutes](#)

September 9, 2024, Planning Commission study session [report](#) and [meeting minutes](#)

October 21, 2024, City Council study session [report](#) and [meeting minutes](#)

January 13, 2025, Planning Commission Public Hearing [report](#) and [meeting video](#)

[City of Piedmont Zoning Map](#)

[Piedmont City Code Chapter 17, Planning and Land Use](#)

ORDINANCE NO. 778 N.S.

AN ORDINANCE AMENDING DIVISION 17.46, WIRELESS COMMUNICATIONS FACILITIES, AND SECTION 17.78.010 OF DIVISION 17.78, APPEALS, OF CHAPTER 17 OF THE PIEDMONT CITY CODE TO UPDATE REGULATIONS RELATED TO WIRELESS COMMUNICATION FACILITIES

WHEREAS, the proposed amendments comply with recent California State and Federal regulations related to wireless communications facilities including FCC Declaratory Ruling 2018, Middle Class Relief and Jobs Creation Act of 2022 (47 USC Section 6409), AB 965, California Government Code 65964.1, and the Telecommunications Act of 1966; and

WHEREAS, the Planning Commission has held a duly noticed public hearing on the proposed amendments to City Code Chapter 17 on January 13, 2025, consistent with existing City Code section 17.72.040 and recommended that the City Council adopt the proposed amendments to the Zoning Ordinance with minor modifications shared by staff on January 10, 2025; and

WHEREAS, following the Planning Commission's recommendation, and after further consultation with the City Attorney, staff made minor amendments to the Zoning Ordinance as described in the Council Agenda Report posted on January 30, 2025;

NOW, THEREFORE, the City Council of the City of Piedmont hereby ordains, based on the oral and written staff report, all oral and written comments received and all other evidence in the record, as follows:

SECTION 1 – BACKGROUND AND INTENT

The City of Piedmont is updating its regulations for Wireless Communication Facilities (WCFs) to bring them into conformance with state and federal telecommunications regulations and related case law. Key changes include:

- A streamlined permit process for WCFs that meet specific criteria and standards.
- Updated definitions, standards, and language throughout.

The goal for the proposed changes is to increase clarity for WCF companies, the community, and City staff regarding acceptable WCF designs in Piedmont and to encourage the development of aesthetically pleasing and compatible WCFs.

Beginning in 2018, the City of Piedmont began to develop design standards for wireless communication facilities in response to changes to telecommunications law, as well as pressure from wireless service providers wishing to locate facilities in Piedmont. Over the last several years, staff has researched telecom facilities, performed community outreach, closely followed various Federal court rulings, and collaborated with experts and advisors about WCFs. The City of Piedmont has developed a set of comprehensive design standards for WCF that are proposed in a new chapter of the *Piedmont Design Standards and Guidelines*, entitled “Chapter 8 - Wireless Communication Facilities.”

SECTION 2 – Findings. The City Council hereby makes the following findings:

- A. The above recitations are true and correct and incorporated herein by reference.
- B. Pursuant to CEQA Guidelines § 15378 and Public Resources Code § 21065, the proposed amendments to the Zoning Ordinance are not a “project” because their adoption is not an activity that has the potential for a direct physical change or reasonably foreseeable indirect physical change in the environment. Accordingly, this Ordinance is not subject to CEQA. Even if this Ordinance were considered to be a “project” subject to CEQA, pursuant to CEQA Guidelines § 15061(b)(3) CEQA would not apply to this “Project as there is no possibility that this project will have a significant impact on the physical environment. This Ordinance merely amends existing provisions in the Piedmont City Code to allow the City to be more responsive to changes in Federal and State laws related to local authority over wireless facilities. This Ordinance does not directly or indirectly authorize or approve any actual changes in the physical environment. Although this Ordinance would allow the City to amend the permit(s) required for a particular wireless facility, it does not change the existing requirements for a wireless communications facilities permit. All applications for any new wireless facility or change to an existing wireless facility would be subject to additional environmental review on a case-by-case basis. Accordingly, this Ordinance would be exempt from CEQA under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.
- C. The proposed revisions implement amendments related to wireless communication facilities.
- D. Pursuant to City Code Section 17.72.050(B), the amendments are consistent with the Piedmont General Plan, as amended, the purposes of Chapter 17, and the provisions in City Charter Section 9.02.
- E. The proposed amendments further public health, safety, and welfare of the community.

SECTION 3 – AMEDNMENT OF DIVISION 17.46

Division 17.46 Wireless Communication Facilities, of the City Code is deleted and replaced in its entirety with the following:

“DIVISION 17.46 WIRELESS COMMUNICATION FACILITIES

Sections:

17.46.010	Purpose
17.46.020	Definitions
17.46.030	Applicability; Exemptions
17.46.040	Location; City site agreement
17.46.050	Permit; Application.
17.46.060	Independent Technical Review
17.46.070	Standards

17.46.080	Review Body; Findings
17.46.090	Batch Processing
17.46.100	Appeals

17.46.010 Purpose.

The purpose of this division is to provide a comprehensive set of standards for the development and installation of wireless communication facilities. The regulations are designed to facilitate the appropriate deployment of wireless networks and improvements to existing wireless network infrastructure to provide coverage and capacity throughout the City. These standards create a clear set of design requirements and application processes that allow wireless carriers to deploy their networks effectively, while not detracting from the aesthetics of the streetscapes, buildings, light standards, utility poles, and structures inside and outside of the public right-of-way in the City of Piedmont. These requirements aim to protect public health, safety, and community welfare while balancing the benefits of robust wireless services with the community's architectural character, aesthetics, and landscaping of the City. The purpose of these standards is not to regulate what technologies are being deployed, but to regulate the manner in which wireless equipment is deployed to ensure that such are not detrimental or injurious to the public health, safety, and general welfare; and that the aesthetic appearance shown in approved plans is continuously preserved. This division applies to applications for approval of the installation of new or modified wireless communication facilities, including applications previously received by the city but not yet approved, disapproved or conditionally approved by a final city decision.

17.46.020 Definitions.

In this division:

Antenna means an apparatus designed for the purpose of emitting radiofrequency (RF) signal, to be operated or operating from a fixed location pursuant to Federal Communications Commission (FCC) authorization, for the provision of personal wireless service and any commingled public information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under part 15 of title 47 of the Code of Federal Regulations.

Base station means an authorized wireless communications facility that connects wireless equipment and a communications network. The term does not encompass a tower as defined in this subpart or any equipment associated with a tower.

Batch processing means a type of permit submittal that consists of: (1) two or more WCF permit applications for "substantially similar WCF project sites," (2) the applications are submitted at the same time; and (3) by the same applicant.

Collocation means multiple telecommunications service providers using the same structure, including new and existing infrastructure. A new or replacement utility pole, streetlight, or tower is not a collocation and shall be reviewed as a new facility.

Concealment means a wireless facility that is covered, blended, disguised, camouflaged, or integrated to make a wireless facility look like something other than a wireless facility (as

defined by FCC Declaratory Ruling FCC-CIRC2006-003). Concealment includes incorporating *stealth* design (see definition below).

Camouflage means designed to mask or blend with the surrounding environment in such a manner to render it generally unrecognizable as a wireless facility to the casual observer. By way of example, a wireless communication facility may be camouflaged in a faux tree, faux bush, flagpole, or designed in a manner to be compatible with the appurtenant architecture, building, or natural surroundings.

DAS means distributed antenna system. DAS is a series of antennas that are usually lower power that have a connected fiber network to provide coverage to a specific location.

6409(a) Eligible Facilities Request refers to section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). Congress provided that state and local government review may not deny, and shall approve, *Eligible Facilities Requests* to modify existing wireless towers or base stations that do not substantially change the physical dimensions of the structure, defeat the concealment element, nor violate certain conditions associated with the siting approval.

Equipment cabinet means a cabinet or structure used to house equipment associated with a wireless communication facility.

FCC means Federal Communications Commission.

FCC Shot Clock or *shot clock* means the FCC's presumptively reasonable time frame, accounting for any tolling or voluntary extension, or unusual circumstances justifying additional time, within which the City generally must act on a duly filed request for authorization in connection with a personal wireless service facility, as such time frame is defined by the FCC and as may be amended or superseded. For batched applications, the longest shot clock applicable to any small wireless facility in the batch shall be applicable to the entire batch (e.g., in a batch with four collocations and one new/replacement pole, the FCC Shot Clock would be 90 days for the entire batch even though the collocation applications would be 60 days if submitted on an individual basis)

FRP Fiber Reinforced Plastic means a composite material made of a polymer matrix reinforced with fiber that is used to screen one or more antenna visually, while allowing wireless signals to pass through unobstructed.

GO95 is CPUC General Order 95 which outlines rules for overhead electric line construction.

Macrocell Site means any WCF that is not a small wireless facility or Eligible Facilities Request.

Monopole means a single free-standing pole, post, or similar structure, used to support equipment associated with a wireless communication facility.

Public right-of-way means a public highway, street, alley, sidewalk, or parkway that is subject to Public Utilities Code section 7901.

Related equipment means equipment ancillary to the transmission and reception of voice and data via radio frequencies. *Related equipment* may include, but is not limited to, cable, conduit and connectors.

Service provider means an authorized provider of wireless communication services, including a neutral host carrier.

Shroud is a physical barrier that encloses and conceals a WCF located atop a pole or on a structure or line. Examples include a radome.

Small Cell Facility has the same meaning as a small wireless facility, as set forth in 47 C.F.R. 1.6002(l).

Stealth Design means using concealment so that a wireless communications facility is designed to look like something other than a wireless tower or base station. Stealth design includes, but is not limited to:

- a. Integrating a WCF within the architecture of an existing structure outside the public right-of-way;
- b. Using a new structure built to conceal the WCF in its entirety, such as a stealth water tower or clock tower outside of the public right-of-way.
- c. Using a new architectural feature added to an existing structure outside of the public right-of-way to conceal the WCF; such as a faux vent, faux chimney, or faux penthouse.
- d. Using an architectural feature added to an existing or proposed structure in the public right-of-way to conceal the WCF in its entirety such as a protrusion on a streetlight or utility pole, new streetlight that integrates wireless equipment in its entirety, a new bus stop shelter, a faux trash can enclosure adjacent to an existing or proposed structure, or traffic signage added to a streetlight to cover and conceal WCF equipment.

Substantial change means it meets the requirements in the eligible facilities checklist, outlined in section 8.03.03 of the Piedmont Design Standards and Guidelines titled 6409 (a) Eligible Facilities Request Checklist

Toll, tolled, or tolling is defined as days that are not included in the calculation of the deadline for action by a jurisdiction due to incomplete application materials or voluntary agreement between the wireless service provider and the jurisdiction.

Tower means a structure built for the sole or primary purpose of supporting Federal Communications Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site improvements.

Sidewalk vault is a base station for equipment in an underground facility located in a cabinet beneath the sidewalk.

Wireless telecommunications facility (WCF) means any facility constructed, installed, or operated for wireless service. *Wireless telecommunications facility* includes, but is not limited to, antennas or other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting such equipment, related accessory equipment, equipment buildings, parking areas, and other accessory development. "Wireless telecommunications facility" does not mean any of the following:

- a. A facility that qualifies as an amateur station as defined by the FCC, 47 C.F.R. Part 97, of the Commission's Rules, or its successor regulation.
- b. An antenna facility that is subject to the FCC Over-The-Air-Receiving Devices rule, 47 C.F.R. Section 1.4000, or any successor regulation, including, but not limited to, direct-to-home satellite dishes that are less than one meter in diameter, TV antennas used to receive television broadcast signals and wireless cable antennas.
- c. Portable radios and devices including, but not limited to, hand-held, vehicular, or other portable receivers, transmitters or transceivers, cellular phones, CB radios, emergency services radio, and other similar portable devices as determined by the city manager.
- d. Telecommunications facilities owned and operated by any government agency.
- e. Telecommunications facilities owned and operated by any emergency medical care provider.
- f. Mobile services providing public information coverage of news events of a temporary nature.
- g. Any wireless telecommunications facilities exempted from the Piedmont City Code by federal law or state law.

17.46.030 Applicability; Exemptions.

A. Applicability. This division 17.46 applies to all wireless communication facilities, except those exempted in subsection B below (though other permit requirements may apply).

