

P14-0829, Greg Munn, Design Tech Associates/George and Mary Schmitt
Application for Administrative Design Review approval to undertake the following to the existing dwelling located at 554 Hamilton Way: (1) construct an approximately 781-square-foot single-story addition to the rear of the house; (2) construct an 88-square-foot, 13-foot, 6-inch tall covered front porch; (3) construct an approximately 614-square-foot second-story addition with an approximately 177-square-foot second-floor deck; and (4) change the overall roof pitch of the home including raising the height of the ridge line and peaks by 1-foot, 9-inches to 7-feet, 4-inches. Zoning for the property is R-1-6,500 (One-Family Residential) District.

Jennifer Wallis presented the staff report and described the scope, layout, and key elements of the application.

Commissioner Allen inquired if the property had room for a single-story addition, should that be an option.

Ms. Wallis said yes. She stated that the lot size would meet the Code requirements for a single-story addition; however, it would be the purview of the applicant to figure out if the design would accommodate all the needs the property owners are looking for with the addition.

Chair O'Connor inquired what was in the yard and if it has a swimming pool and landscaping.

Ms. Wallis said yes.

Commissioner Ritter inquired if there is any zoning in the City that prohibits second stories from being built.

Ms. Wallis replied that there are no straight-zoned properties within the City that prohibit second-story additions, but properties in Planned Unit Developments are individually designed and do have individual development standards.

Commissioner Ritter inquired if any application for remodel would typically be submitted to staff, and if it meets the Code and no neighbors object, it would be processed on the staff level.

Ms. Wallis replied that was correct.

Commissioner Ritter further inquired if it would come before the Commission if the neighbors object.

Ms. Wallis said yes.

Chair O'Connor stated that he is aware that the City does not typically review Covenants, Conditions, and Restrictions (CC&Rs) and noted a comment in the staff report that the CC&Rs for the subdivision included a prohibition on second stories at one point, but that the CC&Rs had expired. He asked staff if they understood that to be the case.

Ms. Wallis said yes.

Chair O'Connor inquired if staff knew when the CC&Rs expired.

Ms. Wallis replied that staff does not have the actual CC&Rs and does not know when they expired. She added that staff became aware of the existence of the CC&Rs through a research of past Minutes and previous reports; however, staff did not keep a copy of the document.

Chair O'Connor stated that the reason he is asking is because it seemed like he saw some conflicting information about how many homes were actually remodeled with second stories or how many homes with second-stories there are. He pointed out that in one place it said there were two homes, but the map of the area shows six homes. He asked staff for a clarification on how many two-story homes there are in this subdivision.

Ms. Wallis stated that the map shows how many two-story homes currently exist in the subdivision. She explained that it is difficult to tell from building permit records exactly how many of these homes were originally constructed as two-story homes versus how many were constructed as single-story homes and then came back for second-story additions.

Mr. Weinstein stated that until the 1980's, the Zoning Ordinance did not require a design review process for single-family residential additions, which might account for some of the discrepancies between the City's building permit records and what was built in that neighborhood.

Chair O'Connor stated that he was assuming that because the CC&Rs prohibited second-stories when they were initially written, the six homes must have added their second-stories at a later time.

Ms. Wallis replied that could be the case.

Commissioner Allen stated that she was out on the property yesterday and it appears like the existing second-story homes are not on Hamilton Way but at the very back or at the court, around the perimeter of this development. She asked staff if that was correct.

Ms. Wallis confirmed that there are no second-story homes on Hamilton Way and that Commissioner Allen's assumption would be valid based on the map.

As a follow-up to Commissioner Ritter's question on precedents and how second stories were handled in the past, Commissioner Allen noted that the staff report states that there were two occasions in the past 20 years where owners did come forward with proposals to build a second story and those were deferred. She asked staff to clarify what did happen when these proposals had come forward and what the resolution was.

Ms. Wallis replied that in the first case in 1999, the application went all the way to the Planning Commission as well as to the City Council, and the City Council continued the item and directed the applicant and neighbors to try and resolve the issue. She indicated that the applicant never came back, and no single-story or two-story addition was ever constructed on that home.

Ms. Wallis continued that the second proposal in the 2000's was likewise appealed all the way up to the City Council. She explained that one Councilmember was absent, and because the vote was a 2-2 split, the item was continued to a future meeting. She indicated that prior to the second City Council meeting, the applicant withdrew the application so no final decision was ever reached either. She added that at that point, the applicant came back and voluntarily submitted for a single-story addition.

