

RESOLUTION NO. 11-420

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLEASANTON, DENYING THE APPEAL OF CASE PAP-149, THEREBY UPHOLDING THE PLANNING COMMISSION APPROVAL OF THE APPLICATION OF RODNEY AND TRINA LOPEZ FOR ADMINISTRATIVE DESIGN REVIEW APPROVAL, AS FILED UNDER CASE PADR-2090

WHEREAS, Rodney and Trina Lopez have applied for Administrative Design Review approval for the construction of an approximately 80-square-foot single-story addition and an approximately 1,038-square-foot second-story addition to the existing residence located at 6114 Homer Court; and

WHEREAS, zoning for the property is R-1-6,500 (One-Family Residential) District; and

WHEREAS, on June 30, 2010, the Zoning Administrator approved the application, and within the time specified by the Pleasanton Municipal Code, David and Stephanie Persin, Hans and Roxana Hoehne, and Joe and TinaMarie Perry submitted an appeal to the decision of the Zoning Administrator; and

WHEREAS, at its meeting of August 25, 2010, the Planning Commission, after having considered all public testimony, relevant exhibits, and recommendations of City staff concerning the application, denied the appeal, thereby upholding the decision of the Zoning Administrator; and

WHEREAS, within the time specified by the Pleasanton Municipal Code, David and Stephanie Persin submitted an appeal to the decision of the Planning Commission; and

WHEREAS, at its meeting of February 15, 2011, the City Council received a report from the Director of Community Development, together with a copy of the staff report to the Planning Commission, regarding this matter; and

WHEREAS, the City Council held a public hearing on February 18, 2011, at which time the appellants, the applicants, and any other members of the public were offered an opportunity to present evidence regarding this appeal; and

WHEREAS, after a review of the materials presented, the City Council determined that the proposed project, as conditioned, is appropriate for the site and is consistent with the zoning regulations of the zoning district of the property.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF PLEASANTON DOES RESOLVE, DECLARE, DETERMINE, AND ORDER THE FOLLOWING:

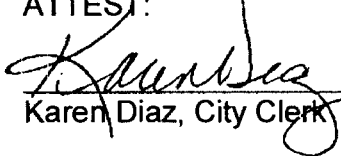
SECTION 1. Denies the appeal, Case PAP-149, thereby upholding the Planning Commission's approval of Case PADR-2090, the application of Rodney and Trina Lopez for Administrative Design Review approval for the construction of an approximately 80-square-foot single-story addition and an approximately 1,038-square-foot second-story addition to the existing residence located at 6114 Homer Court, subject to the conditions shown on Exhibit B, attached hereto and made a part of this case by reference.

SECTION 2. This resolution shall become effective immediately upon its passage and adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Pleasanton at a regular meeting held on February 15, 2011.

I, Karen Diaz, City Clerk of the City of Pleasanton, California, certify that the foregoing resolution was adopted by the City Council at a regular meeting held on the 15th day of February, 2011, by the following vote:

AYES: Councilmembers Cook-Kallio, Thorne, Mayor Hosterman
NOES: Councilmembers McGovern, Sullivan
ABSENT: None
ABSTAIN: None

ATTEST:


Karen Diaz, City Clerk

APPROVED AS TO FORM:



Jonathan Lowell, City Attorney

**EXHIBIT A
CONDITIONS OF APPROVAL**

**PADR-2090, Rodney and Trina Lopez
6114 Homer Court
February 15, 2011**

1. Except as modified by these conditions, the additions shall conform substantially to the elevations, site plans and other materials, marked Exhibit B, dated "Received June 8, 2010," on file at the Planning Division. Minor changes to the plans may be allowed subject to the approval of the Director of Community Development if found to be in substantial conformance to the approved exhibits.
2. The colors and materials of the additions shall match those of the existing structure.
3. All demolition and construction activities, inspections, plan checking, material delivery, staff assignment or coordination, et cetera, shall be limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. No construction shall be allowed on State or Federal Holidays, Saturdays, or Sundays. The Director of Community Development may allow earlier "start-times" or later "stop-times" for specific construction activities (e.g., concrete pouring), if it can be demonstrated to the satisfaction of the Director of Community Development that the construction noise and construction traffic noise will not affect nearby residents or businesses. All construction equipment must meet Department of Motor Vehicles (DMV) noise standards and shall be equipped with muffling devices. Prior to construction, the applicant shall post on the site the allowable hours of construction activity.
4. All appropriate City permits shall be obtained prior to the construction of the additions.
5. The plans submitted to the Building and Safety Division for building permit plan check shall show the following modifications to the two second-story bathroom windows on the rear elevation:
 - (1) the windows shall be a smaller size and shall be wider than they are taller (approximately 12 to 14 inches tall by approximately 24 to 36 inches wide), and be horizontal slider windows; and
 - (2) the bottom of these windows shall be a minimum of 5.5 feet (6 feet if found to be feasible upon completion of construction drawings) above the finished floor.
6. The plans submitted to the Building and Safety Division for building permit plan check shall show the following modification to the second-story bedroom window

on the rear elevation: the window shall be reduced in size to the maximum extent feasible without compromising compliance with egress requirements or other applicable requirements stipulated by the Building and Safety Division.

7. Within 45 days of building permit plan check submittal for Case PADR-2090, the applicant shall plant landscape screening in the rear yard of the subject property with the objective of addressing privacy and visual concerns from rear neighbors. The plans submitted to the Building and Safety Division for building permit plan check shall be modified to show said landscape screening. The applicant shall maintain all landscape screening in good condition so as to present a healthy and orderly appearance and shall immediately replace any landscape screening materials that become dilapidated or cease to provide screening. The applicant shall select screening species subject to the review and approval of the Director of Community Development. Several satisfactory landscaping materials are provided in the chart below. If alternative species are proposed by the applicant, approval of the alternative species is subject to the approval of the Director of Community Development. Alternative species shall be evergreen, moderate to fast-growing, and have minimal leaf and fruit litter. The Director of Community Development shall consult with the City Landscape Architect or other resources as necessary to determine the appropriateness of the proposed alternative screening materials. The selected screening shall meet the height and spread objectives as listed below:

	SIZE	LOCATION	MINIMUM HEIGHT AND SPREAD AT MATURITY
<i>Podocarpus gracilior</i> (Fern Pine)	Minimum 24-inch box specimen size 8 to 9 feet in height at time of planting with 3 to 4 foot spread	Subject to the Director of Community Development	20-foot minimum height; approximately 15-foot canopy spread of each tree
Characteristics: Among the cleanest and most pest free of trees. Evergreen. Growth Rate: Moderate; Approximately 8 to 9 years to reach 20-feet in height			
<i>Geijera parviflora</i> (Australian Willow)	Minimum 24-inch box specimen size 8 to 10 feet in height at time of planting with 3 to 5 foot spread	Subject to the Director of Community Development	20-foot minimum height; approximately 15-foot canopy spread of each tree
Characteristics: Main branches sweep up and out, little branches hang down. Evergreen.			

