

**City of Piedmont
COUNCIL AGENDA REPORT**

MEETING DATE: February 7, 2005

FROM: Kate Black, City Planner

SUBJECT: **Appeal of Planning Commission Design Review Decision at 62
Farragut Avenue (#04-0461)**

CITY COUNCIL ACTION:

The City Council is being asked to consider an appeal of one of the actions taken by the Planning Commission at their December 13, 2004 hearing of a Design Review application, submitted by Ken Mattson for his residence at 62 Farragut Avenue. The portion of the Planning Commission's decision that is being appealed is their denial with prejudice of "Garage Option 1", which was one of two garage and driveway options submitted under the application. The other action taken by the Commission to conditionally approve "Garage Option II and numerous site and landscaping improvements is not being appealed. The background of the application and a recommendation for the Council's action are provided below.

RECOMMENDATION:

- A. Uphold the Planning Commission's December 13, 2004 decision to deny with prejudice "Garage Option 1", making the following Planning Commission findings:

The "Garage Option I" garage proposal does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The design of Option 1 does not comply with Design Review Guideline II-3 in that it is inconsistent with the architectural style, scale and mass of the existing residences along Sea View and the height, bulk and arrangement of existing structures on the parcel. The lot consists of a very large house on a very large parcel with a formal layout and prominent location. The house and all existing improvements are centrally located on the parcel and the Sea View garage will detract from this formal layout by extending one side of the structure of this property to within 25 ft. of the property line wherein currently there exists at least 65 ft. from both sides of the property, thus detrimentally impacting the "centering" of this property. The fact that part of this new Sea View garage

structure would be buried underground is irrelevant because this would only be achieved by adding ground above it which does not exist at this time – a substantial change in existing conditions;

2. The safety of vehicular access to and from the property would be adversely affected because the series of terraced shrubs leading up to a brick wall associated with the proposed Sea View garage would impede visibility of the sidewalk and street until the car exiting the driveway reaches the sidewalk.

B. Should the Council wish, the Council may include the following staff-recommended findings to support the Planning Commission findings:

3. The proposed addition does not comply with Design Guideline II-3 (b) and (c) in that the addition of the workshop and garage, appear as an appendage to the existing residence, and because they are proposed to be partly below an artificially raised grade, are not carefully integrated into the three dimensional form and proportional relationships of the existing mass of the residence.
4. The proposed addition does not comply with Design Guideline II-5 in that the proposed addition is an appendage that extends toward Sea View Avenue in a manner that is not common to existing residences fronting on Sea View Avenue.
5. The proposed addition does not comply with Design Guidelines III-6 and III-7 in that the proposed garage and driveway design creates an adverse impact on the property in that it creates an unsafe view obstruction resulting from the artificially raised grade, retaining walls, landscaping, and proposed driveway entry column for vehicles exiting the driveway onto the sidewalk.
6. The proposed addition does not comply with Design Guidelines IV-6 and V-9 in that the proposed retaining walls and Sea View Avenue fence columns adjacent to the proposed Sea View Avenue driveway create an unsafe view obstruction for vehicles exiting the driveway onto the sidewalk.

GROUNDS FOR APPEAL:

Attached is a copy of the appeal (Exhibit F, page 46), filed on December 15, 2004 by Dana C. Tsubota, attorney for the property owner, Ken Mattson. The appeal letter states the appeal is limited to the portion of the Planning Commission’s decision which denied with prejudice the design for “Garage Option 1”.

BACKGROUND INFORMATION:

The current application follows numerous similar applications requesting approval of improvements to the property at 62 Farragut Avenue, some of which were illegally constructed without permits, and were subject to a Stop Work Order by the Building Official.

This has been a lengthy process with many City Council and Planning Commission hearings and a lot of documentary information. Rather than including all of the background information into the body of this report, the information has been compiled into exhibits at the end of the report for the Council’s reference, including the following:

- Exhibit C, page 16 History of Related Applications
- Exhibit D, page 18 Code Compliance Analysis of Current Application
- Exhibit E, page 19 Meeting Minutes from Prior Applications

The findings for approval, and conditions of approval for the portion of the application approved by the Commission – not subject to this appeal – are attached as Exhibit B, page 14.

CURRENT APPLICATION:

The property is a large site, occupying roughly 1/3 of the block between King, Farragut and Sea View Avenues. The house was designed by Julia Morgan in 1916 and faces north on Farragut Avenue.