Chair O'Connor inquired if there are any view easements in this area.

Ms. Wallis replied that she is not aware of any.

THE PUBLIC HEARING WAS OPENED.

Greg Munn, Principal of Design Tech Associates, representing the applicants, stated that he was hired by the Schmitts to design an addition and remodel to their home. He indicated that he had heard a little bit about the underlying issues regarding two-story additions in the area, but he went down to the City Planning Division and checked the regulations and zoning ordinance regarding height limits, square footage, and lot coverage. He stated that they went to great lengths not to put windows on either side and in the front so the house looks like a one-story building; they put a loft up there under the roof.

Mr. Munn stated that there is probably a solution to this without having to redesign the house. He noted that the property at the back, where he thinks the issue is, has really high bushes that, if trimmed down, would provide as much or even more of the ridge view than what it currently has. He asked the Commission to take that into consideration in its decision and to note that they followed the City's rules and regulations in designing the additions.

Chair O'Connor addressed the audience indicating that each speaker would be given five minutes, and those in the audience who agree with the speaker can raise their hands. He requested that the audience be a little more subdued with no cheering or laughing or smirking.

John Toms stated that he became acquainted with the neighborhood when he visited in 1987 and subsequently purchased his home in 1999. He indicated that one of the reasons he bought in the area is because of the neighborhood's absolute uniqueness with primarily moderately-sized one-story ranch-style homes in large lots, providing this feeling of privacy that prevails throughout the neighborhood. He pointed out that the lots are large enough to allow for a compromise as far as adding upward instead of going out, and can accommodate one-story additions without the front of Hamilton Way seeing a double story. He stated that he spent 30 years in construction and energy in LEED recently, and he has always found that problems like this can always be solved through compromise and accommodation, and he thinks this is what needs to be done here.

James Connors stated that he has lived in the area since 2002 and has a business in town. He indicated that he knows most of these people because he walks his dog every day for about an hour through those neighborhoods. He stated that he is not sure if he is just a little underwhelmed or overwhelmed. He noted that the house he bought is in Rose Point, and he is not sure if there is just Rose Point or Carriage Garden or if it is just one big community where the streets just wrap around. He pointed out that the house he bought has a big two-story house right behind it that looks right down his backyard, and Hanover Court, which is in the Rose Point community, has a big two-story house as well. He noted that these are big structures and asked where the arguing was when these houses went up. He pointed out that what the Schmitts are proposing is not intrusive. He added that he honestly does not understand all the hubbub and that people need to get calmer heads.

Dolores Bengtson stated that she lives right next door to the Schmitts' property. She indicated that she appreciates the opportunity to speak to the Commission on this issue and thanked the Planning staff for their patience in answering her questions and spending time to visit her home and view the proposed remodel. She also thanked George and Jennifer Schmitt for their willingness to put up the story poles.

Ms. Bengtson stated that much of what she has to say is repetitive of her letter to the Commission, she will try to be brief and only cover only the important points. She then handed the Commissioners two sets of photos to review: one set is of three neighborhood homes; and the second set of two is from her backyard, one with story poles and the other with a simulate roof of the remodel.

Ms. Bengtson stated that she has lived in her home since 1986, and one of the primary reasons she purchased her home was the west-facing backyard which provides an open and lovely view of Pleasanton Ridge, exactly framing Augustine Bernal Park. She indicated that over time, she has landscaped her garden to provide privacy to the Schmitts' one-bedroom window facing her yard and to mask the Schmitts' storage shed adjacent to their common fence, but leaving the mid-area open to the ridge view.

Ms. Bengtson stated that she will not dwell on the character of the neighborhood or the effort of the neighbors to maintain their homes as one-story, as the staff report covers that completely and she believes the Commission has received other input regarding that issue. She indicated that the scope of the design review criteria provides a guideline for evaluating projects, and in her opinion, the proposed project fails to meet several of the criteria: it is not in scale with the adjoining buildings; the contemporary architecture design is not compatible or in harmony with the ranch style of the adjoining buildings; and it is not consistent with the neighborhood character. She noted that the three photos she handed the Commission of the neighborhood homes show the architectural style and scale of the existing homes in the neighborhood.

Ms. Bengtson stated that the proposed remodel does not preserve the view she enjoys and, in fact, will result in the nearly complete loss of the view from her backyard, replacing that view with roof mass. She referred to the two photos of her backyard showing the impact of the proposed remodel on her property and noted that the architect's thought that cutting back the shrubs will do the job is not correct. She noted that the remodel will result in a long, narrow strip of land on the east side of the Schmitts' property, at times just seven feet in width, thus limiting their option for landscaping. She further noted that it would then seem that the only way to mask the roof mass would be from her property, requiring complete re-landscaping of her yard, plus years of plant growth to be successful. He indicated that she finds that solution unacceptable.