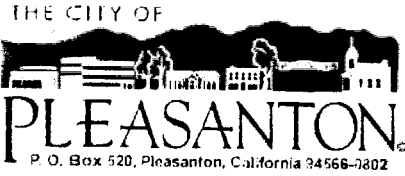
	SIZE	LOCATION	MINIMUM HEIGHT AND SPREAD AT MATURITY
Growth Rate: Moderate; Approximately 8 to 9 years to reach 20-feet in height			
Cupressocyparis leylandii (Leyland False Cypress)	Minimum 24-inch box size 9 to 11 feet in height at time of planting with 3 to 4 foot spread	Subject to the Director of Community Development	20-foot minimum height; approximately 15-foot canopy spread of each tree
<p>Characteristics: Long, slender, upright branches. Young trees have pyramidal form. Evergreen.</p> <p>Growth Rate: Very fast growing; Approximately 5 to 6 years to reach 20-feet in height</p>			
Pittosporum eugenioides	Minimum 24-inch box size 2 to 3 feet in height at time of planting with 2 to 3 foot spread	Subject to the Director of Community Development	20-foot minimum height; approximately 10 to 15-foot canopy spread of each tree
<p>Characteristics: Tall-growing shrub or small tree. Excellent for screens or as a background plant. Evergreen.</p> <p>Growth Rate: Moderate; Approximately 8 to 9 years to reach 20-feet in height</p>			

8. In order to allow for additional sunlight in the Perry residence, the applicants shall provide payment for the cost to purchase and install one skylight in the front room of the Perry residence. The amount of the payment shall be determined by the lowest of three bids obtained by the Perrys for the time and materials of a licensed contractor to complete the installation of the skylight. The funds shall be provided to Joe and TinaMarie Perry by Rodney and Trina Lopez within 30 calendar days of receiving all three bids. The cost shall not exceed \$2,500.00.
9. Within 45 days of the effective date of an approval for Case PADR-2090, the applicant shall plant landscape screening near the northeastern front corner of the subject home with the objective of addressing visual concerns from neighbors to the east. The plans submitted to the Building and Safety Division for building permit plan check shall be modified to show said landscape screening. The applicant shall maintain all landscape screening in good condition so as to present a healthy and orderly appearance and shall immediately replace any landscape screening materials that become dilapidated or cease to provide

screening. The applicant shall select landscaping species subject to the review and approval of the Director of Community Development. The landscaping screening shall be evergreen, fast-growing, and have minimal leaf and fruit litter. The Director of Community Development shall consult with the City Landscape Architect or other resources as necessary to determine the appropriateness of the proposed alternative screening materials.

10. The applicant shall add a belly-band to the exterior of the home. The plans submitted to the Building and Safety Division for building permit plan check shall show this modification.
11. The applicant shall modify the project plans to show a hipped roof over the first-story portion in the northeastern corner of the home. The plans submitted to the Building and Safety Division for building permit plan check shall show this modification.
12. The applicants may install a roof over the front entry door/porch. If the applicants decide to install the roof, it shall be submitted in conjunction with the plans submitted for issuance of building permits for the addition and shall be subject to the review and approval of the Director of Community Development prior to issuance of building permits for the project.
13. To the extent permitted by law, the project applicant shall defend (with counsel reasonable acceptable to the City), indemnify and hold harmless the City, its City Council, its officers, boards, commissions, employees, and agents from and against any claim (including claims for attorneys fees), action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside, or void the approval of the project or any permit authorized hereby for the project, including (without limitation) reimbursing the City its attorneys fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.
14. All conditions of approval for this case shall be reprinted and included as a plan sheet(s) with the building permit plan check sets submitted for review and approval. At all times these conditions of approval shall be on all grading and construction plans kept on the project site.

{end}



CITY OF PLEASANTON
Planning and Community Development
Phone: (925) 931-5600; Fax: (925) 931-5608
200 Old Bernal Avenue, Pleasanton, CA 94566

RECEIVED

DEC 02 2011

APPLICATION FOR DEVELOPMENT REVIEW OF PLEASANTON COMMUNITY DEVELOPMENT

Application No(s): PADR-2090 - CHANGING OF ZONING Date Filed: 11/29/11

COA # 0

I. CHECK TYPE OF APPLICATION(S):

- Design Review (\$50)
- Admin. Design Review (\$25)
- Sign Design Review (\$15)
- Outdoor Display (\$25)
- Outdoor Dining (\$25)
- Variance (\$50)
- Non-residential Satellite Dish (\$50)
- PUD Development Plan (\$2000)
- PUD Major Modification (\$2000)
- PUD Minor Modification (\$100)
- Preliminary Review
- FDP (Flood) Variance (\$50)
- Lot-Line Adjustment (\$50)
- Condominium Conversion (\$50)
- Rezoning (\$250)
- Growth Management (\$200)
- General Plan Amendment (\$250)
- Specific Plan (\$250)
- Specific Plan Amendment (\$250)
- Appeal (of Case _____)
(25% of orig. fee: max. \$25)
- Tentative Map (\$2000 + \$10/lot)
- Minor Subdivision (\$50)
- Conditional Use Permit (\$150)
- Animal Use Permit (\$15)
- Initial Environmental Assessment(\$25)
- Home Boutique Use Permit (\$25)
- Temporary Use Permit (\$25)
- Non-Exempt Home Occupation (\$15)
- Large Family Daycare (\$15)
- Other: _____

II. GENERAL DATA REQUIRED

- A. Name of Applicant (Pls. Print): Rodney and Trina Lopez
- B. Address or Location of Property: 6114 Homer Ct. Pleasanton
- C. Assessor's Parcel Number(s): 941 130708600
- D. Site Area (acres/sq. ft.): 6521
- E. Current Zoning: R-1 F. Proposed Zoning: R-1
- G. Existing Use of Property: residential
- H. Description of Proposal: _____

Amend conditions of approval for PADR-2090 #8 to state the following: In order to allow for additional sunlight in the Perry residence, the applicants shall provide payment for the cost to purchase and install one skylight in the front room of the Perry residence. The amount of the payment shall be determined by the lowest of three bids obtained by the Perrys and presented to the Lopez's for the time and materials of a licensed contractor to complete the installation of the skylight. The funds from the applicants shall not exceed \$2,500.00. The funds shall be paid directly to the licensed contractor upon completion of the installation or each phase pursuant to the contract. Completion of the skylight installation and payment of the funds shall be made no later than three months after the adoption of these conditions of approval.

(continue on separate sheet if necessary)

(Refer to appropriate "Informational Guide" for required site plans, elevations, written narrative, color/material samples, photographs, or other submittals which must accompany your application.)

- I. Residential Addition Proposals: From the date on this application, was the original house built within the last 5 years?
 Yes No

- If you do not know the answer, please research the property files on the public Laserfiche machine located by the Building and Safety Division at 200 Old Bernal Avenue, Pleasanton.