B. Exemptions. The following facilities are exempt from this division:

1. Wireless communication facility for which a federal or state statute or regulation exempts the facility from the imposition of the permit requirements of this division but only to the extent of such exemption.
2. Satellite dish antenna, less than one meter in diameter for receiving radio or television stations by the property owners, occupants or guests.
3. City-owned or operated communication facilities.

4. Communication equipment located completely inside a structure, not visible from the outside, whose purpose is solely to provide wireless communications within the same structure, including Wi-Fi hotspots and access points, with no alteration to the exterior of the structure.

17.46.040 Location; City site agreement.

A. Priority for location.

1. Preference for Zone B, Zone D, and public right of way sites. In order of preference, wireless communication facilities should be located (i) on publicly-owned property outside of the public right of way in Zone B, (ii) property in Zone D, or (iii) public rights-of-way.
2. Alternative locations. Any location for a wireless site outside of Zone B not on publicly-owned property, or not with a public right of way will be considered according to the following priority:
 - a. The applicant must first attempt to locate a site in Zone D, the commercial zone, that is not used for residential purposes.
 - b. If it is infeasible to locate in Zone D, the applicant must attempt to locate at a non-residential property in Zone A, C or E.
3. General. In all cases, the preference, in order, is to locate on or in an existing structure which the wireless communication facility can be concealed; or to collocate on an existing wireless communication facility with a stealth design; or to locate on a new structure that can be incorporated in a stealth manner compatible with the surrounding area.
4. Prohibit. Wireless communication facilities are prohibited on properties that contain a residential use, regardless of zone.

B. City site agreement.

1. Consideration by staff. If the applicant wishes to locate on city-owned property or facilities, the applicant must discuss its desired location(s) with staff (Public Works Director and Planning & Building Director, as appropriate) before the submittal of an application. If the location appears to be generally feasible, city staff will negotiate the principal terms for a proposed site agreement with the applicant, spelling out in detail the specific facilities to be located on city property or facilities, the term of the agreement, the compensation to be provided the city, and other terms.
2. Consideration by City Council. When the principal terms for a proposed agreement have been prepared and approved by city staff, staff will schedule the matter for hearing before the City Council. The City Council will consider the proposed

agreement as part of an ordinance, required by City Charter Section 2.11(6). The City Council may defer its final decision regarding the agreement until after the wireless communication facility permit is approved.

3. Limited nature of consent. The city's consent as property owner to process a wireless communication facility permit is not be deemed city consent to lease or license the property.

C. No wireless communication facilities on residential property. Wireless communication facilities shall not be installed on property which is used for residential purposes, irrespective of the zoning district in which such residential property is located.

17.46.050 Permit; Application.

A. Permit. A wireless communication facility permit is specifically for wireless communication facilities and is required for each facility. If the wireless communication facility permit is approved, the owner or operator must also obtain a building permit before beginning construction.

B. Application.

1. All applications. An application for a wireless communication facility permit must include:

a. a complete application to the City with all relevant fields completed and all required documents attached;

b. evidence of a significant gap in coverage or capacity or introduction of new services or other service capability improvements, which the application seeks to address if the applicant is going on a less preferred structure or in a less preferred zone; and

c. applicable fees and/or deposits, including a deposit for independent technical review under section 17.46.060 below.

d. all applicable documents outlined in the submittal checklist in section 8.03.04 of the Design Standards and Guidelines titled Submittal Checklist

2. Application for location on city property. An applicant for a wireless communication facility proposed to be located on city property or in a public right-of-way must submit a Letter of Authorization signed by the City of Piedmont City Council and all documents listed in Chapter 8 of the Design Standards and Guidelines.

17.46.060 Independent Technical Review.

The Director is authorized in his or her discretion to retain an independent technical consultant to review materials submitted by the applicant and to provide an analysis of issues including but not limited to: whether the wireless communication facility meets the applicable radio frequency emission regulations; whether a significant gap in coverage or capacity exists and whether the

proposed facilities are the least intrusive means of doing so; whether there are alternative sites and the feasibility of those sites; whether there are ways to mitigate aesthetic impacts; and any other specific technical issues designated by the Director. The applicant must pay the consultant's costs, and must increase the deposit to cover the anticipated amount as the Director may deem necessary from time-to-time.

17.46.070 Standards.

A. Development Standards. The following development standards apply.

1. Collocation. New wireless communication facilities must be collocated with existing facilities and with other planned new facilities whenever feasible. A new wireless tower must be designed and constructed to accommodate future collocation(s) unless the city determines that collocation would be infeasible because of physical or design issues specific to the site.
2. Height limits. Wireless Facilities must follow height limits of the zoning district they are proposed to be installed in, height limits of the City of Piedmont Public Works Standard Details, height limits set by the FCC, and/or height limits outlined in GO95 regulations. Ground mounted wireless communication equipment, base station, antenna, pole, or tower must be the minimum functional height, unless as required by federal or state law. Roof mounted equipment and antennas must be located to minimize visibility.
3. Visual impact. Wireless communication facilities must be designed to minimize visual impacts. Facilities must be concealed or camouflaged to the greatest extent practicable in accordance with this Division, as determined by the Planning & Building Director. The facilities must have a non-reflective finish and be painted or otherwise treated to minimize visibility and the obstruction of views.

The facilities may not bear signs, other than certification, warning, emergency contacts, or other signage required by law or expressly required by the city.

4. Public health, peace and safety. A wireless communication facility may not adversely affect the public health, peace and safety.
5. Public right-of-way. A wireless communication facility located in the public right-of-way may not cause: (i) physical or visual obstruction, or safety hazard, to pedestrians, cyclists, or motorists; or (ii) inconvenience to the public's use of the right-of-way. Equipment, walls, and landscaping located above grade must follow the City of Piedmont Public Works Department Standard Details and not interfere with the public's use of the right-of-way.
6. Compliance with laws. Each wireless communication facility must comply with federal and state statutes governing local agencies' land use authority regarding the siting of wireless communication facilities, including without limitation 47 USC sections 253, 332(c)(7), 47 USC section 1455 (also known as section 6409 of the 2012 Middle Class Tax Relief and Jobs Act), California Government Code sections 50030, 65850.6 and

65964, and California Public Utilities Code sections 7901 and 7901.1. Each reference to a federal and state statutes is to the statute as it may be as amended from time-to-time and to the extent the statute remains in effect.

B. Operation and Maintenance Standards

1. Contact and site information. The owner or operator of a wireless communication facility must submit basic contact and site information to the city, and notify the city within 30 days of any changes to this information, including the transfer of ownership. The contact and site information must include: (i) the name, address, email address, telephone number, and legal status of the owner of the facility, including official identification number and FCC certification, and, if different from the owner, the identity and legal status of the person or entity responsible for operating and maintaining the facility; and (ii) the name, address, email address, and telephone number of a local contact person for emergencies.

2. Signage. The owner and/or operator must post an identification sign at each facility, including owner/operator emergency telephone numbers. The design, materials, colors, and location of the identification signs shall be subject to review and approval by the Director. If at any time a new owner or operator provider takes over operation of an existing personal wireless service facility, the new personal wireless service provider shall notify the Director of the change in operation within 30 days and the required and approved signs shall be updated within 30 days to reflect the name and phone number of the new wireless service provider. The colors, materials and design of the updated signs shall match those of the required and approved signs. No sign shall be greater than two square feet in size.

3. FCC compliance. Each wireless communication facility must comply with FCC regulations, and avoid interfering with any city communication facilities, operations, utilities, equipment, or public safety communications. If the facility negatively impacts city facilities or equipment, the operator must comply with all FCC regulations and orders to resolve the interference. At the city's discretion, and at the operator's expense, the city may retain an outside technical consultant to evaluate and verify compliance with FCC regulations and to determine the cause of interference for an existing facility.

4. Facility maintenance. Each wireless communication facility must be maintained in good repair, free from trash, debris, litter, graffiti, and other forms of vandalism. The operator must repair any damage as soon as reasonably possible, but no later than 90 days from the time of notification.

Landscaping elements at a wireless communication facility site must be maintained in good condition, and in compliance with the approved landscape plan. The owner or operator is responsible for replacing any damaged, dead, or decayed landscape materials and making necessary irrigation and equipment repairs as soon as reasonably possible.

5. Noise. A wireless communication facility must be operated to minimize noise that is audible as provided in Chapter 8 of the City Code

6. Removal. All wireless communication facility equipment must be removed within 30 days of the discontinuation of the use, and the site restored to its original, preconstruction condition. In addition, the service provider must provide the city with a notice of intent to vacate a site a minimum of 30 days before the vacation. For a wireless communication facility to be located on public property, this removal requirement will be included within the lease. For a facility to be located on private property, the property owner is encouraged to also include this in the lease, because the property owner will otherwise be responsible for removal.

C. Term of permit. A wireless communication facility permit is valid for an initial period of ten years as specified in the Piedmont Design Standards and Guidelines unless: (i) a longer period is required by state or federal law; or (ii) a shorter time is required as a condition of approval for particular circumstances set forth in the decision, particularly with respect to public safety or substantial land use reasons under California Government Code section 65964(b). The Director may administratively extend a permit upon verification of continued compliance with this division 17.46 and any conditions of approval.

However, a permit granted for a collocation or modification under section 17.46.080 D.2.b will be effective for the shorter of: (i) the term of the original permit; or (ii) a longer period if required by state or federal law.

17.46.080 Review Body; Findings.

A. Review Body.

1. Permit and Reviewing Body.

Location	Type of WCF	Design Standards Criteria	Type of Permit Required
WCF in the Right-of-Way	6409 Collocation	Meets the design criteria outlined in Design Standards and Guidelines Section 8.02.03	Building Permit
			Encroachment Permit
	Small Cell or DAS Application	Meets the Design Standards and Guidelines Section 8.02.03	Building Permit
		Does not meet the Design Standards and Guidelines	WCF Planning Permit, Review by Planning Commission
			Building Permit
			Encroachment Permit

	Collocation (not under 6409) with existing structure		WCF Planning Permit, Review by Director Building Permit Encroachment Permit
WCF On Public or Private Property	New structure		WCF Planning Permit, Review by Planning Commission Building Permit
	Collocation (not under 6409) with existing structure		WCF Planning Permit, Review by Director Building Permit
	6409 Collocation	Meets Design Standards and Guidelines in Section 8.02.04	Building Permit

2. Planning Commission. After receiving a completed application, the city staff will schedule a noticed public meeting before the Planning Commission consistent with divisions 17.62 and 17.64. Any application submitted to be reviewed by the Director outlined in section 17.46.080.A may be referred to the Planning Commission unless otherwise stated by federal law.

B. Required findings; Exceptions.

1. Findings. Before approving a wireless communication facility permit as provided in City Code section 17.46.080.A.3 and 17.46.080.A.4, the reviewing body must make the following findings:

- a. The applicant has evaluated and met the priority for location standards of section 17.46.040 A above.
- b. The proposal satisfies each of the applicable development standards in section 17.46.070 above.
- c. The proposed design is consistent with the Piedmont Design Standards and Guidelines.
- d. The proposed facility has been located and designed for concealment and collocation to the greatest extent reasonably feasible, and the applicant has submitted a statement of its willingness to allow other wireless service providers to collocate on the proposed facility.

2. Exceptions.

- a. General. The decision-making body may grant an exception to any requirement of this division 17.46, including without limitation the priority for location under section 17.46.040 A, if the applicant establishes that strict compliance would violate federal or state law.
- b. Modification. The Director may consider and grant, modify and grant or deny a modification to an existing wireless communications facility if the modification meets the requirements of section 6409. In determining whether to approve the requested modification the Director shall approve if the project meets the criteria outlined in section 8.03.03 of the Piedmont Design Standards and Guidelines titled 6409 (a) Eligible Facilities Request Checklist.
- c. The exemptions listed in the definition of *wireless communication facility* in section 17.46.020.

Any proposed modification that is not a collocation, or for which the wireless communication facility will be fully concealed or camouflaged, or that does not fall within the requirements of section 6409 shall be reviewed and considered under the same provisions and requirements as those required for the original consideration of the permit proposed for modification.