Ms. Bengtson stated that in an earlier email, Mr. Schmitt noted that his remodel will increase everyone's home value in a positive way. She indicated that she lives in her home, and the enjoyment of her home does not reside in its resale value, but rather in the satisfaction she receives indoors and out. She suggested that in the case of her home, a realtor might question the value of an upscale home next door increasing the value of her home when the roof mass of that upscale home blocks an open view to the ridge. She stated that somehow, she thinks a view of the ridge trumps a next-door upscale home. She indicated that Mr. Schmitt has recently visited her home to view the story poles, and while they may not agree on the extent of the impact of the proposed remodel on her home, they can agree that it is difficult to find a solution that works. She noted that the Schmitts have been good neighbors and that she hopes they can arrive at a mutually satisfactory solution. She pointed out that staff recommends two options for the Commission's consideration and that she supports either option. She then sincerely thanked the Commissioners for their time and attention.

Daniella Karo stated that she has been a resident of Pleasanton since 1968. She indicated that she and her husband worked at the Lawrence Livermore National Laboratory then, and they decided that Pleasanton would be a good place for them. She noted that they were among the first two or three people who came to Rose Point and that they liked the area specifically compared with the valley for the fact that all of these homes were supposed to be one-story homes on relatively large lots, which guaranteed that they would have privacy in building there. She added that they did

have some CC&Rs which may have expired at some point, and she does not understand why they were allowed to expire.

Ms. Karo stated that she personally experienced the same thing that Ms. Bengtson is going through. She indicated that she lives in a cul-de-sac, and in the early 2000's, her next-door neighbors decided to build a second-story addition, which they did not agree with. She stated that she went around the neighborhood asking neighbors how they felt about it, and they gathered a lot of signatures from those who were completely against the second-story addition. She noted that what ultimately happened was that her wonderful next-door neighbor was very sensitive to the way the neighborhood felt about the addition and how their quality of life and the value of their homes were going to be impacted, and decided to withdraw the application for a second story and built a very lovely extension on one-story level surrounding the swimming pool area, which they are very happy about.

Ms. Karo stated that she also suffered the effects of a second-story addition that went up right behind her lot and which went up literally overnight during the summer when most of the neighbors were vacationing. She indicated that they were not given any advanced notice that this was going to happen, and the second story was already up there when she came back from vacation. She noted that this created a great uproar in the neighborhood. She added that the house, as it is built right now, does not fit in the neighborhood, and she is still fighting to keep privacy from the impact of that second story. She urged the Commission to maintain the quality and ambience of Rose Point, which is primarily a single-story neighborhood. She indicated that she knows, with an aging population, that there is a great need for second stories, but that whatever increasing value that goes to the next-door neighbor's addition of a second story will negatively impact the value of the houses neighboring that change.

Charles Meier read from a written statement as follows:

"I am here to address the proposed second story addition to the Schmitt's house at 554 Hamilton Way.

"First, I would like to say thank you to the staff of the Planning Commission for sending out notices to all of the Rose Point residents. This is a request I made to the Planning Commission in 2005 on a proposal for a second story addition to another Rose Point residence.

"The residence in this case is different, but the issue is the same – the addition of a second story.

"For those not familiar with the Rose Point area, like other unique architectural areas of Pleasanton such as Second Street, there is an architectural character which is dominated by modest single story homes. This characteristic differentiates Rose Point from most other areas in Pleasanton and makes it more valuable to existing homeowners and potential buyers.

"In support of their second story request, the Schmitts have pointed to second story homes in nearby Carriage Gardens and behind them on Diamond Court. Those areas are not part of Rose Point. Carriage Gardens and the Diamond Court homes were built much later than Rose Point and purchased by buyers who clearly understood they were moving into an area of second story homes. Such is not the case with Rose Point residents.