(continued on reverse)

III. AUTHORIZATION OF PROPERTY OWNER AND OWNERS ASSOCIATION

- J. **PROPERTY OWNER:** In signing this application, I, as property owner, have full legal capacity to, and hereby do, authorize the filing of this application. I understand that conditions of approval are binding and agree to be bound by those conditions, subject only to the right to object at the hearings or during the appeal period. I certify that the information and exhibits submitted are true and correct.

Name (Pls. Print): Rodney and Trina Lopez Daytime Telephone: _____
Company: _____ Other Telephone: _____
Address: 6114 Homer Ct Fax: _____
City: Pleasanton Zip: 94588 E-mail: _____
Signature: *Trina Lopez* Date: 12/2/2011

- K. **OWNERS ASSOCIATION:** Is the property subject to the rules or guidelines of a homeowners association (HOA) or a business owners association?

Yes No

If yes, did the proposed project receive approval from the HOA/business owners association?

Yes No The HOA/business owners association does not review any proposed construction projects or use changes

If yes, please attach a copy of the HOA response.

Association Contact (Pls. Print): _____ Daytime Telephone: _____
Association Name: _____ Other Telephone: _____
Address: _____ Fax: _____
City: _____ Zip: _____ E-mail: _____

- L. **APPLICANT OTHER THAN PROPERTY OWNER:** In signing this application, I, as applicant, represent to have obtained authorization from the property owner to file this application. I agree to be bound by conditions of approval, subject only to the right to object at the hearings on the application or during the appeal period. If this application has not been signed by the property owner, I have attached separate documentation of full legal capacity to file the application. I certify that the information and exhibits submitted are true and correct.

Name (Pls. Print): _____ Daytime Telephone: _____
Company: _____ Other Telephone: _____
Address: _____ Fax: _____
City: _____ Zip: _____ E-mail: _____
Signature: _____ Date: _____

- M. **NOTE ANY OTHER PARTY(IES) WHO SHOULD RECEIVE STAFF REPORTS AND NOTICE OF APPLICATION ON A SEPARATE SHEET AND ATTACH TO APPLICATION.**

IV. SCHOOL FEE AGREEMENT (If a residential project, answer the question below)

Have you signed a School Fee Agreement with the Pleasanton Unified School District?

Yes No

If yes, please attach a copy of the signed agreement.

Estimate

Date	Estimate #
10/7/2011	188

Name / Address
Joe Perry 6104 Homer Court Pleasanton, CA 94588

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COMMUNITY DEVELOPMENT

Project

Description	Total
skylight in living room - remove and dispose of sheetrock and insulation in area of new skylight cut hole in roof and frame skylight between two existing trusses install 2 x 4 curb on roof; install Velux model #VSEC06 skylight (21" x 46") with Velux step flashing kit wire skylight to existing lighting circuit; skylight to have remote control for operation install new R-30 surrounding skylight frame install sheetrock, tape and texture area disturbed prime and finish paint ceiling using Kelly-Moore paint products *permits included	4,022.95

Please reply if estimate is satisfactory; estimates good for 60 days	Total \$4,022.95
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Abrew Repair & Construction

PROJECT #	DATE	INVOICE #
SKY LIGHT	9/20/2011	520820

CUSTOMER:
 JOE PERRY
 6104 HOMER COURT
 PLEASANTON, CA 94588

CONTACT INFORMATION:

ITEM	DESCRIPTION	QTY	UNIT
1	PERMIT - COST OF PERMITS, PLANS AND FEES IF ANY		
13	DEMOLITION - REMOVAL OF DRYWALL / SHEETROCK / INSULATION CUT ROOF AND FRAME SKYLIGHT BETWEEN EXISTING TRUSSES INSTALL 2 X 4 CURB ON ROOF, INSTALL VELUX SKYLIGHT 21" X 46" WITH VELUX STEP FLASHING KIT WIRE SKYLIGHT TO EXISTING CIRCUIT FOR REMOTE CONTROL OPERATION INSTALL R-30 SURROUNDING SKYLIGHT FRAME		
64	DRYWALL & PAINTING - DRYWALL / SHEETROCK WALLS / CEILINGS		
65	DRYWALL & PAINTING - TEXUTRE CEILING AROUND SKYLIGHT TO MATCH EXISTING		
66	DRYWALL & PAINTING - PAINT CEILINGS AROUND SKYLIGHT WITH PRIMER		
67	DRYWALL & PAINTING - PAINT CEILINGS AROUND SKYLIGHT WITH FINISH PAINT - TO MATCH EXISTING		
*		1.00	EA

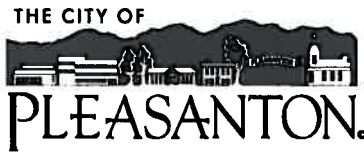
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 CITY OF PLEASANTON
 COMMUNITY DEVELOPMENT

SIGNATURE _____

PLEASE LOOK OVER AND SIGN ABOVE FOR APPROVAL OF JOB

THANK YOU FOR YOUR BUSINESS!

SUBTOTAL	\$4,204.52
TOTAL AMOUNT	\$4,204.52
AMOUNT RECEIVED	\$0.00
BALANCE DUE	\$4,204.52



CITY COUNCIL AGENDA REPORT

January 18, 2011
Community Development
Planning Division

TITLE: PAP-149, CONSIDER AN APPEAL OF THE PLANNING COMMISSION'S APPROVAL FOR ADMINISTRATIVE DESIGN REVIEW TO CONSTRUCT AN APPROXIMATELY 80-SQUARE-FOOT SINGLE-STORY ADDITION AND AN APPROXIMATELY 1,038-SQUARE-FOOT SECOND-STORY ADDITION TO THE EXISTING RESIDENCE LOCATED AT 6114 HOMER COURT

APPELLANTS: David and Stephanie Persin

APPLICANTS/PROPERTY OWNERS: Rodney and Trina Lopez

SUMMARY

David and Stephanie Persin have filed the subject appeal of the Planning Commission's approval to allow an approximately 80 square foot single-story addition and an approximately 1,038 square foot second-story addition. The Persins contend that the project will result in reduced sunlight and reduced privacy, will negatively impact their view to the north, and that a two-story home is not consistent with the characteristics of the neighborhood. The correspondence from the appellants submitted with this appeal has been attached to this staff report. Subsequent to the Planning Commission meeting, two mediation meetings were held in an effort to facilitate an acceptable solution to concerned neighbors and the applicant. The mediation meetings resulted in further discussion about the project and possible mitigation measures, but did not result in a solution agreed by all parties. The appeal is therefore before the City Council.

PLANNING COMMISSION ACTION

Approved the application subject to conditions of approval by 3-2 vote.

RECOMMENDATION

Staff recommends that the City Council adopt the attached draft resolution denying the appeal, thereby upholding the Planning Commission's approval of Case No. PADR-2090, subject to the conditions listed in Exhibit A.