17.46.090 Batch Processing.

In accordance with Assembly Bill 965, an applicant may submit a “batch WCF processing permit” when it receives two or more WCF permit applications for substantially similar WCF project sites, submitted at the same time, and are submitted by the same applicant.

A. Requirements

1. The City will consider applications under Assembly Bill 965 for WCF batch processing as “nearly identical in terms of equipment and general design, but not location” if they meet the following criteria.
 - a. Require the same permits;
 - b. Are the same kind of facilities (for example, all the applications received are stealth facilities, are on streetlights, are on utility poles, etc.);
 - c. Must be on the same type of property (for example, the City will not batch process an application on private property along with an application on public property);
 - d. Must be in the same zoning district;
 - e. The proposed facilities are within 5 feet of each other in height/elevation;

- f. The proposed facilities have similar power output and operating frequency for any proposed antenna array;
 - g. Use of substantially the same equipment in the same configuration on the same support structure type;
 - h. Have similar accessory equipment which is located in similar locations, whether above ground or below ground;
 - i. Use the same material for exterior finishes, including color and texture;
 - j. Do not require illumination of the wireless facilities with the exception of security and maintenance lighting;
 - k. Only collocation applications can be considered substantially similar to other collocation applications; and
 - l. No more than 25 sites are included in a batch processing application.
- B. Review Body. Applications submitted under a batch processing permit shall be subject to review by the body outlined under section 17.46.080.A.
- C. Application Fee. The applicant shall pay an application fee in the amount established by City Council resolution.
- D. Application Determination. Each application in a batch must meet all the requirements for a complete application, which includes without limitation the application fee for each site in the batch. If any application in a batch is incomplete, the entire batch shall be deemed incomplete. If an applicant removes more than 50% of the facilities from a batch application, the entire batch application shall be withdrawn. If any application in a batch fails to meet the required findings for approval, the entire batch shall be denied.

17.46.100 Appeals.

An appeal of a wireless communication facility application may be submitted for any application reviewed by the Director or reviewed by the Planning Commission. During an appeal, the burden of proof is on the appellant. The appeal will be submitted to the City Administrator or the City Administrator's designee. The appellant shall pay an appeal fee in the amount established by the City Council resolution. The appeal must be submitted within five days of a decision made by the Director or Planning Commission. Upon receiving the appeal, in not less than 5 business days, the City Clerk shall give written notice to the applicant, the appellant in those cases where the applicant is not the appellant, and other parties involved, of the date and place of hearing of the appeal. In considering the appeal, the City Administrator or designee shall review all documents submitted and findings made by the Director or Planning Commission. The hearing will not be a de novo hearing. The City Administrator or designee may overrule the action of the decision maker only if one of the following occurs:

- a. the findings made by the decision maker as a basis for its action are not supported by the weight of the evidence;
- b. there is a significant error in the application of the requirements of this chapter 17 or other requirements of the City Code;
- c. there is a significant error in the application of the Piedmont Design Standards and Guidelines; or
- d. significant errors in the application, plans, drawings or other materials provided to the decision maker are discovered after the hearing, which were a basis of the decision.

Any appeal shall be conducted so that a timely written decision may be issued in accordance with applicable law.

There is not an appeal process for applications submitted under a ministerial review permit.”

SECTION 4 – AMENDMENT OF SECTION 17.78.010

Section 17.78.010, General, of the City Code is amended in its entirety to read as follows:

“Except for a decision regarding an accessory dwelling unit under division 17.38 or wireless communications facilities under division 17.46, any interested person may appeal a decision of the Director to the Planning Commission, or a decision of the Planning Commission to the City Council, all under the terms of this division 17.78. Appeals of decisions regarding wireless communication are governed under section 17.46.100.”

SECTION 5 – CONFLICTS

If a previous City Council ordinance or resolution is in conflict with this ordinance, that ordinance or resolution is superseded, and the provisions of this ordinance prevail.

SECTION 6 – SEVERABILITY

The provisions of this Ordinance are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Ordinance or their applicability to other persons or circumstances.

SECTION 7 – CODIFICATION

The City Clerk is directed to codify this ordinance in a manner which reflects the legislative intent of the City Council

SECTION 8 – POSTING, EFFECTIVE DATE, AND SUBMISSION

This Ordinance shall be posted at City Hall after its second reading by the City Council for at least 30 days and shall become effective 30 days after the second reading. The City Clerk is directed to submit a copy of this ordinance to the Department of Housing and Community Development in the manner required by law.

[END OF ORDINANCE]

RESOLUTION No. _____**A RESOLUTION ADOPTING AMENDMENTS TO THE CITY OF PIEDMONT DESIGN STANDARDS AND GUIDELINES THAT ADDS CHAPTER 8, WIRELESS COMMUNICATIONS FACILITIES, AND REMOVES RED ROCK ROAD FROM SECTION 3.04 OF THE CITY OF PIEDMONT LIST OF STREETS**

WHEREAS, in 2019 when the Piedmont City Council adopted a comprehensive update to the City's Design Guidelines, Chapter 8 was included as a placeholder for standards and guidelines for wireless communication facilities (WCF) that were yet to be drafted; and

WHEREAS, the purpose of the Piedmont Design Standards and Guidelines is to implement design and appearance policies outlined in the General Plan and Chapter 17 of the Piedmont City Code; and

WHEREAS, division 17.46 of the Piedmont City Code require a Wireless Communication Facilities permit for of construction of wireless communication facilities in Piedmont and requires that the facilities comply with the new Chapter 8, Wireless Communications Facilities, in the Piedmont Design Standards and Guidelines; and

WHEREAS, developing WCF design standards tailored to Piedmont involved extensive public engagement. From forum discussions in 2018 to booths at community events (2018-2019), City staff reached out to many residents of Piedmont. Online surveys, media announcements, and presentations further facilitated input. Residents overwhelmingly favored "stealth" designs integrating antennas seamlessly into existing structures or landscaping, with exposed elements being highly unpopular. This community feedback, along with recent project approvals, forms the foundation for these new standards; and

WHEREAS, to prepare the draft standards and guidelines for WCF, staff has conducted research on telecom facilities, engaged with and received input from the community, closely followed Federal court rulings, and collaborated with experts and advisors on WCF matters; and

WHEREAS, the draft amendments to the Piedmont Design Standards and Guidelines for a new Chapter 8 Wireless Communications Facilities were presented and discussed at two Planning Commission and one City Council study sessions on March 11, 2024, September 2024, and October 21, 2024, respectively, and an opportunity for public comment was provided at those study sessions; and

WHEREAS, the Planning Commission convened a public hearing on the draft amendments to the Piedmont Design Standards and Guidelines on January 13, 2025, and provided an opportunity for public and Commissioner comments at that time; and

WHEREAS, the new Chapter 8, Wireless Communication Facilities, is consistent with the proposed amendments to division 17.46 Wireless Communications Facilities of the Piedmont City Code;

WHEREAS, The City provides a list of streets in the *Piedmont Design Standards and Guidelines* at Section 3.04. The sole purpose of this list is to establish which streets require street yard setback on properties that front them. This list explicitly excludes public alleys and private roadways;

WHEREAS, the proposed technical correction recommended by staff to Chapter 3.04, City of Piedmont List of Streets, removes “Red Rock Road” from the list of streets. This entry was determined to be in error because Red Rock Road is not bounded by the property lines of abutting lots from which a street yard setback would be required. It is located across two City-owned parcels totaling approximately 12.8 acres in area and basically serves as a driveway to the City’s Corporation Yard and parking lots for Coaches Field; and

WHEREAS, Following the Planning Commission's recommendation, and after further consultation with the City Attorney, staff made minor amendments to the *Piedmont Design Standards and Guidelines* as described in the Council Agenda Report posted on January 30, 2025;

WHEREAS, City Council approval of the new Chapter 8, Wireless Communication Facilities, and amended Chapter 3.04, City of Piedmont List of Streets, is required before they become effective; and

NOW, THEREFORE, BE IT RESOLVED that, after reviewing the revised document, staff report, and all documents and public testimony received, the City Council of the City of Piedmont does hereby resolve, declare, determine and order as follows:

SECTION 1. The City Council finds that:

1. The facts set forth in the recitals in this Resolution are true and correct and hereby incorporated by this reference;
2. The recitals constitute findings in this matter and, together with the staff report and other written reports, public testimony and other information contained in the records are an adequate and appropriate evidentiary basis for the actions taken in this Resolution;
3. The provisions in this Resolution, as adopted, are consistent with General Plan Policies 1.3, Harmonious Development, and 35.8, Telecommunication Services; Piedmont City Code division 17.46 Wireless Communication Facilities; and applicable Federal and State laws; and
4. This Resolution will not be detrimental to the public interest, health, safety, convenience or welfare.

SECTION 2. Pursuant to CEQA Guidelines §15378 and Public Resources Code §21065, the proposed amendments to the *Piedmont Design Standards and Guidelines*, including the elimination of Red Rock Road from the list of streets, is not a “project” because their adoption is not an activity that has the potential for a direct physical change or reasonably foreseeable indirect physical change in the environment. Accordingly, the proposed amendments to *Piedmont Design Standards and Guidelines*, including the change to the list of streets, is not subject to CEQA. Even

if the proposed amendments to the *Piedmont Design Standards and Guidelines*, including the change to the list of streets, were considered to be a “project” subject to CEQA, pursuant to CEQA Guidelines §15061(b)(3) CEQA does not apply as there is no possibility that this project will have a significant impact on the physical environment. The proposed amendments to the *Piedmont Design Standards and Guidelines* merely amends existing provisions in the current *Piedmont Design Standards and Guidelines* to allow the City to be more responsive to changes in Federal and State laws related to local authority over wireless facilities. And the change to the list of streets merely corrects a technical error made in relation to listing a street as a public-right-of-way when it is not. The proposed amendments to the *Piedmont Design Standards and Guidelines*, including the change to the list of streets, does not directly or indirectly authorize or approve any actual changes in the physical environment. All applications for any new wireless communications facility or change to an existing wireless communications facility would be subject to additional environmental review on a case-by-case basis.

SECTION 3. The amendments to the *Piedmont Design Standards and Guidelines* specific to wireless communication facilities and list of streets, attached as **Exhibit A**, are adopted.

SECTION 4. 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 DOCUMENT]

3. SITE DESIGN

3.04 CITY OF PIEDMONT LIST OF STREETS

DESIGN OBJECTIVES:

1. Regulations in Zone A; Single-family Residential
Ref: Zoning Ordinance Sec. 17.24.040
2. Regulations in Zone C; Multi-Family Residential
Ref: Zoning Ordinance Sec. 17.20.040
3. Regulations in Zone D; Commercial
Ref: Zoning Ordinance Sec. 17.26.050
4. Regulations in Zone E; Estate Residential
Ref: Zoning Ordinance Sec. 17.28.040

The following is a complete list of *streets* in Piedmont. This list is maintained solely for the purpose of determining street setback requirements under the Zoning Ordinance. *Street* is defined as a public vehicular roadway. It does not include a public alley, or a private roadway.