As previously mentioned there have been numerous prior applications for retroactive approval of site features constructed without City approvals and future improvements not yet constructed. However, two recent approvals have bearing on the current application. Application #04-0385 proposed a fencing plan for the Sea View Avenue fence and was conditionally approved by staff on October 22, 2004. The fencing plans, as amended by some (but not all) of the conditions of approval, are shown in this application on sheet 4-G1, with a proposed further amendment (subject to review under this current appeal) to permit a new curb cut and vehicular gate to provide access to the garage proposed under “Garage Option I”.

The other recently approved application (#04-0386) was the September 13, 2004 Planning Commission approval of certain APhase II@ site improvements to the property. The decision was upheld on October 18, 2004 by a City Council review of the application, which had occurred to ensure that staff=s recommended conditions of approval, inadvertently not required by the Commission, were specified. The features approved were the pool, spa, rear yard wall and fence.

The primary components of the proposed improvements in the current application include the following:

1. “Garage Option I” proposes the conversion of the existing carport on the eastern (Sea View Avenue) end of the house into a “open air” sunroom, with a deck above. An

adjacent storage area/workshop and two-car garage are proposed as an extension to the sunroom out toward Sea View Avenue. The new construction proposes brick exterior walls and a steel, mechanically-operated roll-up door for the garage. The roof deck proposes a brick parapet with an iron railing on top to match the railing on the existing western end (King Avenue) garage. The site grading is proposed to be raised in the area so that a portion of the workshop and garage would be below grade.

A 10' wide curb cut and a new curved driveway leading from Sea View Avenue is proposed, but it is noted that the configuration of the driveway is not optimal for vehicular movement and turn-around.

A modification to the recently approved Sea View Avenue fence design is proposed for the new driveway entrance. Two brick columns which range in height from 5'6" to 8' due to the grade changes are proposed on either side of the driveway, and a wrought iron gate is proposed between the columns.

2. “Garage Option II” proposes the construction of a new two-car garage adjacent to the existing King Avenue three-car garage on the western side of the property using the existing driveway and access from King Avenue. The new garage proposes brick walls and a wrought iron roof deck railing above that match the walls and railing of the adjacent existing garage. The garage door is proposed to be a steel, mechanically-operated roll-up door which is proposed to stylistically match the existing garage doors.

It was noted that the Planning Commission could approve both options, and could approve one of the options while denying the other (provided appropriate findings for approval and/or denial could be made). However, it was also noted that if both options were denied, an alternative driveway access solution to the existing carport would need to be identified, since without access to the carport, the property would become non-conforming. As the Council may remember, when the applicant illegally constructed some of the retaining walls in 2003, the prior driveway that led to the carport was also eliminated. The applicant has stated for the record that the house has 10 rooms eligible for use as bedrooms, and if that is correct, 5 covered parking spaces are required. However, since the applicant does not wish to provide floor plans so staff can make an accurate bedroom count to determine if the parking is conforming or not, the parking count that existed prior to the illegal construction, at a minimum, must be provided. Both “Garage Option I” and “Garage Option II” would provide the required 5 covered, conforming spaces, but if neither option is approved, alternative access to the existing carport must be defined in order to prevent the parking from being non-conforming without approval of a variance.

Other specific features of the application included:

1. A mix of Basalite cobblestone pavers for both driveways, brick pavers for the walkways, stairs, landing and pool deck, and blue tumbled flagstones for several walkways;
2. Several brick and stone retaining walls;

3. A 6' high brick pool equipment enclosure with a slate roof and solid wood door;
4. Two different fountains and two benches;
5. A landscaping plan for the eastern edge and rear of the property;
6. Wall mounted lights for the proposed garage options;
7. An on-grade chessboard landscape element on the King Avenue side of the property and a similar scrabble board on the Sea View Avenue side of the property.

PLANNING COMMISSION DECISION:

Attached are the meeting minutes from the December 13, 2004 Planning Commission meeting (Exhibit A, page 7). By unanimous vote, the Commission voted to conditionally approve "Garage Option II" and the other site improvements. However, on a separate 4-1 vote, the majority of the Commission voted to deny without prejudice "Garage Option I" (Commissioners Hege, Karren, Summer and Levine voted yes, Commissioner Greenman voted no, and Commissioner Chang was absent).

At the outset of their deliberations, the Commission noted that they had previously denied 2 garage and Sea View Avenue curb-cut designs. They discussed whether or not their denial with prejudice on September 13, 2004 of a Sea View Avenue garage and curb-cut design precluded consideration of the current Sea View Avenue parking and access plan, labeled under the current application as "Garage Option I". The Commission determined that the plan was substantially different from the earlier plan, and could be considered.

