

**City of Piedmont
COUNCIL AGENDA REPORT**

Date: November 15, 2004

From: Kate Black, City Planner

Subject: **Supplemental Report on Appeals for 1 and 3 Maxwellton Road**

At 12:00 p.m. on Wednesday, November 10, Stephen Parker, the proposed developer of 1 and 3 Maxwellton Road, presented new information to me regarding the plans for the subject properties. Mr. Parker has hired a new architect to review the plans for these houses which were originally designed by Phillip Moss for then owner Ted Dang. Mr. Parker's new architect has discovered significant errors in the plans, such as an 11 foot difference in the height of a retaining wall and a corresponding difference in height of grade. Mr. Parker was unaware of these errors when he purchased the property, and the staff report was prepared without knowledge of these errors.

Based on these significant errors, I contacted City Attorney George Peyton and conferred with him regarding the options available to Mr. Parker and the council regarding these appeals. Mr. Peyton suggests that there are three possible actions on these applications:

1. Hear the appeals based on the plans as presented to the Planning Commission. Mr. Peyton feels that this option causes serious problems as the city now has knowledge of potential significant errors on the plans.
2. Continue the hearing at the applicant's request to allow the applicant time to revise the plans and correct any inaccuracies and then hear the matter totally de novo, but without meaningful input from the Planning Commission on the significant changes, since they were acting on effectively different plans. Mr. Peyton points out that the council has seldom, if ever, acted on an appeal in such a manner.
3. Uphold the appeal not on the merits of the appellants arguments but finding that the current plans as submitted, are incorrect and insufficient to make a judgment about the matter. Contemporaneously, consider a request from the applicant for a fee waiver which would allow him to present corrected plans to the Planning Commission for review and approval. Mr. Peyton and I agree that the applicant is apparently not at fault regarding the inaccuracies of the plans reviewed by the Planning Commission and commend him and his architect for their desire to correct them.

The City has also just recently learned that Mr. Parker has purchased 3 Maxwellton Road, but Mr. Dang still owns 1 Maxwellton Road. As of 4:00 p.m. today, we have not received a response from either property owner as to which of the above options they prefer. As soon as we hear from them, we will forward their request, along with the staff report and appeal information.