FINANCIAL STATEMENT

Community Development fees apply for Planning entitlements and Building permits; therefore, no fiscal impact on the City is anticipated.

BACKGROUND AND THE APPEAL

The applicant requests approval to construct a first and second story addition to the existing one-story home located at 6114 Homer Court. The scope consists of an addition to the first floor of approximately 80 square feet and a new second story of approximately 1,038 square feet. Figure 1 below provides a vicinity map and aerial photo of the subject site and its surrounding neighbors.



FIGURE 1: AERIAL MAP (GOOGLE MAPS)

Please refer to the Planning Commission staff report dated August 25, 2010, for additional details regarding the project description and process leading to the Planning Commission hearing (Attachment 7). The section labeled “Planning Commission Hearing” in this report describes the topics that were discussed at the Planning Commission hearing, and the section labeled as “Mediation” below describes the discussion and outcome as a result of two mediation meetings held after the Planning Commission hearing. The correspondence from the appellant party submitted with this appeal has been attached to this staff report as Attachment 2. Additional correspondence from the appellant party is attached to the Planning Commission staff report (Attachment 7) and was distributed during the Planning Commission hearing (Attachment 9). A letter from the applicants in response to the appeal has been attached to this staff report as Attachment 3.

MEDIATION

During the August 25, 2010, hearing, the Planning Commission asked the applicants and the appellants if they would consider mediation as a method to reach a suitable solution. The appellants stated that they would be interested in mediation, but the applicants declined participation since they felt it would not result in a solution that

would be agreeable to all parties. Additionally, the applicants were seeking a decision from the Planning Commission the evening of the meeting.

After the Planning Commission hearing, the applicants changed their mind regarding mediation. Ms. Mary Roberts, a former member of the Planning Commission, agreed to staff's request to act as the mediator and facilitated discussion for the meetings. The applicants (Mr. Rodney Lopez and Ms. Trina Lopez), two people from the "concerned neighbors" party (Mr. David Persin and Mr. Joe Perry), and staff attended the mediation meetings. Two mediation meetings were held, on Wednesday, October 6th, and Monday, November 22nd, 2010.

During the first mediation meeting, Ms. Roberts asked the two representatives from the "concerned neighbors" party what modifications would make the proposal more acceptable to them. Mr. Perry indicated that he would like the proposed second story portion of the house moved farther away from the mutual property line to reduce the view of the second story and to reduce the potential impact of shadows cast by the proposed structure. In response, Mr. Lopez indicated that the front roofline could be altered to a hipped roofline instead of the gable that is currently proposed near the corner of the home that is closest to the Perry residence. Additionally, to increase the amount of sunlight coming into the Perry residence, the Lopezes suggested that the Perrys consider installing a skylight into their front room. Also, the Lopezes offered to plant landscaping near the northeast front corner of their home to reduce the visual impact of the proposed second story as seen from the Perry's front room. The Lopezes also suggested locating the screening currently required to be planted in their rear yard to instead be planted in the rear yard of the Hoehnes, given the limited space available along their rear fence for planting.

During the second mediation meeting on November 22nd, the above mitigation measures were further discussed. Approximations of the proposed project and views from neighboring properties were provided at the meeting to facilitate discussion and have been attached to this staff report as Attachment 5. The Lopezes offered to pay for the construction of a skylight in the front room of the Perry residence to allow for more sunlight. Additionally, the Lopezes indicated they could add a "belly-band," an architectural treatment that would extend around the perimeter of the home to assist in breaking up massing. However, Mr. Perry indicated that he does not find these measures (or the additional landscaping near the front corner of the home) to be adequate in addressing his concerns and would still like to see the second story portion of the addition be located farther from the mutual property line. Mr. Perry estimated that locating the second story farther to the west from its current location by at least 10-feet would reduce the visual impact of the structure. Mr. Persin indicated that an addition limited to a portion of the western front half of the home would be more appropriate than the current proposal.

In reply, the Lopezes indicated that they could not pull the addition back from the eastern side since it would substantially reduce the size of the two bedrooms on the second floor. The Lopezes also indicated that they considered placing some of the

second floor addition on the first floor, but did not find this alternative feasible since it would reduce the outdoor play area that exists near the eastern and southern property lines, would require eliminating an existing bathroom on the first floor in order to construct a hallway, and would eliminate a bedroom on the proposed second floor. Figure 6 on page 10 provides visual representation of where a first floor addition may be located. The contents of this diagram are discussed further in this report under section labeled "First Floor Addition."

Mr. Persin also suggested the alternative of constructing an addition to the rear of the existing first floor, near where the deck is currently located. However, a single-story addition where the deck is currently located would require a variance since it would not meet the required rear yard setback. It would also result in an unusual internal layout with the addition accessed from the existing family room.

The mediation meetings held on October 6th and November 22nd have resulted in further discussion between the applicants and the concerned neighbors, but have not resulted in a solution that is acceptable to all parties. Therefore, the appeal is before the City Council for a decision.

PLANNING COMMISSION HEARING

The Planning Commission hearing on August 25, 2010, was in response to an appeal filed by three adjacent property owners. The public comments expressed at the hearing were consistent with the comments provided at the Zoning Administrator hearing. In summary, the topics of concern consist of: reduced privacy, reduced sunlight, views of the two-story home, and inconsistency with the neighborhood. The Planning Commission denied the appeal filed by three of the adjacent property owners with a 3-2 vote, thereby upholding the Zoning Administrator's approval of the proposed project, subject to the conditions of the approval, with the following amendment:

that the hours of construction be limited to 8:00 a.m. to 5:00 p.m. on Monday – Friday (instead of the same hours on Monday – Saturday).

The Planning Commission's decision was primarily based on the following: (1) the project meets the requirements of the Pleasanton Municipal Code and the applicant is not requesting any variances; (2) the applicant has modified windows and agreed to plant landscape screening along the rear property line in efforts to address concerns regarding privacy impacts of the proposal and the view of the project from their rear yards; and (3) the proposal is architecturally articulated with the use of varied rooflines and building walls.

Additionally, during the public comment process and the deliberation by the members of the Planning Commission, several additional topics were discussed. These are described and discussed in more detail below. The staff report, approved minutes for the August 25, 2010, Planning Commission hearing, and correspondence distributed

during the Planning Commission meeting are attached to this report as Attachments 7, 8, and 9, respectively.

Viewscapes/Story Poles/3D Visuals

The deliberation process during the Planning Commission hearing included a discussion of the view of the proposed project from neighboring properties. A member of the Commission recommended that story poles be installed by the project contractor and/or digital viewscapes of the proposed project be prepared by the project architect in order to provide a clearer idea of the project scope and the proposal. In reply to the request for story poles, the applicant declined to install them unless they were installed at the expense of the appellants.