The Commission again expressed their concern for the continued unsightliness of the carport and the continued debris problem on the site. However, concerning the application, they found that the general site and landscape improvements were approvable, subject to conditions of approval. The majority felt that "Garage Option II", which proposed a two-car garage adjacent to the existing three-car garage fronting King Avenue, was the preferable parking and access option compared to "Garage Option I". They determined that it would be more usable, and was better balanced in terms of overall property development, would have less of a visual impact, and had a better driveway design that resulted in less paving. In response to a neighbor's concern about the proposed height of the garage (Option II), the Commission noted that the height could be lowered 3 feet so that it would be lower than the existing garage, and landscape screening could provide an effective visual screen.

However, the majority of Commissioners found that "Garage Option I" did not meet the City's criteria under Section 17.20.9 of the City Code and the Residential Design Guidelines, and denied it with prejudice. In making their findings for project denial, the majority of the Commission noted that the existing residence has a central location on the site and a balanced appearance.

They found that “Garage Option I”, with the open air sunroom and attached workshop and two-car garage created an unbalanced appearance, especially noting that the addition extends much closer to the property line than existing building projections. Additionally, they found that the extension toward Sea View Avenue was inconsistent with the existing neighboring residences on Sea View Avenue. They determined that the artificial re-grading of the site did not conceal the mass of the addition, and noted that it created a potential safety problem in that the terraced walls, land and landscaping created a visual obstruction of pedestrians on the sidewalk, since vehicles exiting the property on Sea View Avenue would have to be partly out on the side walk before they could see past the artificially raised grade and the proposed entry gate column.

UPDATE CONCERNING THE SEA VIEW AVENUE FENCE:

On May 17, 2004, the City Council considered an appeal of a Planning Commission denial of a prior application that included the illegal construction of numerous site features, including a fence along Sea View. At the hearing, the Council ordered that the Sea View Avenue fence be redesigned to comply with the Planning Commission’s 2000 approval and be more in keeping with the fencing on the Farragut and King Avenue frontages. They required that the modifications be constructed - and the related landscaping installed - by November 17, 2004. On October 22, 2004, staff conditionally approved a fence and landscape design for the fence along Sea View Avenue. On January 28, 2005, the applicant submitted a building permit application for the construction of the fence. Modifications to the plans were required in order to comply with the conditions of approval, and on February 1, 2005, a building permit was issued.

Date report prepared: February 2, 2004

EXHIBITS:

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| Exhibit A, page 7 | December 13, 2004 Planning Commission Meeting Minutes |
| Exhibit B, page 14 | Findings and Conditions of Approval |
| Exhibit C, page 16 | History of Previous Applications |
| Exhibit D, page 18 | Code Compliance Analysis of Current Application |
| Exhibit E, page, 19 | Meeting Minutes of Prior Applications |
| | page 19 October 18, 2004 City Council Meeting Minutes |
| | page 24 September 13, 2004 Planning Commission Meeting |
| | Minutes |
| | page 28 August 9, 2004 Planning Commission Meeting Minutes |
| | page 33 May 17, 2004 City Council Meeting Minutes |
| | page 36 April 12, 2004 Planning Commission Meeting Minutes |
| | page 39 October 10, 2000 Planning Commission Meeting Minutes |

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| Exhibit F, page 46 | page 42 | April 10, 2000 Planning Commission Meeting Minutes |
| Exhibit G, page 48 | December 15, 2004 Appeal Letter (Tsubota, on behalf of Mattson) | |
| Exhibit H, page 66 | Planning Commission Application | |
| | Neighbor Comments | |
| Exhibit I (separate) | Architectural Plans | |

PIEDMONT PLANING COMMISSION

Regular Meeting Minutes for Monday, December 13, 2004

A Regular Session of the Piedmont Planning Commission was held December 13, 2004, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54954.2(a) the agenda for this meeting was posted for public inspection on November 29, 2004.

CALL TO ORDER

Chairman Hege called the meeting to order at 5:00 p.m. She announced that Agenda Item #13 (Design Review, 5 Hampton Court) has been withdrawn from tonight's consideration at the request of the applicant.

ROLL CALL

Present: Commissioners Arleta Chang, Marty Greenman, Tamra Hege, Fred Karren, Suzanne Summer and Alternate Commissioner Jonathan Levine

Staff: City Planner Kate Black, Assistant Planner Linda Ajello, Planning Technician Kevin Jackson and Recording Secretary Chris Harbert

City Council Liaison: Councilmember Dean Barbieri

**Design Review
62 Farragut Avenue**

Mr. Ken Mattson is requesting design review to make substantial exterior site improvements, including the construction of numerous walls, retaining walls, stairs, walkways and new landscaped areas throughout the eastern side and rear of the property, and the installation of miscellaneous features including fountains, a pool equipment structure, and new exterior lighting. The application also proposes two alternate garage plans:

Option 1 proposes the conversion of the existing carport on the eastern side of the house into an open air sunroom with a deck above, the construction of an adjacent storage area/workshop and 2-car garage partially below grade, and a new curved driveway leading from Sea View Avenue;

Option 2 proposes a new 2-car garage adjacent to the existing 3-car garage on the western side of the property using the existing driveway access from King Avenue.