*"Rose Point residents have come to enjoy a neighborhood of predominantly single story homes, affording a level of privacy **which is rapidly disappearing in today's housing market.** I say predominantly single story because there are a few two story homes along the west side of Arlington Drive where, with one exception, their backyards face Sunol Boulevard. Since the construction of Rose Point, only one single story addition has been approved, and that more than 20 years ago despite a number of applications through the years. That approval, in fact became a sore point with backyard neighbors. Initially built without second story windows facing neighboring backyards, windows were later added with trees to mitigate the view of the neighbors backyards. Later the trees were cut down. Lesson: Design restrictions and mitigation measures cannot be assured long term.*

"The last application for a second story addition, in 2005, was opposed by more than 40 Rose Point residents that understood second story additions deprive them of their existing privacy which was a significant factor in choosing their home. No one with a pool or outdoor area wants a neighbor standing on a stool peering over the fence to see into a place they consider their own private sanctuary. A second story window into someone's backyard is, in essence, someone peering over the fence.

"I have looked at the rendering of the proposed modification of the Schmitt's home. I actually think the architect has done a nice job of mitigating the visual impact of the second story. But in the final analysis, the City of Pleasanton has deemed it a second story addition. With the one exception in the last 20 years, all other requests for second story additions have been denied. I fear approval of this second story addition will mean the next second story addition will be approved and then the one after that. Those of us who bought in Rose Point for the privacy it affords in our own backyards, will see that privacy eroded and the enjoyment of our homes diminished.

"Please again vote no on this request for a second story addition. Thank you."

Mr. Munn stated that he can appreciate what the speakers have said. He indicated that they are not looking down into anybody's lot; they have roof on all three sides and it would be pretty difficult to put windows in that. He added that they were very conscientious of the privacy issues, and in talking circles about what happened before, he is not sure all of that is exactly true. He indicated, nevertheless, that the property is still zoned for two stories, and if they can mitigate the view and the issue with privacy, he does not see why the additions cannot be approved. He thanked the Commissioners for their time.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Allen stated that it is challenging for the Commission to evaluate cases such as this where there are two competing neighboring points of view: the applicant's right to build and the neighbor's right for a view, and a view is part of the design criteria that the Commission is being asked to evaluate. She indicated that she visited the neighborhood for the very first time this week to get a sense of the character of the neighborhood and to see the story poles to get a sense of the massing. She stated that she actually biked in the neighborhood and noticed that all of the two-story homes that do exist in this neighborhood are on the periphery of the neighborhood. She noted that, in fact, the two-story home in this area mentioned by one of the speakers does not impact his view because it is at the very far north end of the property in the opposite end of the hills.

Commissioner Allen stated that the character is mainly single story, most especially on Hamilton Way, which is the core of that neighborhood. She noted that with respect to the addition itself, she was glad she visited because the photos in the staff report did not convey the magnitude of the addition. She stated that she initially thought that seven feet higher was not very much, but when she saw the scale and re-reviewed the diagrams, it became clear that the addition pretty much eliminates the view that the neighbor has of the hills, a significant view impact as stated in the staff report.

Commissioner Allen stated that the other thing she realized by both listening to the speakers tonight and her personal assessment is that this is a unique neighborhood and that a lot of people who moved here may have done so because of the views and the large lot sizes. She noted that there are other neighborhoods where views are not important such that it is not an issue if someone is building since there is no view to be impacted, but that is not the case here, and it is important that this be taken into consideration.

Commissioner Allen stated that she thinks the Commission needs to continue this as the previous Planning Commission and Council did in the last two cases, in hopes that the neighbors can work something out. She added that she was pleased to hear that there is enough space for an expansion on a single level, and while that may not be ideal for the applicant, it is an alternative that the applicant can consider. She explained that her recommendation is based on two points under Section 18.20.030 of the Pleasanton Municipal Code, Exhibit C of the staff report: (1) Subsection A.4. speaks of preserving views, and this addition does significantly impact the view of a neighbor, which the Commission needs to preserve in whatever solution there is. (2) Subsection A.3. refers to the relationship of this proposal to the adjoining buildings, and the adjoining buildings along Hamilton Way are all single story, ranch style, as opposed to this home which is much larger in scale with two stories. She added that she does not believe the proposed addition meets the acid test of being consistent with that character. She concluded by saying that there is a precedent here right now with

the two most recent cases which support her recommendations well and for which the findings made were very similar to the reasons she has stated.

Commissioner Ritter stated that the Commission's job is to set zoning and not necessarily to keep communities from fighting. He noted that the zoning is set, and if the Commission thinks the zoning is wrong, then it needs to change that zoning, whether it be to allow two stories in neighborhoods or not at all. He also questioned if it is right for a neighbor to grow a tree that blocks someone's view and then tell that neighbor to cut down the tree.