Abbot Way	Caperton Avenue	Estates Drive
Alta Avenue	Carmel Avenue	Estrella Avenue
Annerley Road	Cavanaugh Court	Fairview Avenue
Arbor Drive	Cavendish Lane	Farragut Avenue
Arroyo Avenue	Craig Avenue	Florada Avenue
Artuna Avenue	Crest Road	Glen Alpine Road
Ashmount Avenue	Crocker Avenue	Grand Avenue
Bell Avenue	Crofton Avenue	Greenbank Avenue
Bellevue Avenue	Croydon Circle	Guilford Road
Blair Avenue	Dale Avenue	Hagar Avenue
Blair Place	Dormidera Avenue	Hampton Road
Bonita Avenue	Dracena Avenue	Hardwick Avenue
Boulevard Way	Dudley Avenue	Harvard Road
Calvert Court	Dudley Court	Hazel Lane
Cambrian Avenue	Echo Lane	Highland Avenue
Cambridge Way	El Cerrito Avenue	Highland Way

Hillside Avenue
Hillside Court
Holly Place
Howard Avenue
Huntleigh Road
Indian Gulch Road
Indian Road
Inverleith Terrace
Jerome Avenue
Keefer Court
King Avenue
Kingston Avenue
La Salle Avenue
La Salle Court
Lafayette Avenue
Lake Avenue
Lakeview Avenue
Langdon Court
Larmer Court
Latham Street
(Continued on next page.)
Lexford Road
Lincoln Avenue
Linda Avenue
Littlewood Drive
Lorita Avenue
Lower Grand Avenue
MacKinnon Place
Magnolia Avenue
Manor Drive
Marlborough Court
Maxwelton Road
Mesa Avenue
Monte Avenue
Monticello Avenue
Moraga Avenue
Mountain Avenue
Muir Avenue
Nace Avenue
Nellie Avenue
Nova Drive
Oak Road

Oakland Avenue
Oakmont Avenue
Olive Avenue
Pacific Avenue
Pala Avenue
Palm Drive
Park Boulevard
Park Lane
Park View Avenue
Park Way
Parkside Drive
Piedmont Court
Portsmouth Road
Prospect Road
Ramona Avenue
Ranleigh Way
~~Red Rock Road~~
Requa Place
Requa Road
Ricardo Avenue
Richardson Way
Ronada Avenue
Rose Avenue
San Carlos Avenue
Sandringham Place
Sandringham Road
Scenic Avenue
Sea View Avenue
Selborne Drive
Sharon Avenue
Sharon Court
Sheridan Avenue
Sierra Avenue
Somerset Road
Sotelo Avenue
St. James Circle
St. James Drive
St. James Place
Sunnyside Avenue
Sylvan Way
Trestle Glen Road
Tyson Circle

Valant Place
Vista Avenue
Waldo Avenue
Wallace Road
Warfield Avenue
Wildwood Avenue
Wildwood Gardens
Winsor Avenue
Wistaria Way
Woodland Way
Wyngaard Avenue
York Drive

8. WIRELESS COMMUNICATIONS FACILITIES

8.01 INTRODUCTION

With the growth in home-based work, proliferation of smart technologies, and steady increase in cellular data usage, wireless infrastructure improvements and deployments have become vital to daily life. With Federal Communications Commission (FCC) regulations creating new regulations concerning how wireless facilities are reviewed and approved, the City of Piedmont establishes these design standards, guidelines, and processes with which wireless facilities are permitted.

The City of Piedmont developed these Wireless Communication Facilities (WCF) Standards with the intent to facilitate the appropriate deployment of new wireless networks and improvements to existing wireless network infrastructure to provide coverage and capacity throughout the City. These standards create a clear set of design requirements and application processes that allow wireless carriers to deploy their networks effectively, while not detracting from the aesthetics of the City of Piedmont streetscapes, buildings, light standards, utility poles, and structures inside and outside of the public right-of-way. The City of Piedmont does not regulate what technologies are being deployed, but does have the authority to regulate the time, place, and manner in which wireless equipment is deployed.

Definitions and regulations governing wireless facilities can be found in division 17.46 of the Piedmont City Code.

8.02 WCF DESIGN AND SITING

8.02.01 LOCATION PREFERENCES

DESIGN STANDARDS:

1. The preferred locations for wireless facilities installations are as follows:
 - a. Lots in Zone B – Public Facilities
 - b. Lots in Zone D – Mixed Use and Commercial
 - c. Public Right-of-Way
2. The least preferred locations are as follows:
 - a. Lots in Zone A – Single Family Residential
 - b. Lots in Zone C - Multi-Family Residential
 - c. Lots in Zone E - Estates Residential

Facilities proposed on a property in the zones listed above currently being used for non-residential uses are least preferred. Applicants applying for sites on properties on a least-preferred property must provide written justification for the location preference and coverage/capacity maps. Nonetheless, WCF are prohibited on properties that contain a residential use, regardless of zone.

8.02.02 STRUCTURE PREFERENCES

DESIGN STANDARDS:

1. The preferred structures for locating WCF installations are as follows:
 - a. Existing buildings in a preferred zoning location
 - b. City light standards
 - c. Metal or wood utility poles
 - d. New structures in a preferred zoning location

WCFs are not preferred to be installed on existing or new structures within a least-preferred zoning location. Applicants must provide written justification and coverage/capacity maps if they propose WCF in a least preferred site.

8.02.03 DESIGN STANDARDS IN THE PUBLIC RIGHT-OF-WAY

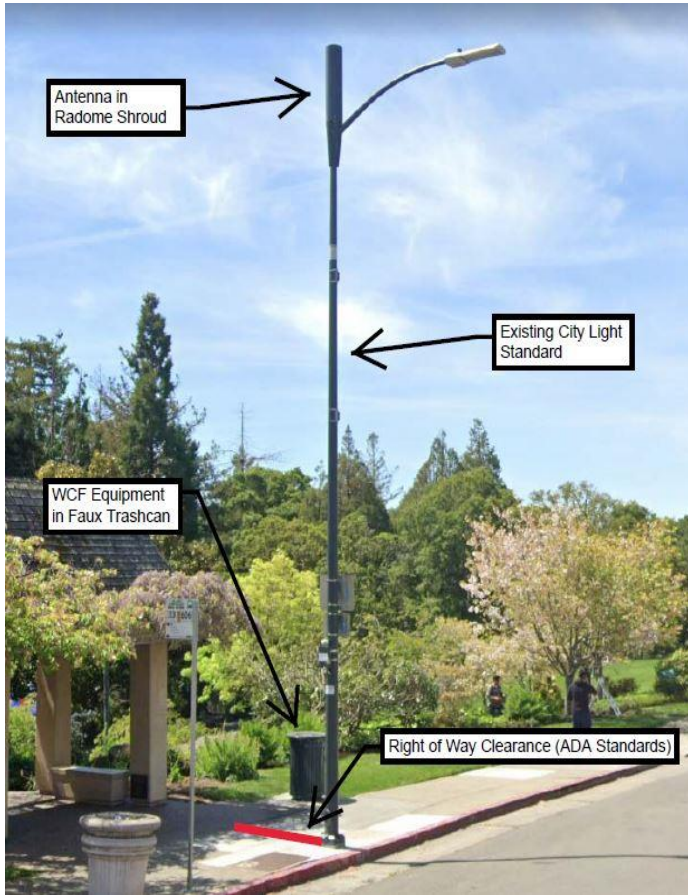
DESIGN STANDARDS:

Wireless Communication Facilities shall be located and designed to minimize the impact to the surrounding area and maintain the character of the neighborhood. The WCF shall be designed in such a way as to be the least intrusive possible, using stealthing, and minimal necessary equipment.

1. A WCF in the public right-of-way shall never incommode the public in using the right-of-way.
2. The antenna(s) shall be stealth with shrouding, radome, or another form of stealth concealment.
3. For wood utility poles carrying power lines, replacement poles shall be the minimum height necessary to provide GO 95 mandated clearances between WCF equipment and power lines.
4. All associated “antenna skirt” shall taper to meet the top of the pole if wider than the pole.
5. Wireless providers shall have all associated equipment (radios, fans, etc.) screened, shrouded, or in stealthed cabinets. Equipment shall not face or extend toward adjacent private property or the adjacent curb line.
6. All wires, conductors, fiber, etc. will be contained inside the proposed structure wherever technologically feasible, including the use of a replacement pole (e.g. light standard) when necessary. When not feasible to be inside the structure, it shall be in conduits or shrouds and painted to match the structure.
7. All installations shall be painted to match, color and texture, of the City light standard or utility pole in addition to the screening.
8. Wireless providers shall not install wireless facilities within 500’ of their own existing facilities. No required separation from other wireless providers.
9. New structures in the right-of-way shall not be installed unless the applicant has shown that there is no other alternative to meet their coverage/capacity needs.
 - a. New structures shall not be installed within 25’ of an existing city light standard or wood utility pole.
10. The WCF shall comply with all requirements of the Americans with Disabilities Act of 1990 (“ADA”).
11. All fiber should be brought to a proposed site with the minimum visual impact possible. (Limit the number of “snowshoes” to as few as possible when overhead fiber is required.)
12. The radios and accessory equipment shall not be placed in underground vaults in the right-of-way.
13. All sites must meet City of Piedmont Public Works Standard Details.

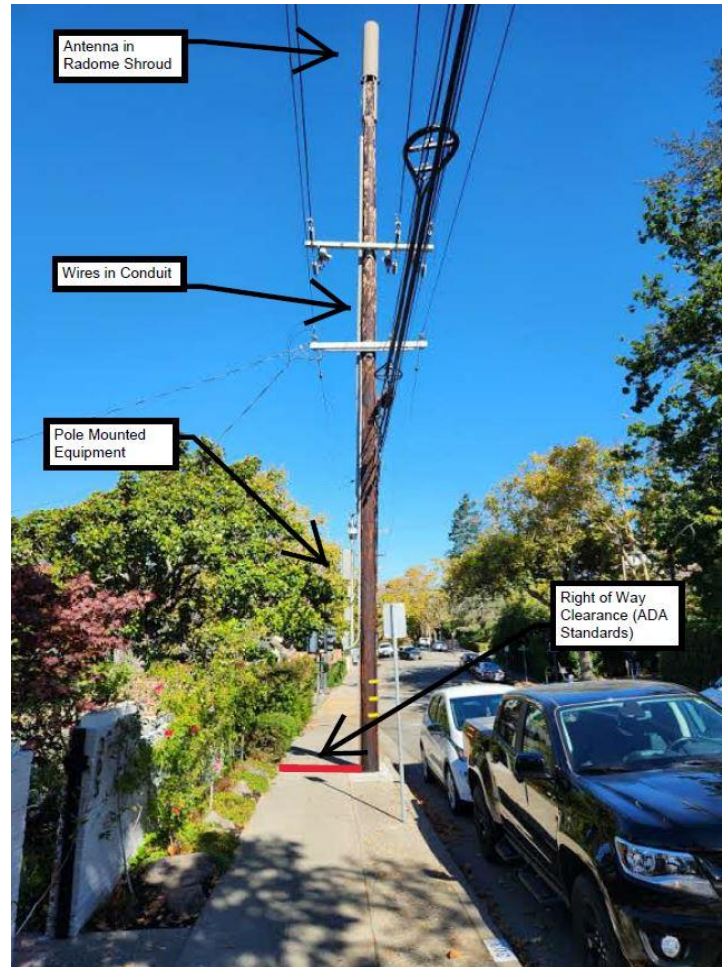
14. All sites must meet all State and Federal Regulations regarding wireless.

DESIGN COMMENTS:



Yes

- A. Equipment is concealed within the light pole and trash can, meeting stealth requirements.



Yes

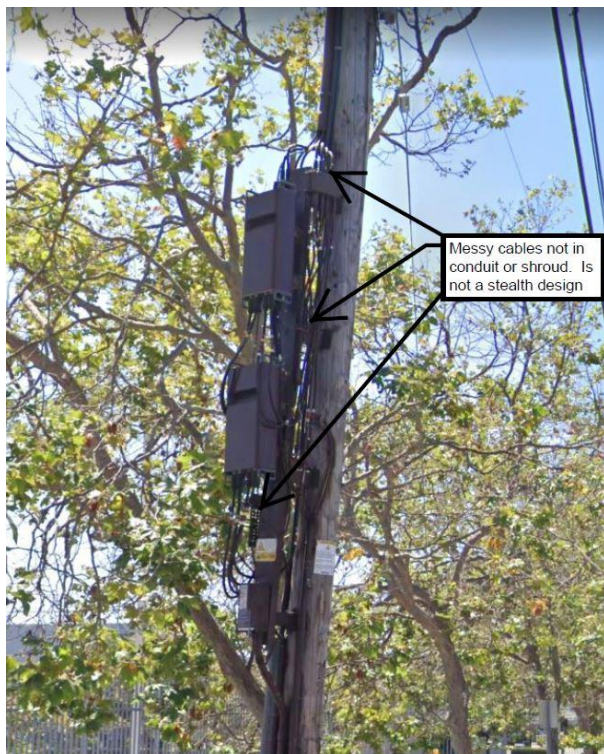
- B. Wires are enclosed by a conduit to prevent additional clutter, and the antenna is concealed in a shroud.