Related applications were approved for this property in September and October.

Commissioner Chang recused herself from discussion and action on this application and left the chambers. The Commission discussed whether its action of September 13 (denial with prejudice) precluded consideration of the Option 1 parking plan. The Commission determined that the current Sea View parking plan was substantially different from that considered in September so that this option could be considered tonight.

Written notice was provided to neighbors. **Two affirmative, one negative response forms** were received. **Correspondence** was received from: Andrea & Paul Swenson, December 3; Joseph & Beth Hurwich, October 31 & December 7; Allen & Sara Hirsch, December 8; Dana Tsubota, December 9.

Public testimony was received from:

Ken Mattson noted his preference for parking Option 1.

Tom Bomben, Project Engineer, responded to questions concerning the Sea View curb-cut and driveway location and configuration.

Dana Tsubota, Attorney for Mr. Mattson, stated that Mr. Mattson is complying with the time-line schedule set by the City Council. She also agreed to mitigate the existing unsightliness of the carport storage/debris situation.

Karen Roland stated her preference for the Option 2 parking plan which would house all the property's vehicles on the same side of the property. She also felt that the appearance of the new, attractive Sea View fence would be enhanced if there was no driveway curb-cut. She requested that project approval include conditions requiring: (1) all drainage from the applicant's property to be channeled to the City's storm drain system and not be allowed to run onto the vacant lot or her own property; (2) a dense, evergreen screening of the pool area to provide visual and acoustical privacy; and (3) night-time pool and property lighting not spill over onto her property.

Beth Hurwich and Allen Hirsch opposed the Option 1 parking plan, citing concerns over too much mass along the Sea View side of the property, driveway ingress/egress safety concerns and visual impact.

Rodney Baba opposed the Option 2 parking plan, stating that there is already too much garage structure on the King Avenue side of the property. He felt that Option 1 would help break up the visual mass of the Sea View fencing and balance the property by providing parking on both sides.

Commissioner Greenman supported the Option 1 garage plan, noting that since both plans comply with the City's Design Review Guidelines the applicant's preferred choice should be approved.

Resolution 22-PL-04

WHEREAS, Mr. Ken Mattson is requesting permission to make substantial exterior site improvements, including the construction of numerous walls, retaining walls, stairs, walkways and new landscaped areas throughout the eastern side and rear of the property, and the installation of miscellaneous features including fountains, a pool equipment structure, and new exterior lighting. Other specific features of the plan include: (1) a mix of Basalite cobblestone pavers for both driveways, brick pavers for the walkways, stairs, landing and pool deck, and blue tumbled flagstones for several walkways; (2) several brick and stone retaining walls; (3) a 6 ft. high brick pool equipment enclosure with a slate roof and solid wood door; (4) two different fountains and two benches; (5) a landscaping plan for the eastern edge and rear of the property; (6) wall-mounted lights for the proposed garage options; (7) an on-grade chessboard landscape element on the King Avenue side of the property and a similar chessboard landscape element on the Sea View side of the property and (8) the *Option 1* garage plan located at 62 Farragut Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission finds that the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The design of the improvement is desirable because it complies with Design Review Guidelines II-1, II-2, II-3 in terms of its scale, mass and architectural compatibility with the existing house and the large scale nature of this estate

property. The proposed improvements will not overpower adjacent properties or residences, garage railing detailing matches that found on the existing house and King Avenue garage and the Sea View garage will be screened by layered grade changes, landscaping and a brick wall. There will only be minimal additional bulk and mass impact along the Sea View side of the property.

2. The design of the improvement does not have a substantial adverse effect on neighboring properties because there is no adverse visual aesthetic impact on the property or streetscape. There will be no impact on neighbor views, privacy or access to direct or indirect light given the considerable separation distance between contiguous parcels.

3. The design does not adversely affect pedestrian safety, vehicular traffic, or the convenience of either pedestrians or vehicles because of the distance between the curb-cut and Farragut Avenue for downhill traffic.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Mattson for construction at 62 Farragut Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City and subject to the proposed conditions contained in the staff report.

Moved by Greenman.