Figures 2 and 3 on page 6 are visual simulations prepared by staff and are intended to assist the City Council in evaluating the proposed project. An alternative to this approach would be to require that the applicant install story poles, take photographs of the project site with story poles, and return to the City Council. The visuals approximate how the proposed project would appear on the subject site if constructed and seek to provide the City Council with a simulation of the proposed project's appearance. The three-dimensional (3-D) visuals have been created based on the dimensions and parameters of the architectural drawings submitted for the project. The windows on the second floor of the rear façade are shown as they are on the architectural drawings; however a condition of approval requires modification to these windows for their size and/or placement. The photos to the left of the 3-D visuals in Figure 2 demonstrate the approximate appearance of the proposed second story with the yellow outline and also include the existing shrubs, landscaping, and other site features for context. Additionally, landscape screening required as a condition of approval is not shown on the 3-D models. Figure 3 shows an aerial bird's eye view from Bing Maps and has included for context of the existing home, site improvements, landscaping, and surrounding properties.

Shadow Impact

The neighbors have also stated that they are concerned about the potential shadow impact of the proposed project. Approximate depictions of the proposed project and its potential for shadow impacts to surrounding properties are shown in Figure 4 (page 7). Three different times (8:00 a.m., noon, and 5:00 p.m.) have been shown for the winter and summer months (January and July). While the proposed project and the approximate height of perimeter fencing has been modeled, other three-dimensional objects on the subject property and surrounding properties, such as other buildings, trees, shrubs, et cetera, are not shown. Thus, while the shadow approximations show the potential shadow impact of the proposed project, the way the shadow interacts with other objects on and in the vicinity of the site is absent. An aerial of the properties has been included to show where these other objects exist.

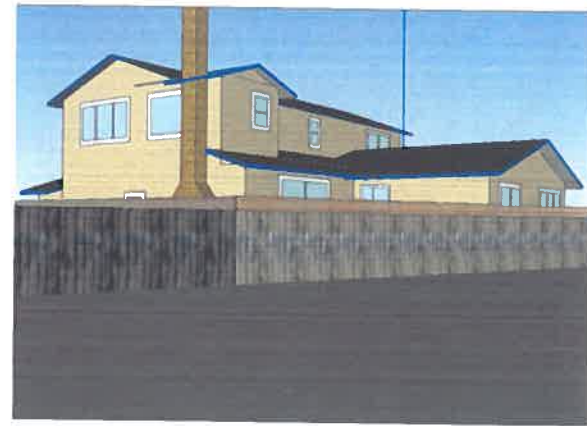
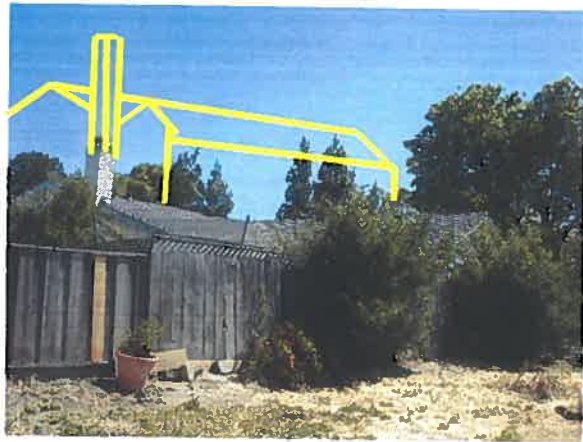


Photo montage and approximate view from the rear yard of Hoehne residence at 6217 Robin Court

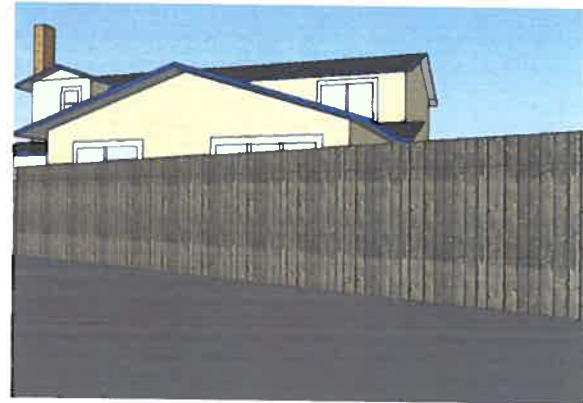
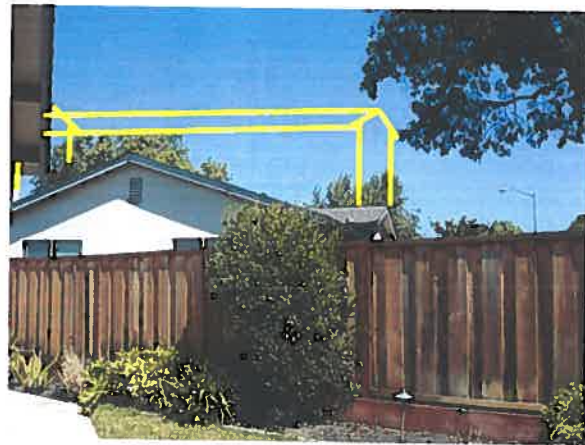


Photo montage and approximate view from the rear yard of Persin residence at 6209 Robin Court

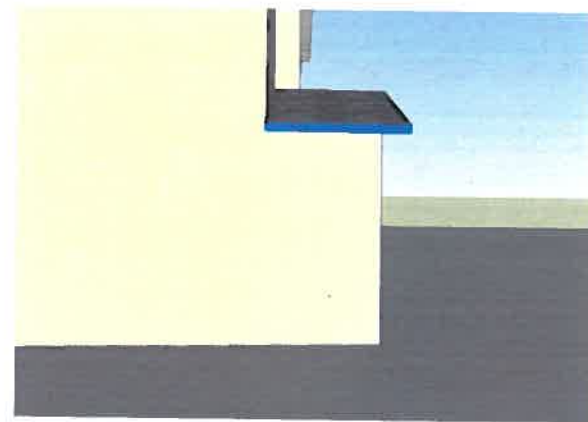


Photo montage and approximate view from front room of Perry residence at 6104 Homer Court