DESIGN COMMENTS :



Yes

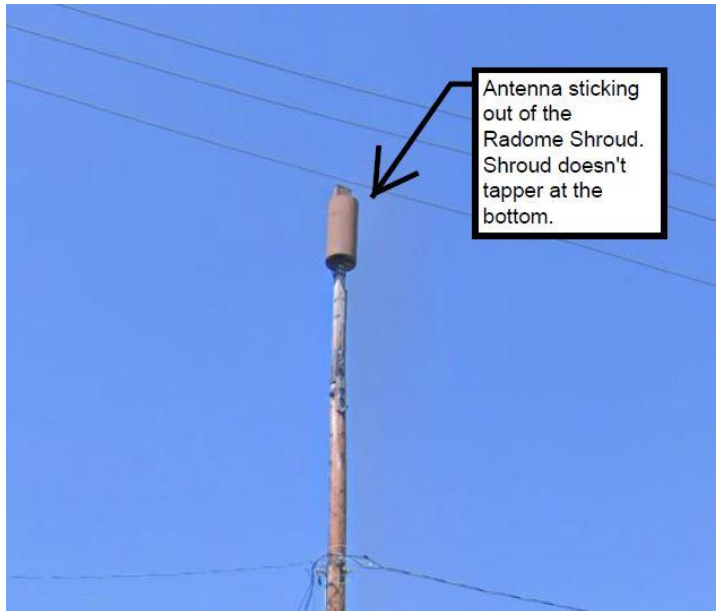
C. Antennas, cables, and radios are concealed in shrouds, and boxes with signage in front, to blend into the existing pole and making it not look like a wireless facility.



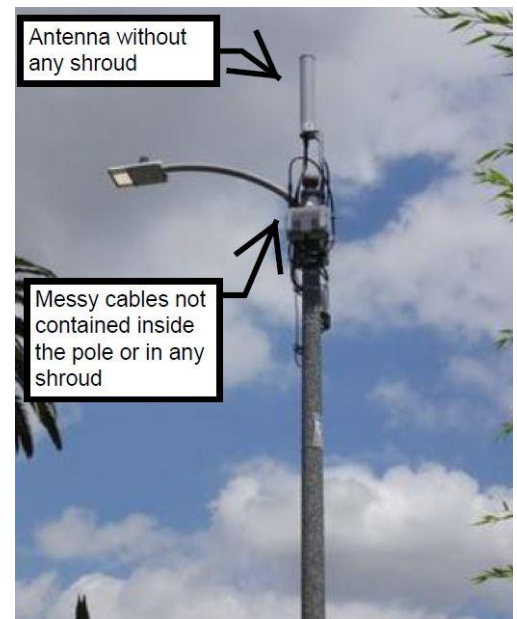
No

D. The equipment is tacked on, messy, and not concealed, which does not meet stealth requirements.

DESIGN COMMENTS:



No



No

E. The two images above both show antennas without proper shroud coverings. The example on the left does not taper to integrate with the pole, and the example on the right does not conceal the cables.



F. All equipment is integrated within the pole, and the design is reminiscent of traditional light posts.

Yes

8.02.04 DESIGN STANDARDS ON PRIVATE PROPERTY

DESIGN STANDARDS:

1. The antenna(s) shall be stealth with shrouding, radome, or another form of stealthed concealment.
2. Wireless providers shall have all associated equipment (radios, fans, etc) screened, shrouded, or in stealthed cabinets.
3. All wires, conductors, fiber, etc. shall be undergrounded and running through the inside of the structure.
4. Wireless providers shall not install wireless facilities within 500' of their own existing facilities. (No required separation from other wireless providers).
5. New Structures on private property shall not be installed unless the applicant has shown that there is no other alternative to meet their coverage/capacity needs.
 - No new structures or expansions shall be constructed on private property used for residential purposes.
 - New structures must be designed with the ability to allow future wireless providers to collocate in a manner that does not violate the stealth or concealment design.
6. The WCF shall comply with all requirements of the Americans with Disabilities Act of 1990 ("ADA").
7. All radios shall be installed in equipment lease areas and not on towers with the antennas.
8. All proposed backup battery units (BBU) or generators will be located in the equipment lease area and screened from public view. The generators shall meet the mechanically-generated sound requirements outlined in the Piedmont Building Code and State law requirements.
9. All sites must meet all State and Federal Regulations regarding wireless communication facilities.

DESIGN COMMENTS:



Yes

A. Above, the antennas are hidden behind the architectural screen, and the screen matches the rest of the building materials and design.



Yes

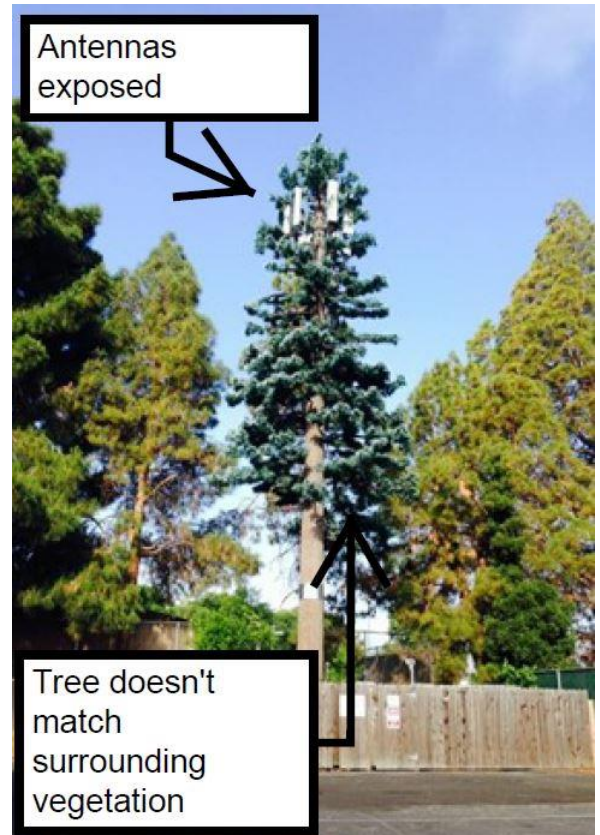
B. The antennas in this structure are stealthed to appear as chimneys, and the rest of the roof-mounted equipment is set back to not be visible from public view.

DESIGN COMMENTS:



No

C. This WCF does not attempt to conceal the multiple antennas on the roof, cluttering the space.



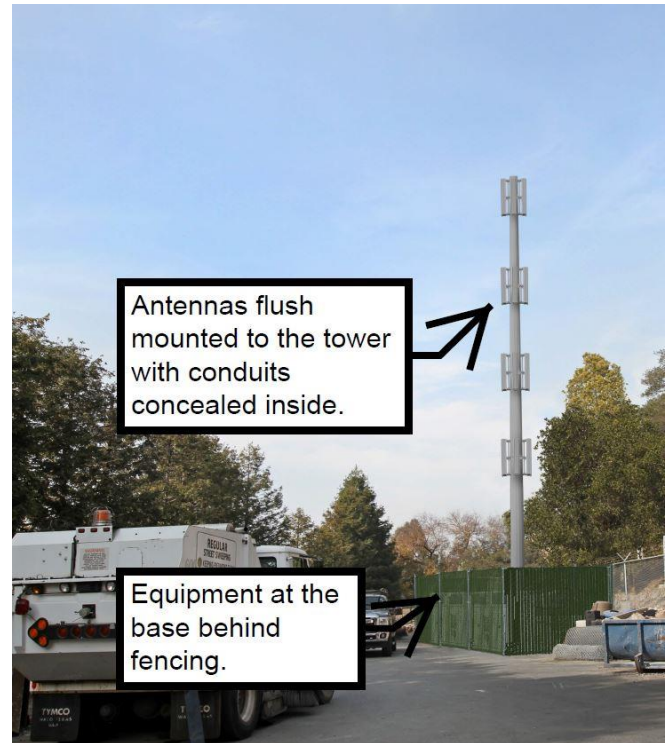
No

D. Faux trees poorly conceal equipment and are not encouraged.

DESIGN COMMENTS:

Yes

E. Antennas are kept flush to the tower and the conduits are concealed inside. Other equipment is concealed behind fencing.



Yes

F. Below, the antenna is entirely concealed within the bell tower.



8.03 WCF PERMIT PROCESS

8.03.01 APPLICATION

FCC Shot Clocks	
Project Type	Shot Clock
Small Cell on an existing structure in ROW	60 days
Small Cell on a new structure in ROW	90 days
Macro Cell on an existing structure	90 days
Macro Cell on a new structure	150 days
Eligible Facilities Request	60 Days
WCF Backup Power Generators	60 days

WCF applications shall be processed within the shot clock time limits established by FCC 09-99, FCC 14-153, FCC 18-133, and PUBLIC LAW 112-96 **section 6409 (A)** as referenced in the table, above. **Note that** it may be amended from time to time.

WCF Permit application requirements require WCF permit applicants to schedule an appointment with Piedmont Planning & Building staff a minimum of 24 hours before WCF permit application submittal, as the state and federal shot clocks reduce staff's ability to assist an applicant through the application process. In addition to the appointment, applicants can set up an optional preapplication meeting to review application materials with City Planning staff for initial feedback. These optional preapplication meetings requested by the applicant are not a City requirement and do not trigger the start of the shot clock.

8.03.02 WCF IN THE RIGHT-OF-WAY

Small Cell and DAS- Ministerial Review:

Small cell and distributed antenna system (DAS) WCF in the public right-of-way on new or existing structures that meet the criteria of the preferred location and design standards outlined in section 8.02.03 (of this chapter), are subject to a ministerial permit process. Ministerial applications will be processed as a Department of Public Works encroachment permit application and a Building Permit to be reviewed by Planning, Building, and Public Works staff. Projects eligible for ministerial review would have a 10-year permit expiration period.

Director Review:

Wireless Communication facilities that propose collocation on existing structures in the right-of-way that are not eligible for ministerial review are subject to review by the Director and are noticed to the public. The Director shall review public comments and the decision for approval can be appealed to the City Administrator on grounds of aesthetic and design concerns. Health concerns for any site meeting the FCC emissions exposure limits are not grounds for appeal to the Planning Commission. These proposed facilities should meet the design standards (section 8.02.03) and would have a 10-year permit expiration period.

Public Meeting:

Small cell facilities in the public right-of-way on new or existing structures that do not meet the design standards outlined in section 8.02.03 (of this chapter) are subject to review by the Planning Commission. This process includes public notification and hearings. Projects are limited to 10-year permit terms.

Eligible Facilities Request (Section 6409 Review)- Ministerial Review:

Eligible facilities requests for modifying existing WCF eligible for Section 6409 review are subject to a ministerial permit process. Applications must include the eligible facilities request checklist (see section 8.03.04 of this chapter) to show that any modifications will not be classified as a substantial change. Ministerial applications will be processed as a building permit application to be reviewed by Planning and Building Department staff. Projects eligible for ministerial Section 6409 review are limited to 10-year permit limits.

8.03.03 MACRO SITES ON PUBLIC OR PRIVATE PROPERTY

Eligible Facilities Request:

Eligible facilities requests for collocating WCF on structures with existing macro sites, such as a monopole or building, are subject to a ministerial permit process. Applications must include the eligible facilities request checklist (see section 8.03.04 of this chapter) for staff to determine if the project meets the eligible facilities request criteria. Ministerial applications will be processed as a building permit application to be reviewed by Planning and Building staff. Projects eligible for ministerial review with preferred location and design limited to 10-year permit limits.

Director Review:

Macrocell towers and telecommunications facilities that do not meet the criteria under eligible facilities request but are proposing collocation on existing structures are subject to Director review and are noticed to the public. The Director shall review public comments and the decision for approval can be appealed to the Planning Commission on grounds of aesthetic and design concerns. Health concerns for any site meeting the FCC emissions exposure limits are not grounds for appeal to the Planning Commission. These proposed facilities shall have a 10-year permit expiration period.

Public Meeting:

New Macrocell towers and telecommunications facilities that are located on new structures outside of the right-of-way are subject to review at public hearings of the Planning Commission and are noticed to the public. The application process will follow the requirements for a design review permit with Planning Commission review. These proposed facilities shall have a 10-year permit expiration period.