MOTION DIED FOR LACK OF SECOND

The remaining Commissioners preferred the *Option 2* garage plan. In addition, Commissioner Karren requested that (1) the applicant re-examine its walkway design, noting that some of the wide walkways extend “no where” and their illogical layout may simply be the result of recent changes in the overall plan; (2) the garage wall height of the King Avenue (*Option 2*) garage plan be lowered approximately 3 ft. so that it is below the height of the existing King Avenue garage and a wire mesh screen be added to this wall so that the wall can be softened with vegetation; and (3) high, dense evergreen landscaping screening be provided around the pool area. The Commission majority felt that the *Option 2* garage would be more “usable,” was better balanced in terms of the overall property development in that most improvements are centrally located on the lot, would have less visual impact, had a better driveway design and resulted in less additional paving being added to the property.

Resolution 461-DR-04

WHEREAS, Mr. Ken Mattson is requesting permission to make substantial exterior site improvements, including the construction of numerous walls, retaining walls, stairs, walkways and new landscaped areas throughout the eastern side and rear of the property, and the installation of miscellaneous features including fountains, a pool equipment structure, and new exterior lighting. Other specific features of the plan include: (1) a mix of Basalite cobblestone pavers for both driveways, brick pavers for the walkways, stairs, landing and pool deck, and blue tumbled flagstones for several walkways; (2) several brick and stone retaining walls; (3) a 6 ft. high brick pool equipment enclosure with a slate roof and solid wood door; (4) two different fountains and two benches; (5) a landscaping plan for the eastern edge and rear of the property; (6) wall-mounted lights for the proposed garage options; (7) an on-grade chessboard landscape element on the King Avenue side of the property and a similar chessboard landscape element on the Sea View side of the property; and (8) the *Option 2* garage plan located at 62 Farragut Avenue, Piedmont, California, which construction requires design review; and

WHEREAS, after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after

having visited subject property, the Piedmont Planning Commission finds that the proposal conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The design of the improvement is desirable because it is aesthetically pleasing as a whole and harmonious with existing and proposed development. The Option 2 garage plan will use the same driveway and paving as currently exists for the King Avenue garage. The arrangement of this new garage sited with an existing garage is in harmony with the already installed parking on the lot. The design of this new garage is architecturally compatible with the existing garage and main residence.

2. The design of the improvement does not have a substantial adverse effect on neighboring properties because the garage plan, as modified to reduce its height and bulk, will have no impact on neighbor view, privacy or access to direct and indirect light. The appearance of this new garage from the carriage house property will be softened by appropriate plantings. The corner of the King garage and the corner of the carriage house is approximately 27 ft. away. The garage is on the north side of the carriage house so the carriage house's sunlight will not be affected. The carriage house has a very deep lawn behind it so the proposed improvement will have very little impact on the carriage house.

3. The design does not adversely affect pedestrian safety, vehicular traffic, or the convenience of either pedestrians or vehicles because the new garage structure will use an existing driveway.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission approves the design review application of Mr. Mattson for construction at 62 Farragut Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. The final inspection of the building permit for all of the "Phase II" elements approved under this application shall be completed by August 15, 2005. This condition is similar to the one required by the City Council on October 18, 2004, for the "Phase II" features approved under Application #04-0386 which required a final inspection of the "Phase II" elements under that application to occur by July 15, 2004.
2. The applicant shall enter into an Agreement for Completion of *Construction and Landscaping Work* with the City of Piedmont to be approved by the City Attorney or Deputy City Attorney prior to the issuance of a building permit. The agreement must specify among other criteria, the requirement of a financial instrument in the form and amount at the sole discretion of the City Attorney or Deputy City Attorney to ensure construction of the improvements if the above specified time-line is not met, and an additional deposit estimated to be \$25,000 to cover extraordinary administrative and staff costs involving the City Attorney, Building Official, City Planner, City Engineer or other City personnel in the processing and enforcement of the conditions (pursuant to Section 17.29) should it be needed. The agreement shall also have a provision that the application will be scheduled for rehearing at the September 12, 2005, Planning Commission meeting if the construction time-line is not met. This condition is similar to the one required for the approval of features under Application #04-0386, approved by the City Council on October 18, 2004, that required a re-hearing by August 15, 2005, if the construction time-line is not met. One single agreement may be

entered into that addresses both applications, provided that the financial instrument amount is modified to accurately reflect the combined costs of approved elements under Application #04-0386 and this application #04-0461. Additionally, the single agreement must specify the specific rehearing dates of both applications if the respective time-lines are not met.