FIGURE 2: PHOTO MONTAGES AND APPROXIMATE VIEWS OF PROPOSED PROJECT FROM HOEHNE, PERSIN AND PERRY RESIDENCES

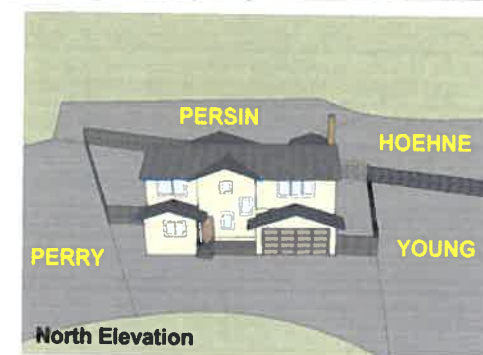
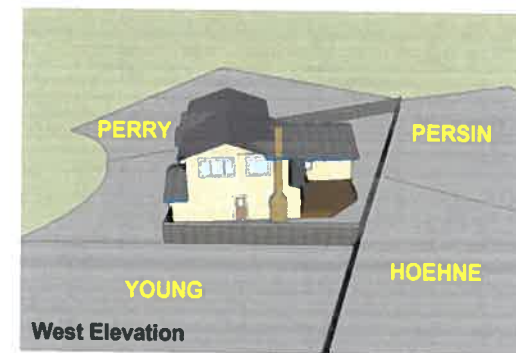
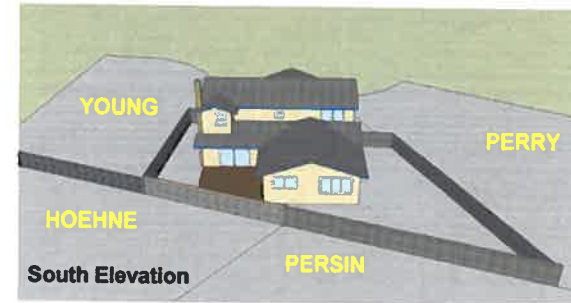
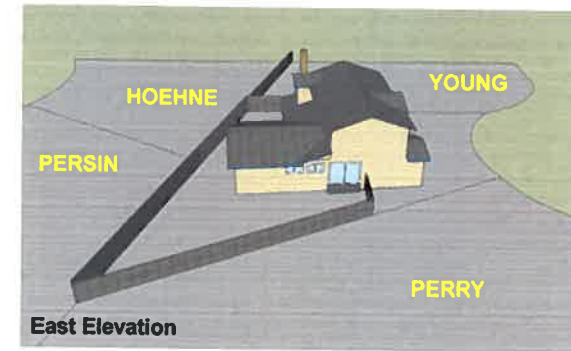
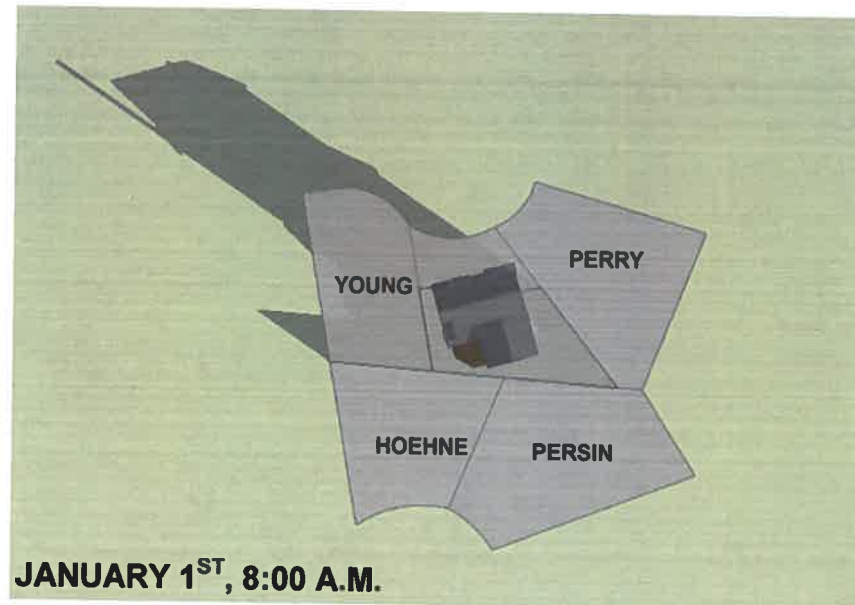
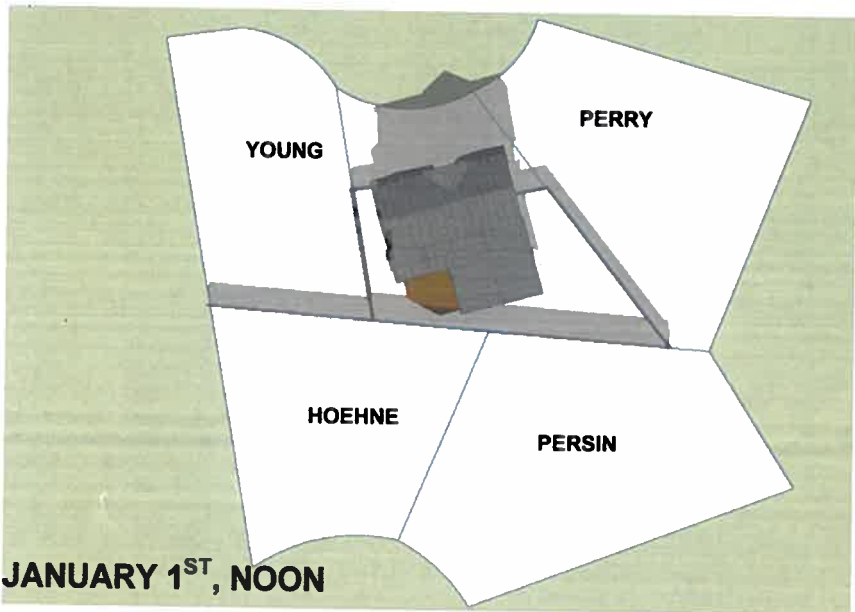


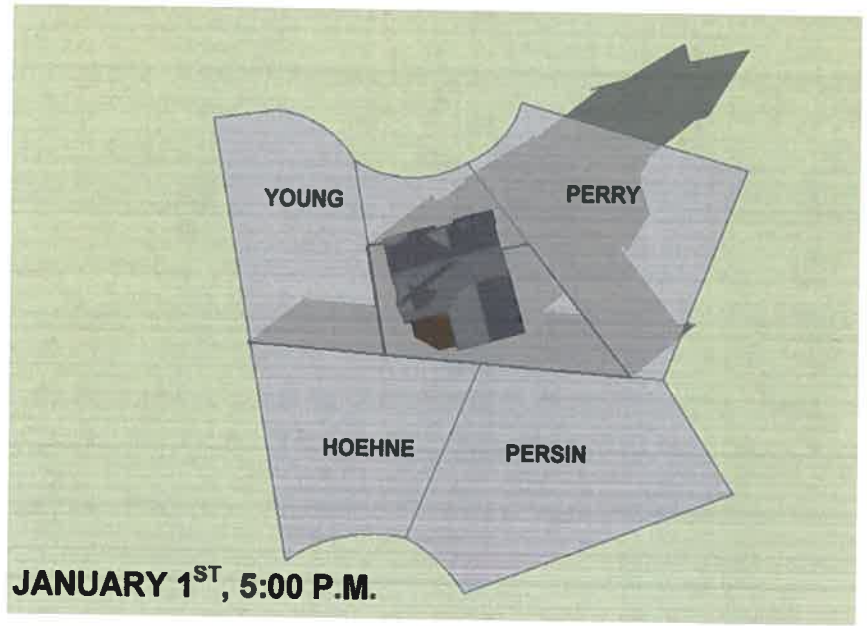
FIGURE 3: APPROXIMATE 3-D MODEL OF PROPOSED PROJECT AND AERIAL BIRD'S EYE VIEW (BING MAPS)



JANUARY 1ST, 8:00 A.M.