8.03.04 6409(a) ELIGIBLE FACILITIES REQUEST CHECKLIST

1. Has the existing the site been constructed and maintained consistent with the City's approval for the site?
- 2A. If the proposed wireless communication facility is outside the public right-of-way, does the proposed installation increase the height by 20' or 10 percent, whichever is greater?
- 2B. If the proposed wireless communication facility is in the public right of way or on a base station, does the proposed installation increase the height by 10' or 10 percent, whichever is greater?
3. Does the proposed wireless communications facility involve the installation of more than the standard number of new equipment cabinets for the technology involved, but not exceeding 4 cabinets? How many cabinets will be installed?
4. Does the proposed wireless communications facility include any excavation or deployment outside the current site not including any access or utility easements? If so, describe all installations outside of the current site.
5. Would the proposed wireless communications facility defeat the existing concealment elements of the tower or base station? Describe how the proposed installation will continue to maintain or improve the existing concealment efforts.
6. Does the proposed wireless communications facility comply with conditions associated with the prior approval of the tower or base station?*

*Unless non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding "substantial change" thresholds.

8.03.05 WCF SUBMITTAL CHECKLIST

Document	Description	Yes	No
Project Description and Justification	Detailed description of the proposed wireless facilities. List all new and removed equipment. The applicant shall also provide a written statement that explains in plain factual detail whether and why the proposed facility qualifies to be reviewed under a specific state or federal law.		
Site Plan	Show the location of the proposed wireless facility and the surrounding features (sidewalk, street, property lines, overhead and underground utilities).		
Site Survey	For any work in the right of way or on new structures, a survey, signed and stamped by a licensed engineer, is required.		
Elevations	Indicate the height of the top and bottom of the support structure, antennas, and associated equipment. Include FCC warning signage.		
Photo Simulations	Three photo simulations from different at least three vantage points with a map showing the shooting locations.		
Radio Frequency Report	Provide RF report from certified California engineer.		
Noise Study	Provide a report certifying that the proposed facility will comply with the City of Piedmont's noise ordinance.		
Structural Drawings and Calculations	Structural drawings and calculations stamped and signed by a certified California engineer.		
Circuit Map and Analysis	Provide a circuit map showing the route of power and fiber to the proposed wireless facility and any related easements. Please call out any changes or upgrades that will be needed.		
Electrical Plans	Provide electrical and grounding details and diagrams.		
Manufacturers Specification	Provide manufacturers specifications for all proposed equipment.		
Traffic Control Plan	Plans that show traffic control to facilitate construction. Plans shall conform to the latest California MUTCD requirements.		
EFR Checklist	For any Eligible Facilities Request, fill out the EFR checklist to show that the project qualifies as an EFR.		
Owner Authorization	Letter of Authorization from the property owner.		
Carrier Authorization	Letter of Authorization from the wireless carrier.		
Certificates of Insurance	General, Workers' Comp, and Auto Liability.		
Site Analysis	For Macro wireless facilities, 300' Alternate Site Analysis. For Small Cells, 100' Alternate Site Analysis. For both, confirm there is no wireless facilities from the same carrier within 500'.		

DIVISION 17.46 WIRELESS COMMUNICATION FACILITIES

Sections:

17.46.010	Purpose
17.46.020	Definitions
17.46.030	Applicability; Exemptions
17.46.040	Location; City site agreement
17.46.050	Permit; Application.
17.46.060	Independent Technical Review
17.46.070	Standards
17.46.080	~~Hearings~~ <u>Review Body</u> ; Findings
<u>17.46.090</u>	<u>Batch Processing</u>
<u>17.46.100</u>	<u>Appeals</u>

17.46.010 Purpose.

The purpose of this division is to provide a comprehensive set of standards for the development and installation of wireless communication facilities. The regulations are designed to facilitate the appropriate deployment of wireless networks and improvements to existing wireless network infrastructure to provide coverage and capacity throughout the City. These standards create a clear set of design requirements and application processes that allow wireless carriers to deploy their networks effectively, while not detracting from the aesthetics of the streetscapes, buildings, light standards, utility poles, and structures inside and outside of the public right-of-way in the City of Piedmont. These requirements aim to protect public health, safety, and community welfare while balancing the benefits of robust wireless services with the community's architectural character, aesthetics, and landscaping of the City. The purpose of these standards is not to regulate what technologies are being deployed, but to regulate the manner in which wireless equipment is deployed to ensure that such are not detrimental or injurious to the public health, safety, and general welfare; and that the aesthetic appearance shown in approved plans is continuously preserved. ~~protect and promote public safety and community welfare, property values, and the character and aesthetic quality of the city, while at the same time not unduly restricting the development of wireless communication facilities, and not unreasonably discriminating among wireless communication service providers of functionally equivalent services, including retail and other commercial providers of wireless communication services.~~ This division applies to applications for approval of the installation of new or modified wireless communication facilities, including applications previously received by the city but not yet approved, disapproved or conditionally approved by a final city decision.

17.46.020 Definitions.

In this division:

Antenna means ~~a device for transmitting and receiving radiofrequency signals. Antenna includes panel antennas, reflecting discs, microwave dishes, whip antennas, directions and non-directional antennas consisting of one or more elements, multiple antenna configurations, or other similar devices and configurations. The height of the antenna includes all array structures. Antenna includes a Distributed Antenna System (DAS), which is a network of spatially separated antenna sites connected to a common source that provides wireless service within a geographic area or~~

structure an apparatus designed for the purpose of emitting radiofrequency (RF) signal, to be operated or operating from a fixed location pursuant to Federal Communications Commission (FCC) authorization, for the provision of personal wireless service and any commingled public information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under part 15 of title 47 of the Code of Federal Regulations.

Base station means all equipment and apparatus, excluding antennas, that are components of the WCF, including any antenna support system regular and backup power supply, other associated electronics, electronic receiving and relay equipment, enclosed equipment, electrical meters, and the necessary housing and foundations an authorized wireless communications facility that connects wireless equipment and a communications network. The term does not encompass a tower as defined in this subpart or any equipment associated with a tower.

Batch processing means a type of permit submittal that consists of: (1) two or more broadband permit applications for “substantially similar broadband project sites,” (2) the applications are submitted at the same time; and (3) by the same applicant.

Collocation means multiple telecommunications service providers using the same structure, including new and existing infrastructure. A new or replacement utility pole, streetlight, or tower is not a collocation and shall be reviewed as a new facility.

Concealed means not observable. By way of example, a wireless communication facility will be considered concealed if it is contained within new or existing architectural details of a building, e.g., real or faux clock or bell tower, or on the roof of a building and concealed by parapets or screenwalls, or concealed by any other means, so long as the wireless communications facility does not substantially compromise the aesthetics of the building, and the new concealment element has been approved under a wireless communication facility permit.

Concealment means a wireless facility that is covered, blended, disguised, camouflaged, or integrated to make a wireless facility look like something other than a wireless facility (as defined by FCC Declaratory Ruling FCC-CIRC2006-003). Concealment includes incorporating stealth design (see definition below).

Camouflaged means designed to mask or blend with the surrounding environment in such a manner to render it generally unnoticeable/unrecognizable as a wireless facility to the casual observer. By way of example, a wireless communication facility may be camouflaged in a faux tree, faux bush, flagpole, or otherwise designed in a manner to be compatible with the appurtenant architecture, building, or natural surroundings.

DAS means distributed antenna system. DAS is a series of antennas that are usually lower power that have a connected fiber network to provide coverage to a specific location.

6409(a) Eligible Facilities Request refers to section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act).; Congress provided that state and local government review may not deny, and shall approve, Eligible Facilities Requests to modify existing wireless

towers or base stations that do not substantially change the physical dimensions of the structure, defeat the concealment element, nor violate certain conditions associated with the siting approval. -

Equipment cabinet means a cabinet or structure used to house equipment associated with a wireless communication facility.

FCC means Federal Communications Commission.

FCC Shot Clock or shot clock means the FCC's presumptively reasonable time frame, accounting for any tolling or voluntary extension, or unusual circumstances justifying additional time, within which the City generally must act on a duly filed request for authorization in connection with a personal wireless service facility, as such time frame is defined by the FCC and as may be amended or superseded. For batched applications, the longest shot clock applicable to any small wireless facility in the batch shall be applicable to the entire batch (e.g., in a batch with four collocations and one new/replacement pole, the FCC Shot Clock would be 90 days for the entire batch even though the collocation applications would be 60 days if submitted on an individual basis)

FRP Fiber Reinforced Plastic means a composite material made of a polymer matrix reinforced with fibres that is used to screen one or more antenna visually, while allowing wireless signals to pass through unobstructed.

GO95 is CPUC General Order 95 which outlines rules for overhead electric line construction.

Macrocell Site means any WCF that is not a small wireless facility or Eligible Facilities Request (EFR).

Monopole means a single free-standing pole, post, or similar structure, used to support equipment associated with a wireless communication facility.

Public right-of-way means a public highway, street, alley, sidewalk, or parkway that is subject to Public Utilities Code section 7901.

Related equipment means equipment ancillary to the transmission and reception of voice and data via radio frequencies. *Related equipment* may include, but is not limited to, cable, conduit and connectors.

Service provider means an authorized provider of wireless communication services, including a neutral host carrier.

Shroud is a physical barrier that encloses and conceals a WCF located atop a pole or on a structure or line. Examples include a radome.

Small Cell Facility has the same meaning as a small wireless facility, as set forth in 47 C.F.R. 1.6002(l).

Stealth Design means using concealment so that a wireless communications facility is designed to look like something other than a wireless tower or base station. Stealth design includes, but is not limited to:

a. Integrating a WCF within the architecture of an existing structure outside the public right-of-way;

b. Using a new structure built to conceal the WCF in its entirety, such as a stealth water tower or clock tower outside of the public right-of-way.

c. Using a new architectural feature added to an existing structure outside of the public right-of-way to conceal the WCF; such as a faux vent, faux chimney, or faux penthouse.

d. Using an architectural feature added to an existing or proposed structure in the public right-of-way to conceal the WCF in its entirety such as a protrusion on a streetlight or utility pole, new streetlight that integrates wireless equipment in its entirety, a new bus stop shelter, a faux trash can enclosure adjacent to an existing or proposed structure, or traffic signage added to a streetlight to cover and conceal WCF equipment.

Substantial change means it meets the requirements in the eligible facilities checklist, outlined in section 8.03.03 of the Piedmont Design Standards and Guidelines titled 6409 (a) Eligible Facilities Request Checklist

Toll, tolled, or tolling is defined as days that are not included in the calculation of the deadline for action by a jurisdiction due to incomplete application materials or voluntary agreement between the wireless service provider and the jurisdiction.

Tower means a structure built for the sole or primary purpose of supporting ~~wireless communication facilities, including a monopole. This does not include a structure that was installed to replace or collocate upon an existing power pole, light standard, energy transmission tower, or building.~~ Federal Communications Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site improvements.

Sidewalk vault is a base station for equipment in an underground facility ~~for equipment located in a cabinet beneath the sidewalk.~~

~~*Wireless communication facility* means an unstaffed facility, generally consisting of antennas (including a Distributed Antenna System), an equipment cabinet or structure, and related equipment that receives and/or transmits radio frequency signals.~~

Wireless telecommunications facility (WCF) means any facility constructed, installed, or operated for wireless service. *Wireless telecommunications facility* includes, but is not limited to, antennas or other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting such equipment, related accessory

equipment, equipment buildings, parking areas, and other accessory development. "Wireless telecommunications facility" does not mean any of the following:

a. A facility that qualifies as an amateur station as defined by the FCC, 47 C.F.R. Part 97, of the Commission's Rules, or its successor regulation.

b. An antenna facility that is subject to the FCC Over-The-Air-Receiving Devices rule, 47 C.F.R. Section 1.4000, or any successor regulation, including, but not limited to, direct-to-home satellite dishes that are less than one meter in diameter, TV antennas used to receive television broadcast signals and wireless cable antennas.

c. Portable radios and devices including, but not limited to, hand-held, vehicular, or other portable receivers, transmitters or transceivers, cellular phones, CB radios, emergency services radio, and other similar portable devices as determined by the city manager.

d. Telecommunications facilities owned and operated by any government agency.

e. Telecommunications facilities owned and operated by any emergency medical care provider.

f. Mobile services providing public information coverage of news events of a temporary nature.

g. Any wireless telecommunications facilities exempted from the Piedmont City Code by federal law or state law.