3. Based on the scope and nature of the proposed landscape and development plans, a best management practice plan for construction which complies with the new Alameda Countywide Clean Water Program General and Residential Conditions of Approval will need to be developed by the applicant prior to obtaining a building permit.
4. Prior to the issuance of a building permit, the plans shall eliminate all existing inconsistencies. Staff will review the plans and determine whether or not the final design requires further design review or variance.
5. Prior to the issuance of a building permit, the applicant shall submit a construction management plan which shall be subject to staff review and approval.
6. The approved plans are those submitted on December 1, 2004, after neighbors were notified of the project and the plans were available for public review. The December 1, 2004, plans replace plan sets submitted on November 12, 2004, and October 8, 2004.
7. The height of the Option 2 garage be lowered so that it is below the height of the existing King Avenue garage.
8. Engineered compacted backfill is required in Option 2 at the retaining wall adjacent to the semi-circular front driveway. Certification by an engineer is required that additional structural support is not required.
9. The landscaping plan for the area around the pool, behind the garage and the side yard be redesigned and the 10+ ft. wide walkways that lead from the house to the fence line be re-examined; said redesign to be subject to staff review and approval.
10. The King Avenue garage be softened with appropriate plantings.
11. Staff shall evaluate the appropriateness of the property's drainage plan to insure that run-off drains out into the street rather than onto the adjacent vacant lot.

RESOLVED FURTHER, that the approval of the Planning Commission/City Council and any conditions of that approval shall not extend to any particulars set forth in the documents submitted for the project which are inconsistent with or in violation of any applicable law, including but not limited to Chapters 5 and 17 of the City Code, nor does the approval extend to matters not set forth, or inadequately represented, in submitted documents (whether or not consistent with applicable law). The City reserves the right to require compliance with applicable laws and to attach conditions after initial approval is given, if noncompliance is discovered or additional conditions are considered necessary and appropriate in light of Commission/Council findings.

Moved by Greenman, Seconded by Summer

Ayes: Greenman, Hege, Karren, Summer, Levine

Noes: None

Recused: Chang

Resolution 23-PL-04

WHEREAS, Mr. Ken Mattson has proposed an alternate *Option 1* garage plan for his property at 62 Farragut Avenue which includes conversion of the existing carport on the eastern (Sea View Avenue) end of the house into a “open air” sunroom, with a deck above; an adjacent storage area/workshop and 2-car garage partially below grade out toward Sea View Avenue, new brick exterior walls and a steel, mechanically-operated roll-up door; a brick parapet with an iron railing on top of the existing roof deck to match the existing railing on the existing western end garage; a 10 ft. wide curb cut and new curved driveway leading from Sea View Avenue; and modification to the recently approved Sea View fence for a new driveway entrance which includes two brick columns and a wrought iron gate; and

WHEREAS, after reviewing the plans and any and all testimony and documentation submitted in connection with such plan, and after having visited subject property, the Piedmont Planning Commission finds that the *Option 1* garage proposal does not conform with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The design of *Option 1* does not comply with Design Review Guidelines II-3 in that it is inconsistent with the architectural style, scale and mass of the existing residences along Sea View and the height, bulk and arrangement of existing structures on the parcel. The lot consists of a very large house on a very large parcel with a formal layout and prominent location. The house and all existing improvements are centrally located on the parcel and the Sea View garage will detract from this formal layout by extending one side of the structure of this property to within 25 ft. of the property line wherein currently there exists at least 65 ft. from both sides of the property, thus detrimentally impacting the “centering” of this property. The fact that part of this new Sea View garage structure would be buried underground is irrelevant because this would only be achieved by adding ground above it which does not exist at this time – a substantial change in existing conditions;
2. The safety of vehicular access to and from the property would be adversely affected because the series of terraced shrubs leading up to a brick wall associated with the proposed Sea View garage would impede visibility of the sidewalk and street until the car exiting the driveway reaches the sidewalk.

RESOLVED, that based on the findings and facts set forth heretofore, the Piedmont Planning Commission denies, with prejudice, the *Option 1* garage plan submitted by Mr. Mattson at 62 Farragut Avenue, Piedmont, California, in accordance with the plans and specifications on file with the City.

Moved by Levine, Seconded by Karren

Ayes: Hege, Karren, Summer, Levine

Noes: Greenman

Recused: Chang

Chairman Hege requested staff to “notice” Mrs. Roland regarding the design for night-time pool lighting.

The Commission recessed for a dinner break at 7:15 p.m. and reconvened at 7:40 p.m.