JANUARY 1ST, NOON

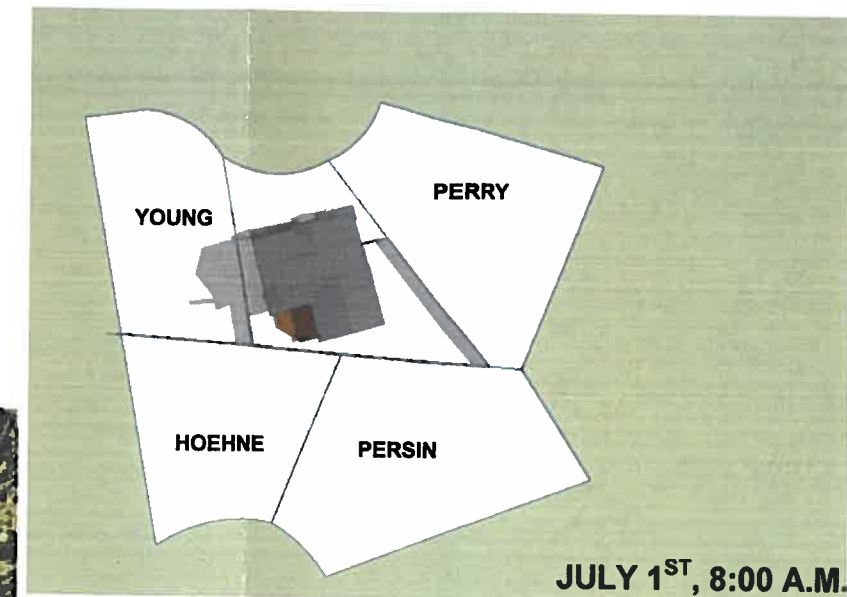


JANUARY 1ST, 5:00 P.M.

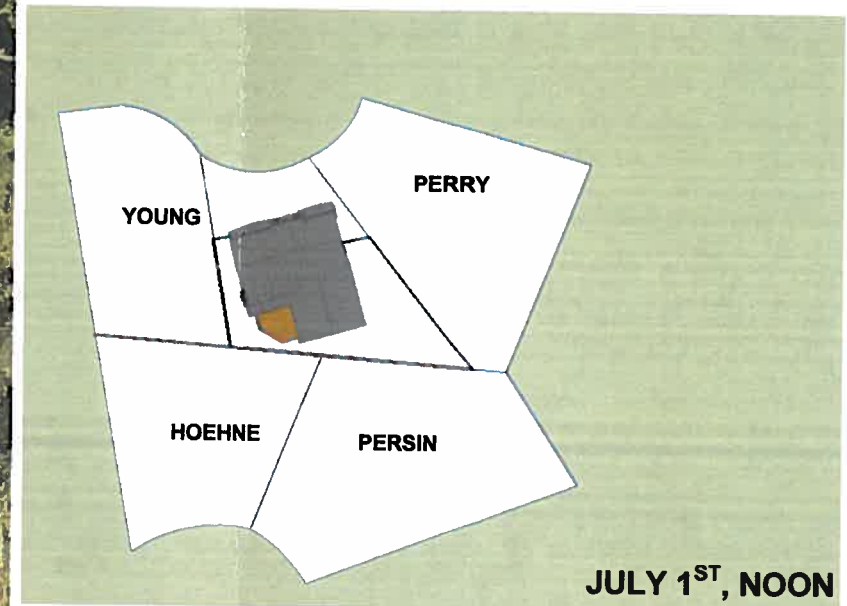


ALAMEDA COUNTY PARCEL VIEWER, OFFICE OF THE ASSESSOR

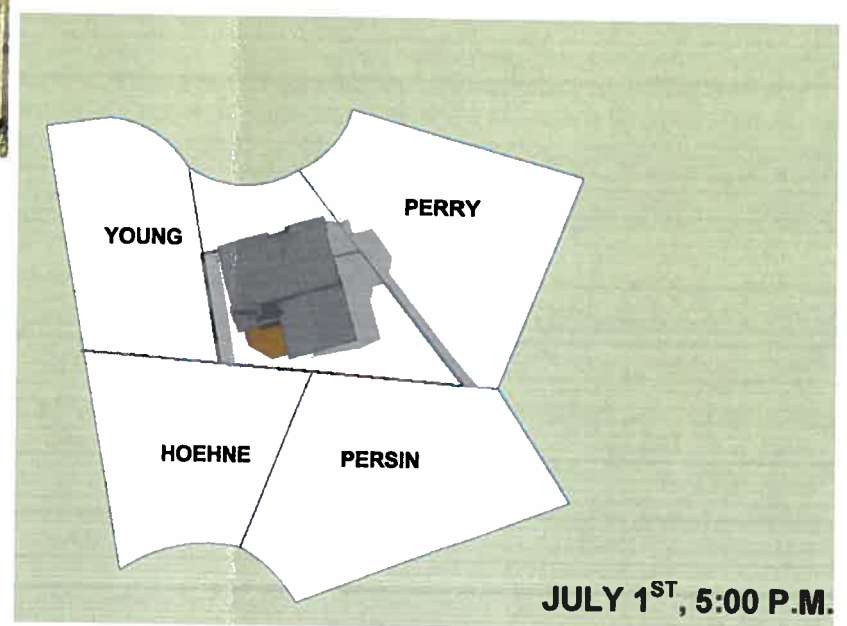
FIGURE 4: APPROXIMATE LOCATION OF SHADOWS CAST BY PROPOSED PROJECT DURING SUMMER AND WINTER MONTHS, AT 8:00 A.M., NOON, AND 5:00 P.M.



JULY 1ST, 8:00 A.M.



JULY 1ST, NOON



JULY 1ST, 5:00 P.M.

Two of the three concerned neighbors are to the south of the subject property and are not likely to be impacted by shadows of the proposed second story as shown by the digital renderings. The neighboring properties to the east and west, as well as portion of the street, will be shadowed by the house during various days and times. This shadow will be, however, in addition to other existing objects that currently cast a shadow to the east and west. An example of this is mature landscaping that exists along the mutual property line between the subject property and the Perry's home.