17.46.030 Applicability; Exemptions.

A. Applicability. This division 17.46 applies to all wireless communication facilities, except those exempted in subsection B below (though other permit requirements may apply).

B. Exemptions. The following facilities are exempt from this division:

1. Wireless communication facility for which a federal or state statute or regulation exempts the facility from the imposition of the permit requirements of this division but only to the extent of such exemption.
2. Satellite dish antenna, less than one meter in diameter for receiving radio or television stations by the property owners, occupants or guests.
3. City-owned or operated communication facilities.
4. Communication equipment located completely inside a structure, not visible from the outside, whose purpose is solely to provide wireless communications within the same structure, including Wi-Fi hotspots and access points, with no alteration to the exterior of the structure.

17.46.040 Location; City site agreement.**A. Priority for location.**

1. Preference for Zone B, ~~publicly-owned property~~Zone D, and public right of way sites. In order of preference, wireless communication facilities should be located (i) on publicly-owned property outside of the public right of way; in Zone B, ~~within the city~~ (ii) ~~on publicly-owned facilities in any other zone outside of the public right of way~~property in ~~z~~Zone D, or (iii) public rights-of-way.

2. Alternative locations. Any location for a wireless site outside of Zone B; not on publicly-owned property, or not with a public right of way will be considered according to the following priority:

a. The applicant must first attempt to locate a site in Zone D, the commercial zone, that is not used for residential purposes.

b. If it is infeasible to locate in Zone D, the applicant must attempt to locate at a non-residential property in Zone A, C or E.

3. General. In all cases, the preference, in order, is to locate on or in an existing structure which the wireless communication facility can be concealed; or -to collocate on an existing wireless communication facility with a stealth design; -or to locate on a new structure that can be incorporated in ~~an inconspicuous or compatible~~a stealth manner compatible with the surrounding area.

4. Prohibition. Wireless communication facilities are prohibited on properties that contain a residential use, regardless of zone.

B. City site agreement.

1. Consideration by staff. If the applicant wishes to locate on city-owned property or facilities, the applicant must discuss its desired location(s) with staff (Public Works Director and Planning & Building Director, as appropriate) before the submittal of an application. If the location appears to be generally feasible, city staff will negotiate the principal terms for a proposed site agreement with the applicant, spelling out in detail the specific facilities to be located on city property or facilities, the term of the agreement, the compensation to be provided the city, and other terms.

2. Consideration by City Council. When the principal terms for a proposed agreement have been prepared and approved by city staff, staff will schedule~~d~~ the matter for hearing before the City Council. The City Council will consider the proposed agreement as part of an ordinance, required by City Charter Section 2.11(6). The City Council may defer its final decision regarding the agreement until after the wireless communication facility permit is approved.

3. Limited nature of consent. The city's consent as property owner to process a wireless communication facility permit is not be deemed city consent to lease or license the property.

C. No wireless communication facilities on residential property. Wireless communication facilities shall not be installed on property which is used for residential purposes, irrespective of the zoning district in which such residential property is located.

17.46.050 Permit; Application.

A. Permit. A wireless communication facility permit is ~~a type of conditional use permit~~ specifically for wireless communication facilities and is required for each facility. If the wireless communication facility permit is approved, the owner or operator must also obtain a building permit before beginning construction.

B. Application.

1. All applications. An application for a wireless communication facility permit must include:

a. a complete application ~~on a form provided by the city, setting forth information for the applicant to submit to the City with all relevant fields completed and all required documents attached;~~

b. ~~b.~~—evidence of a significant gap in coverage or capacity ~~or introduction of new services or other service capability improvements,~~ which the application seeks to address ~~if the applicant's facility will be located is going on a less preferred structure or in a less preferred zone;~~ and

c. applicable fees and/or deposits, including a deposit for independent technical review under section 17.46.060 below. ~~If the application is to collocate a wireless communication facility at an existing wireless communication facility location, or to modify an existing wireless communication facility, the application shall address the applicability, if any, of federal or state laws governing such applications.~~

d. ~~all applicable documents outlined in the submittal checklist in section 8.03.04 of the Design Standards and Guidelines titled Submittal Checklist~~

2. Application for location on city property. An applicant for a wireless communication facility proposed to be located on city property or in a public right-of-way must submit ~~additional items, as set forth on the supplemental application form provided by the city, setting forth supplemental information for the applicant to submit a~~ Letter of Authorization signed by the City of Piedmont City Council and all documents listed in Chapter 8 of the Design Standards and Guidelines.

17.46.060 Independent Technical Review.

The Director is authorized in his or her discretion to retain an independent technical consultant to review materials submitted by the applicant and to provide an analysis of issues including but not limited to: whether the wireless communication facility meets the applicable radio frequency emission regulations; whether a significant gap in coverage or capacity exists and whether the proposed facilities are the least intrusive means of doing so; whether there are alternative sites and the feasibility of those sites; whether there are ways to mitigate aesthetic impacts; and any other specific technical issues designated by the Director. The applicant must pay the consultant's costs, and must increase the deposit to cover the anticipated amount as the Director may deem necessary from time-to-time.

17.46.070 Standards.

A. Development Standards. The following development standards apply.

1. Collocation. New wireless communication facilities must be collocated with existing facilities and with other planned new facilities whenever feasible. A new wireless tower must be designed and constructed to accommodate future collocation(s) unless the city determines that collocation would be infeasible because of physical or design issues specific to the site.
2. Height limits.; Screening. ~~No wireless communication facility may exceed 35 feet in height, measured from the ground to the highest point of the wireless communication facility, unless the zoning district in which the wireless communication facility is located expressly provides a higher height limit.~~ Wireless Facilities must follow height limits of the zoning district they are proposed to be installed in, height limits of the City of Piedmont Public Works Standards Details, height limits set by the FCC, and/or height limits outlined in GO95 regulations. Ground mounted wireless communication equipment, base station, antenna, pole, or tower must be the minimum functional height, unless ~~as a variance required by federal or state law is granted.~~ Roof mounted equipment and antennas must be located to minimize visibility.
3. Visual impact. Wireless communication facilities must be designed to minimize visual impacts. ~~When feasible, the facilities must be concealed or camouflaged~~ to the greatest extent practicable in accordance with this Division, as determined by the Planning & Building Director. The facilities must have a non-reflective finish and be painted or otherwise treated to minimize visibility and the obstruction of views.

The facilities may not bear signs, other than certification, warning, emergency contacts, or other signage required by law or expressly required by the city.
4. Public health, peace and safety. A wireless communication facility may not adversely affect the public health, peace and safety.
5. Public right-of-way. A wireless communication facility located in the public right-of-way may not cause: (i) physical or visual obstruction, or safety hazard, to pedestrians, cyclists, or motorists; or (ii) inconvenience to the public's use of the right-of-way. Equipment, walls, and landscaping located above grade must ~~be at least 18 inches~~

~~from the front of the curb~~follow comply with the City of Piedmont Public Works Department Standard Details and not interfere with the public's use of the right-of-way.

6. Compliance with laws. Each wireless communication facility must comply with federal and state statutes governing local agencies' land use authority regarding the siting of wireless communication facilities, including without limitation 47 USC sections 253, 332(c)(7), 47 USC section 1455 (also known as section 6409 of the 2012 Middle Class Tax Relief and Jobs Act), California Government Code sections 50030, 65850.6 and 65964, and California Public Utilities Code sections 7901 and 7901.1. Each reference to a federal and state statutes is to the statute as it may be as amended from time-to-time and to the extent the statute remains in effect.

B. Operation and Maintenance Standards

1. Contact and site information. The owner or operator of a wireless communication facility must submit basic contact and site information to the city, and notify the city within 30 days of any changes to this information, including the transfer of ownership. The contact and site information must include: (i) the name, address, email address, telephone number, and legal status of the owner of the facility, including official identification number and FCC certification, and, if different from the owner, the identity and legal status of the person or entity responsible for operating and maintaining the facility; and (ii) the name, address, email address, and telephone number of a local contact person for emergencies.

2. Signage. The owner and/or operator must post an identification sign at each facility, including owner/operator emergency telephone numbers. The design, materials, colors, and location of the identification signs shall be subject to review and approval by the Director. If at any time a new owner or operator provider takes over operation of an existing personal wireless service facility, the new personal wireless service provider shall notify the Director of the change in operation within 30 days and the required and approved signs shall be updated within 30 days to reflect the name and phone number of the new wireless service provider. The colors, materials and design of the updated signs shall match those of the required and approved signs. No sign shall be greater than two square feet in size.

3. FCC compliance. Each wireless communication facility must comply with FCC regulations, and avoid interfering with any city communication facilities, operations, utilities, equipment, or public safety communications. If the facility negatively impacts city facilities or equipment, the operator must comply with all FCC regulations and orders to resolve the interference. At the city's discretion, and at the operator's expense, the city may retain an outside technical consultant to evaluate and verify compliance with FCC regulations and to determine the cause of interference for an existing facility.

4. Facility maintenance. Each wireless communication facility must be maintained in good repair, free from trash, debris, litter, graffiti, and other forms of vandalism. The

operator must repair any damage as soon as reasonably possible, but no later than 90 days from the time of notification.

Landscaping elements at a wireless communication facility site must be maintained in good condition, and in compliance with the approved landscape plan. The owner or operator is responsible for replacing any damaged, dead, or decayed landscape materials and making necessary irrigation and equipment repairs as soon as reasonably possible.

5. Noise. A wireless communication facility must be operated to minimize noise that is audible as provided in Chapter 8 of the City Code

6. Removal. All wireless communication facility equipment must be removed within 30 days of the discontinuation of the use, and the site restored to its original, preconstruction condition. In addition, the service provider must provide the city with a notice of intent to vacate a site a minimum of 30 days before the vacation. For a wireless communication facility to be located on public property, this removal requirement will be included within the lease. For a facility to be located on private property, the property owner is encouraged to also include this in the lease, because the property owner will otherwise be responsible for removal.

C. Term of permit. A wireless communication facility permit is valid for an initial period of ten years as specified in the Piedmont Design Standards and Guidelines unless: (i) a longer period is required by state or federal law; or (ii) a shorter time is required as a condition of approval for particular circumstances set forth in the decision, particularly with respect to public safety or substantial land use reasons under California Government Code section 65964(b). The Director may administratively extend a permit upon verification of continued compliance with this division 17.46 and any conditions of approval.

However, a permit granted for a collocation or modification under section 17.46.080 D.2.b will be effective for the shorter of: (i) the term of the original permit; or (ii) a longer period if required by state or federal law.

17.46.080 Hearings Review Body; Findings.

A. Review Body.

1. Permit and Reviewing Body. The Planning Commission is the reviewing body, except that:

<u>Location</u>	<u>Type of WCF</u>	<u>Design Standards Criteria</u>	<u>Type of Permit Required</u>
<u>WCF in the Right-of-Way</u>	<u>6409 Collocation</u>	<u>Meets the design criteria outlined in Design Standards and Guidelines Section 8.02.03</u>	<u>Building Permit</u> <u>Encroachment Permit</u>
	<u>Small Cell or DAS Application</u>	<u>Meets the Design Standards and Guidelines Section 8.02.03</u>	<u>Building Permit</u> <u>Encroachment Permit</u>
		<u>Does not meet the Design Standards and Guidelines</u>	<u>WCF Planning Permit, Review by Planning Commission</u> <u>Building Permit</u> <u>Encroachment Permit</u>
	<u>Collocation (not under 6409) with existing structure</u>		<u>WCF Planning Permit, Review by Director</u> <u>Building Permit</u> <u>Encroachment Permit</u>
<u>WCF On Public or Private Property</u>	<u>New structure</u>		<u>WCF Planning Permit, Review by Planning Commission</u> <u>Building Permit</u>
	<u>Collocation (not under 6409) with existing structure</u>		<u>WCF Planning Permit, Review by Director</u> <u>Building Permit</u>
	<u>6409 Collocation</u>	<u>Meets Design Standards and Guidelines in Section 8.02.04</u>	<u>Building Permit</u>

~~A. — Reviewing body. The Planning Commission is the reviewing body, except that:~~

- ~~1. — the City Council is the reviewing body for a facility in Zone B or on city-owned property or facilities (including collocations), following a recommendation from the Planning Commission; and~~

~~2. — the Director is the reviewing body for an application for a collocation that meets the criteria set forth in section 17.46.080.D.2.b or for which the wireless communication facility will be fully concealed or camouflaged. The Director will take action on the application without public notice or public hearing, unless the Director refers the application to the Planning Commission.~~

~~B2. Planning Commission.~~ After receiving a completed application, the city staff will schedule a noticed public ~~hearing-meeting~~ before the Planning Commission consistent with divisions 17.62 and 17.64. ~~Any application submitted to be reviewed by the Director outlined in section 17.46.080.A may be referred to the Planning Commission unless otherwise stated by federal law. If the application involves city-owned property, the Planning Commission makes a recommendation to the City Council.~~

~~C. City Council.~~ The City Council will hear each application: (i) involving a facility in Zone B or on city-owned property or facilities; or (ii) appealed from the Planning Commission.