FINDINGS AND CONDITIONS OF APPROVAL:

Findings of Approval:

After reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, and after having visited subject property, the Piedmont Planning Commission found that the general proposal and Garage Option II conforms with the criteria and standards of Section 17.20.9 of the Piedmont City Code:

1. The design of the improvement is desirable because it is aesthetically pleasing as a whole and harmonious with existing and proposed development. The Option 2 garage plan will use the same driveway and paving as currently exists for the King Avenue garage. The arrangement of this new garage sited with an existing garage is in harmony with the already installed parking on the lot. The design of this new garage is architecturally compatible with the existing garage and main residence.
2. The design of the improvement does not have a substantial adverse effect on neighboring properties because the garage plan, as modified to reduce its height and bulk, will have no impact on neighbor view, privacy or access to direct and indirect light. The appearance of this new garage from the carriage house property will be softened by appropriate plantings. The corner of the King garage and the corner of the carriage house is approximately 27 ft. away. The garage is on the north side of the carriage house so the carriage house's sunlight will not be affected. The carriage house has a very deep lawn behind it so the proposed improvement will have very little impact on the carriage house.
3. The design does not adversely affect pedestrian safety, vehicular traffic, or the convenience of either pedestrians or vehicles because the new garage structure will use an existing driveway.

Conditions of Approval:

1. The final inspection of the building permit for all of the "Phase II" elements approved under this application shall be completed by August 15, 2005. This condition is similar to the one required by the City Council on October 18, 2004, for the "Phase II" features approved under Application #04-0386 which required a final inspection of the "Phase II" elements under that application to occur by July 15, 2004.
2. The applicant shall enter into an Agreement for Completion of *Construction and Landscaping Work* with the City of Piedmont to be approved by the City Attorney or Deputy City Attorney prior to the issuance of a building permit. The agreement must specify among other criteria, the requirement of a financial instrument in the form and

amount at the sole discretion of the City Attorney or Deputy City Attorney to ensure construction of the improvements if the above specified time-line is not met, and an additional deposit estimated to be \$25,000 to cover extraordinary administrative and staff costs involving the City Attorney, Building Official, City Planner, City Engineer or other City personnel in the processing and enforcement of the conditions (pursuant to Section 17.29) should it be needed. The agreement shall also have a provision that the application will be scheduled for rehearing at the September 12, 2005, Planning Commission meeting if the construction time-line is not met. This condition is similar to the one required for the approval of features under Application #04-0386, approved by the City Council on October 18, 2004, that required a re-hearing by August 15, 2005, if the construction time-line is not met. One single agreement may be entered into that addresses both applications, provided that the financial instrument amount is modified to accurately reflect the combined costs of approved elements under Application #04-0386 and this application #04-0461. Additionally, the single agreement must specify the specific rehearing dates of both applications if the respective time-lines are not met.

3. Based on the scope and nature of the proposed landscape and development plans, a best management practice plan for construction which complies with the new Alameda Countywide Clean Water Program General and Residential Conditions of Approval will need to be developed by the applicant prior to obtaining a building permit.
4. Prior to the issuance of a building permit, the plans shall eliminate all existing inconsistencies. Staff will review the plans and determine whether or not the final design requires further design review or variance.
5. Prior to the issuance of a building permit, the applicant shall submit a construction management plan which shall be subject to staff review and approval.
6. The approved plans are those submitted on December 1, 2004, after neighbors were notified of the project and the plans were available for public review. The December 1, 2004, plans replace plan sets submitted on November 12, 2004, and October 8, 2004.
7. The height of the Option 2 garage be lowered so that it is below the height of the existing King Avenue garage.
8. Engineered compacted backfill is required in Option 2 at the retaining wall adjacent to the semi-circular front driveway. Certification by an engineer is required that additional structural support is not required.
9. The landscaping plan for the area around the pool, behind the garage and the side yard be redesigned and the 10+ ft. wide walkways that lead from the house to the fence line be re-examined; said redesign to be subject to staff review and approval.

10. The King Avenue garage be softened with appropriate plantings.
11. Staff shall evaluate the appropriateness of the property's drainage plan to insure that run-off drains out into the street rather than onto the adjacent vacant lot.

EXHIBIT C

HISTORY OF PREVIOUS APPLICATIONS:

On **April 10, 2000**, the Planning Commission approved substantial landscape improvements to the northwestern quadrant of the property, including fencing along King and Farragut Avenues (Application #99-0459). In approving the application, the Commission required that the newly approved fence design be continued along Sea View Avenue for design consistency and required a time line for construction.

On **October 10, 2000**, the Commission approved a modification to the prior approval to extend the construction timeline, required a performance bond, and granted permission to construct the fencing and landscaping along Sea View Avenue after all of the other improvements have been completed (Application #00-0266).

On **August 19, 2002**, staff approved a Staff Design review application to make retroactive modifications to the prior approval that had been made in conflict with the approved plans (Application #02-0173).