Commissioner Ritter stated that he is struggling with trying to be the judge and jury of a neighborhood because it sounds like it is a great neighborhood. He indicated that he also drove around there, and his gut feel is that the design looks very good in the neighborhood with the two stories, and he wants to honor the current zoning that allows two stories. He added that rather than denying the project, he would push it back to the applicant and the neighbors to see if they can arrive at some compromise. He noted that the Commission will get a number of these requests coming in, and he would rather change the zoning than have the same issue. He noted that the City is trying to encourage more high-density zoning in Pleasanton in order to get work-force housing. He added that the City ought to also be cognizant of people who want to do additions and add-on's because he would prefer that they did not sell their house and move to Livermore where a bigger footprint is affordable.

Commissioner Piper stated that she believes in preserving property rights, and people who own homes should be allowed to do this kind of addition, particularly if it meets the guidelines and is within reason. She indicated that she believes the proposed addition in this case is within reason and certainly sounds like that it is based on the City's documentation with the exception of the view issue. She added that she also thinks that in a neighborhood of this age of single-story homes, people will slowly start to do additions and move upwards, which she realizes is not necessarily ideal for the rest of the residents but feels it is a natural evolution and cannot necessarily be stopped from happening.

Commissioner Piper stated that based on the design and everything that she is seeing, she thinks the house is very tasteful and would fit in the neighborhood, even with a second story. She noted that the view impact from Ms. Bengtson's property is pretty significant; however, while she did not go into Ms. Bengtson's backyard when she visited the area, she is really struggling with this because it appears that this is not actually a direct view. She stated that one would have to turn left and face west to get to this particular view. She added that she assumes the view is not visible from the house and that one would actually have to be in the yard to see the view; she asked staff if that would be a correct assumption.

Ms. Wallis confirmed that the views that would be impacted are from Ms. Bengtson's backyard.

Commissioner Piper continued that based on the diagrams, it does seem like the views are significantly impacted from Ms. Bengtson's backyard. She indicated, however, that this is the only thing that would really make her deny this addition altogether, and she is not in favor of doing that because she does believe that a second story, particularly with this design, is very reasonable for the neighborhood. She stated that she would like to continue the item and have the homeowners try to work this out.

Chair O'Connor noted that the Commissioners have differences of opinion. He stated that he knows this neighborhood well and knows that it is primarily single story but that it is also zoned for second story homes. He added, however, that part of what the Planning Commission is allowed to look at is how this addition/remodel would fit into the neighborhood and how it would be or not be in harmony with adjoining homes. He added that one other thing the Commission is allowed to look at in the design is whether or not it can be mitigated or if as much of the view as possible can be preserved through architectural design and such. He noted that viewscapes are always difficult, and there are no view easements in this neighborhood.

Chair O'Connor agreed with a lot of what Commissioner Allen stated and added that he does not think the actual architectural style of this home fits the neighborhood. He noted that he has seen a lot of single-story neighborhoods that have gone to second-story additions, but they have kept within the style of the neighborhood. He stated that this addition is very different and when he went out and actually saw the story poles, he found the roof to be a lot higher than he was originally led to believe.

Chair O'Connor stated that he thinks there is a way to compromise and mitigate with the neighbors. He indicated that rather than deny the application outright, he would also like to have this go back and have the applicant work with the neighbors to see if some compromise could be made that would make the addition more acceptable to the rest of the neighborhood.

**Commissioner Allen moved to continue Case P14-0829 to and direct the applicant to make modifications to the proposed plan to mitigate the view impacts on the adjacent neighbor at 568 Hamilton Way.
Commissioner Piper seconded the motion.**

Mr. Dolan inquired if the Commission would like to put a timeframe on the modification.

Chair O'Connor replied that he thinks that would be appropriate, noting that there should be a target for the neighbors and for the applicant. He indicated that it would involve working with architects a lot and asked if staff thinks 60, 90, or 120 days would be appropriate.

Mr. Dolan replied that he did not think it would take that long, but that depending on whether both parties are willing to work and how hard they work, the minimum it would be would be 30 days.

Chair O'Connor added that more than just one neighbor is involved and that he would probably feel better if it be within 60 days. He asked Commissioner Allen if she wished to modify her motion to include an end date.

**Commissioner Allen modified her motion to add that the modifications be completed within the next 60 days.
Commissioner Piper accepted the modification.**

ROLL CALL VOTE:

**AYES: Commissioners Allen, Ritter, Piper and O'Connor
NOES: None
ABSTAIN: None
RECUSED: None
ABSENT: Commissioner Balch**