~~DB.~~ Required findings; Exceptions.

1. Findings. Before approving a wireless communication facility permit as provided in City Code section 17.46.080.A.3 and 17.46.080.A.4, the reviewing body must make the following findings:

~~a. — The facility is necessary to close a significant gap in the operator's service coverage or capacity.~~

ab. The applicant has evaluated and met the priority for location standards of section 17.46.040 A above.

be. The proposal satisfies each of the applicable development standards in section 17.46.070 above.

cd. The proposed design is consistent with the Piedmont Design Standards and Guidelines.

de. The proposed facility has been located and designed for concealment and collocation to the greatest extent reasonably feasible, and the applicant has submitted a statement of its willingness to allow other wireless service providers to collocate on the proposed facility.

2. Exceptions.

a. General. The decision-making body may grant an exception to any requirement of this division 17.46, including without limitation the priority for location under section 17.46.040 A, if the applicant establishes that strict compliance would violate federal or state law.

b. Modification. The Director may consider and grant, modify and grant or deny a modification to an existing wireless communications facility if the modification meets the requirements of section 6409. In determining whether to approve the requested modification the Director shall approve if the project meets the criteria outlined in section 8.03.03 of the Piedmont Design Standards and Guidelines titled 6409 (a) Eligible Facilities Request Checklist.~~consider the following:~~

~~i. — Alterations to the width, bulk, or arrangement of a wireless communication facility that may result in a potentially significant or material impact to public access or use of any public or private right of way, or any potentially significant or material impact to public health, safety, or welfare;~~

~~ii. — Alterations to required access, parking, or landscaping from that shown on the approved site plans;~~

~~iii. — Alterations that include excavation outside the wireless telecommunications facility site, defined as the boundaries of the controlled, leased or owned property surrounding the tower and base station and any access or utility easements related to the site as shown on the approved plans;~~

~~iv. — An increase in the height of a freestanding tower that is less than the applicable height limit;~~

~~v. — Replacement of the wireless tower or foundation;~~

~~vi. — Alteration or expansion of the exterior of a facility that was originally approved as concealed or camouflaged in such a manner so that it may no longer be concealed or camouflaged; or~~

~~vii. — An increase by more than ten percent of the physical dimensions or exposed surface area of any component of the tower or base station (including, but not limited to, the height, circumference, or width of the wireless tower or base station), or an increase by more than ten percent from the dimensions of any structures required to support the wireless tower or base station, such as guy wires, as approved and constructed through the discretionary permit process; provided that in no event may the height exceed the maximum height permitted under this section 17.46, the zoning district or the wireless tower or base station's initial approval.~~

c. The exemptions listed in the definition of *wireless communication facility* in section 17.46.020.;

Any proposed modification that is not a collocation, or for which the wireless communication facility will be fully concealed or camouflaged, or that does not fall within the requirements of

section 6409 shall be reviewed and considered under the same provisions and requirements as those required for the original consideration of the permit proposed for modification.

17.46.090 Batch Processing.

In accordance with Assembly Bill 965, an applicant may submit a “batch broadband-WCF processing permit” when it receives two or more broadband-WCF permit applications for substantially similar broadband-WCF project sites, submitted at the same time, and are submitted by the same applicant.

A. Requirements

1. The City will consider applications under Assembly Bill 965 for broadband-WCF batch processing as “nearly identical in terms of equipment and general design, but not location” if they meet the following criteria.
 - a. Require the same permits;
 - b. Are the same kind of facilities (for example, all the applications received are stealth facilities, are on streetlights, are on utility poles, etc.);
 - c. Must be on the same type of property (for example, the City will not batch process an application on private property along with an application on public property);
 - d. Must be in the same zoning district;
 - e. The proposed facilities are within 5 feet of each other in height/elevation;
 - f. The proposed facilities have similar power output and operating frequency for any proposed antenna array;
 - g. Use of substantially the same equipment in the same configuration on the same support structure type;
 - h. Have similar accessory equipment which is located in similar locations, whether above ground or below ground;
 - i. Use the same material for exterior finishes, including color and texture;
 - j. Do not require illumination of the wireless facilities with the exception of security and maintenance lighting;
 - k. Only collocation applications can be considered substantially similar to other collocation applications; and
 - l. No more than 25 sites are included in a batch processing application.

B. Review Body. Applications submitted under a batch processing permit shall be subject to review by the body outlined under section 17.46.080.A.

C. Application Fee. The applicant shall pay an application fee in the amount established by City Council resolution.

D. Application Determination. Each application in a batch must meet all the requirements for a complete application, which includes without limitation the application fee for each site in the batch. If any application in a batch is incomplete, the entire batch shall be deemed incomplete. If an applicant removes more than 50% of the facilities from a batch application, the entire batch application shall be withdrawn. If any application in a batch fails to meet the required findings for approval, the entire batch shall be denied.

17.46.100 Appeals.

An appeal of a wireless communication facility application may be submitted for any application reviewed by the Director or reviewed by the Planning Commission. During an appeal, the burden of proof is on the appellant. The appeal will be submitted to the City Administrator or the City Administrator's designee. The appellant shall pay an appeal fee in the amount established by the City Council resolution. The appeal must be submitted within five days of a decision made by the Director or Planning Commission. Upon receiving the appeal, in not less than 5 business days, the City Clerk shall give written notice to the applicant, the appellant in those cases where the applicant is not the appellant, and other parties involved,; of the date and place of hearing of the appeal. In considering the appeal, the City Administrator or designee shall review all documents submitted and findings made by the Director or Planning Commission. The hearing will not be a de novo hearing. The City Administrator or designee may overrule the action of the decision maker only if one of the following occurs:

- a. the findings made by the decision maker as a basis for its action are not supported by the weight of the evidence;
- b. there is a significant error in the application of the requirements of this chapter 17 or other requirements of the City Code;
- c. there is a significant error in the application of the Piedmont Design Standards and Guidelines; or
- d. significant errors in the application, plans, drawings or other materials provided to the decision maker are discovered after the hearing, which were a basis of the decision.

Any appeal shall be conducted so that a timely written decision may be issued in accordance with applicable law.;

There is not an appeal process for applications submitted under a ministerial review permit.

DIVISION 17.78**APPEALS; CALL FOR REVIEW**

Sections:

- 17.78.010 General
- 17.78.020 Application
- 17.78.030 Notice; Hearing; Decision; Remand
- 17.78.040 Standard of review
- 17.78.050 Call for review

17.78.010 General.

Except for a decision regarding an accessory dwelling unit under division 17.38 or wireless communication facilities under division 17.46, any interested person may appeal a decision of the Director to the Planning Commission, or a decision of the Planning Commission to the City Council, all under the terms of this division 17.78. Appeals of decisions regarding wireless communication facilities are governed under Section 17.46.100.

The city will not approve a building permit during the appeal period. ~~(Ord. 747 N.S., 02/2020)~~

17.78.020 Application.

A person wishing to file an appeal must submit an application, stating the grounds for appeal, within ten calendar days after the date of the decision. The request must be filed with the City Clerk, and accompanied by the appeal fee.

17.78.030 Notice; Hearing; Decision; Remand.

A. Notice. The City Clerk will give notice of the appeal date and time to: the appellant; the applicant if not the appellant; those property owners notified in the original application hearing; any person who has submitted a written comment on the application or who commented in person at the hearing; and to any other person requesting notice.

B. Hearing. The appeal body will hear the appeal as soon as is reasonably possible or as set forth in section 17.64.010.B, taking into account the notice requirements. The appeal body may continue the hearing, but not more than once without the consent of the appellant. At the hearing, the appeal body will consider the written and oral evidence presented. (Ord. 774 N.S., 09/2024)

C. Decision. At the conclusion of the hearing, the appeal body will decide the appeal. The standard of review governing the appeal is set forth in section 17.78.040, Standard of review. The appeal body may sustain, modify, add to, or overrule the decision appealed, and make other findings consistent with this chapter, including the right to require or modify the requirements for story poles, surveys, time periods for completion or extension, and any other conditions relating to the project for which approval is sought. The appeal body will report its decision to the appellant, the original applicant, and the decision maker.

D. Remand. Notwithstanding subsection C above, the City Council acting as the appeal body may remand the matter to the Planning Commission for further consideration. The remand will include either specific issues to be considered, or direction that the Planning Commission open

the entire application for de novo review. Unless the City Council determines otherwise: (1) the remand hearing before the Planning Commission will be scheduled at a Planning Commission meeting, occurring between 14 and 75 days after the date of remand action, or as may be extended by mutual agreement by the appellant and applicant; and (2) no additional fees will be charged to the applicant or appellant relating to the remand. The decision of the Planning Commission on the remand is final unless appealed under this division 17.78, or the City Council retains appeal jurisdiction over the entire matter at the time of the remand and requests only an advisory opinion on specific issues from the Planning Commission. The burden of proof on remand is on the applicant.

17.78.040 Standard of review.

A. General. An appeal is not a de novo hearing, but instead will be governed by the following principles:

1. Deference. Due deference shall be given to the actions of the Planning Commission and staff in light of the substantial number of planning applications heard by them and the major accumulated group experience that those actions represent. (Ord. 774 N.S., 09/2024)
2. Grounds for overruling decision. The appeal body may overrule the action of the decision maker only if one of the following occurs:
 - a. the findings made by the decision maker as a basis for its action are not supported by the weight of the evidence;
 - b. there is a significant error in the application of the requirements of this chapter 17 or other requirements of the City Code;
 - c. there is a significant error in the application of the Piedmont Design Standards and Guidelines; or
 - d. significant errors in the application, plans, drawings or other materials provided to the decision maker are discovered after the hearing, which were a basis of the decision.
3. Burden of proof. During an appeal, the burden of proof is on the appellant.

B. Definitions. In this division 17.78, the following definitions apply:

Burden of proof means the obligation to provide evidence or proof significant enough to overcome any other evidence presented.

Significant error means an error that has or potentially will have an important negative impact.

Weight of the evidence means more than 50% of the evidence.
(Ord. 769 N.S., 10/2023)

17.78.050 Call for review.

A. Initiating call for review. Except for matters where ministerial review is required under state law or where review at a public hearing would be prohibited under state law, a member of the City Council or Planning Commission, or the City Administrator, may call a matter for review, without an appeal fee. The City Administrator, Planning Commissioner, or Council Member may call the matter for review for the good of the city, without stating specific reasons for the call. The act of calling the matter for review does not, by itself, disqualify the Planning Commissioner or Council Member from participating as part of the decision-making body so long as that Commissioner or Council Member is neutral and unbiased and has not previously announced to any member of the public or city staff a preferred outcome on the matter.

B. Hearing body. If a decision of the Director is called for review, it will be heard by the Planning Commission. If a decision of the Planning Commission is called for review, it will be heard by the City Council.

C. Timing. The person calling for review must file a written request within ten days of the decision. (If the tenth day falls on a weekend or city holiday, the deadline is the close of business on the following business day.)

D. De novo hearing. The hearing will be a de novo hearing. The burden of proof is on the applicant. (Ord. 747 N.S., 02/2020)