The construction for the afore-mentioned applications took several years, but the fencing along Sea View Avenue was not constructed, and therefore, the Building Official could not issue a final inspection. In October of 2003, it became apparent that the property owner was constructing a fence along Sea View Avenue that did not comply with the Planning Commission requirements, along with other construction that did not receive design review approval or building permits including several retaining walls and a new driveway. On October 16, 2003, the Building Official issued a stop work order.

On **April 12, 2004**, the Planning Commission denied without prejudice an application to make a number of changes to the property, including retroactive approval for modifications made to the northwestern quadrant of the property, fencing along Sea View Avenue, and numerous changes to the eastern and rear sections of the property (new driveway, walls, pool, spa and related features) (Application #04-0057).

On **May 17, 2004**, the City Council denied an appeal, filed by the applicant, of the Planning Commission's April decision. The Council established that the demolition of all illegal construction must be completed by September 17, 2004 unless the Planning Commission

approved an alternative application with a specific deadline for the completion of those improvements.

On **August 3, 2004**, staff approved an application for retroactive approval for features in the northwestern quadrant and one feature in the northeastern quadrant (Application #04-0282).

On **August 9, 2004**, the Planning Commission denied without prejudice an application for “Phase II” improvements that was similar to the application denied in April and May, except that it proposed a conversion of the existing carport into a garage (Application #04-0284).

On **August 9, 2004**, the Planning Commission also denied without prejudice a staff design review deferral application related to the Sea View Avenue fencing (Application #04-0283).

On **September 13, 2004**, the Planning Commission took action on an application proposing substantial “Phase II” changes to the rear of the property and to the northeastern corner and eastern side along Sea View Avenue, including the Sea View Avenue fencing (Application #04-0386). The Commission approved part of the application including the pool and spa, some related walls and the rear yard fence; denied without prejudice the design for a new garage and expanded driveway on the King Avenue side of the property (pending accurate plans), the conversion of the existing Sea View Avenue carport into a garage with a new curb-cut, and certain retaining walls that had been constructed without permits; and denied with prejudice a driveway connecting the existing carport to the Farragut driveway, and the proposed new curb cut on Sea View Avenue with a driveway leading directly to the existing carport:

On **October 18, 2004**, The City Council upheld the September 13th Planning Commission decision under a review requested by the City Administrator, to require staff-recommended conditions of approval, inadvertently not required by the Planning Commission.

On **October 22, 2004**, staff conditionally approved an application to revise the design of the Sea View Avenue fencing (Application # 04-0385).

CODE COMPLIANCE:

The residence is situated on a conforming lot in zone A. The lot contains approximately 41,546 square feet of area and 570 feet of frontage on three streets. The minimum lot area required in the City Code (section 17.10.2) is 10,000 square feet and the minimum lot frontage (section 17.10.3) is 90 feet. *Complies.*

NOTE: Two parking options have been submitted: Option 1 proposes the conversion of the existing carport on the eastern side of the house into an open air sunroom with a deck above, the construction of an adjacent storage area/workshop and two-car garage partially below grade, and a new curved driveway leading from Sea View Avenue; and Option 2 proposes a new two-car garage adjacent to the existing three-car garage on the western side of the property using the existing driveway access from King Avenue. The Code Compliance analysis below will provide compliance information for Option 1 in parentheses (), and Option 2 in brackets [].

The existing structure coverage is 12.2% and is proposed to increase to (14.1%) and [13.3%]. The maximum limit in the City Code (section 17.10.4) is 40%. *Complies.*

The existing impervious surfaces coverage is 35.5% and is proposed to increase to (51.5%) and [49.4%]. The maximum limit in the City Code (17.10.4) is 70%. *Complies.*

The existing right side yard setback is approximately 74 feet, 6 inches to the King Avenue garage, and is proposed to be [77 feet, 6 inches to the new King Avenue garage] and [8 feet 9 inches to the new King Avenue garage]. The minimum required rear yard setback in the City Code (section 17.10.8) is 4 feet. *Complies.*

The existing left side yard setback is approximately 30 feet to the Sea View Avenue carport, and is proposed to be (25 feet to the new Sea View Avenue garage). The minimum required rear yard setback in the City Code (section 17.10.8) is 4 feet. *Complies.*

The existing rear yard setback is approximately 30 feet to the King Avenue garage, and is proposed to be 13 feet, 6 inches to the pool and (57 feet to the Sea View Avenue garage) and [8 feet 9 inches to the new King Avenue garage]. The minimum required rear yard setback in the City Code (section 17.10.8) is 4 feet. *Complies.*

No changes are proposed that would affect the building height, front yard setback, floor area ratio or parking code provisions. No new rooms eligible for use a bedroom are proposed as part of this application.