Square Footage and F.A.R. of other two-story homes in the Val Vista Neighborhood

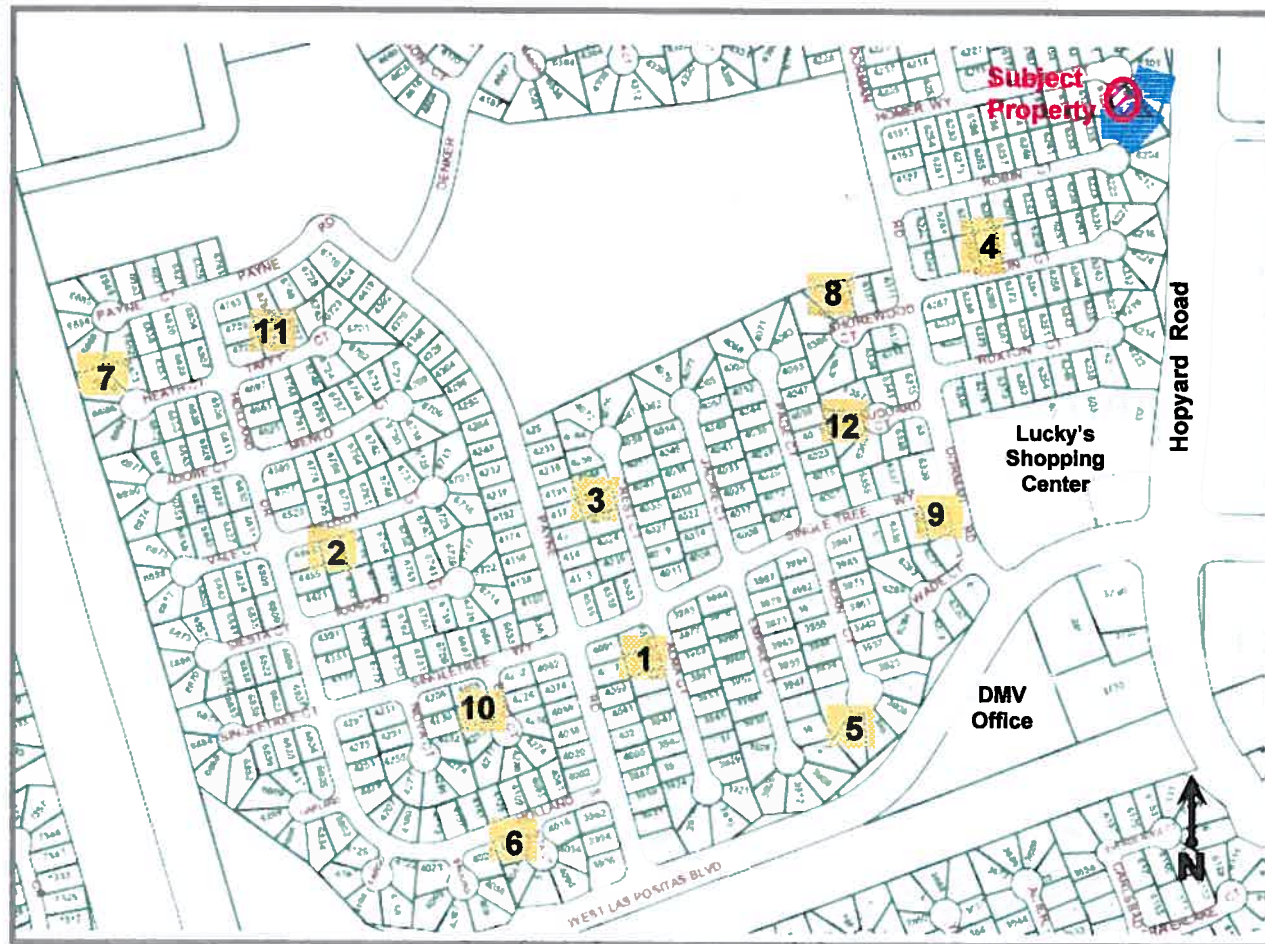
During the deliberation process, a member of the Planning Commission commented that the square footage and F.A.R. of the fifteen two-story homes mentioned by the appellants and applicants would be helpful in the decision making process. The chart shown in Figure 5 (page 9) provides this information, a portion of which is derived from City permit records and a portion of which is derived from the Alameda County Assessor's Office. The data indicates that other two-story homes in Val Vista vary in size and F.A.R. and range between a total house size of approximately 1,926 square feet to approximately 2,664 square feet and a F.A.R. of approximately 19.47% to approximately 42.59%.

The staff report for the Planning Commission hearing shows photos and a location map of the twelve two-story homes that the appellants listed in their appeal correspondence. The applicants, during their testimony during the public hearing, indicated that three additional two-story homes are located on Bacon Court. Photos of these homes and a location map are also provided in Figure 5.

First Floor Addition

The neighbors have indicated that they would prefer to see an addition to the first floor instead of a new second story. The configuration of the lot and the placement of the existing home, as well as possible areas for a first floor addition are shown in Figure 6 on page 10. While the diagram shows potential locations for single story additions, a combination of a single-story and two-story addition beyond the existing building footprint would require that the second story portion of the addition be separated from the adjacent one-story homes by a minimum of 17-feet. This requirement does not apply to the current proposal because encroachment into the existing side setbacks is not proposed.

The rear setback requirement is 20-feet; however, the Pleasanton Municipal Code allows for single-story additions to come as close as 15-feet to the rear property line in the R-1-6,500 zoning district as long as a *single* unobstructed area of open space with a minimum dimension of 15-feet and a minimum size of 1,040 square feet is maintained in the rear/side yards. The area shaded in purple depicts the single-story area that may be added if it were constructed to the 15-foot setback and indicates that this space accounts for approximately 260 square feet. If an addition to the first floor with a rear setback of 15-feet were proposed, the applicant would need to demonstrate compliance with the requirement for open space.



3972 Alma Court



6788 Melody Court



4040 Crest Court



6275 Roslin Court



3910 Kern Court



4021 Alta Court



6895 Heath Court



6363 Shorewood Court



6304 Singletree Way



4229 Echo Court



6789 Taffy Court



6390 Suddard Court

	Address	Approximate First Floor Square Footage	Approximate Second Floor Square Footage	Total House Square Footage	Property Size*	F.A.R.
1	3972 Alma Court	1,529	682	2,211	6,200	35.66%
2	6788 Melody Court	1,538	866*	2,404*	6,200	38.77%
3	4040 Crest Court	1,384	942	2,326	6,200	37.52%
4	6275 Roslin Court	1,618	681	2,299	6,200	37.08%
5	3910 Kern Court	1,559*	752	2,311*	9,294	24.87%
6	4021 Alta Court	1,415	511*	1,926*	6,943	27.74%
7	6895 Heath Court	1,415	1,030*	2,445*	9,404	26.00%
8	6363 Shorewood Court	1,538	NA**	NA**	NA**	NA**
9	6304 Singletree Way	1,725	709	2,434	6,503	37.43%
10	4229 Echo Court	1,538	734*	2,272*	6,200	36.65%
11	6789 Taffy Court	1,916	748*	2,664*	6,255	42.59%
12	6390 Suddard Court	1,453*	494	1,947*	10,000	19.47%
13	4426 Bacon Court	1,584	544	2,128*	6,200	34.32%
14	4435 Bacon Court	1,538	423*	1,961*	6,200	31.63%
15	4486 Bacon Court	1,538	862*	2,400*	6,229	38.53%

* Based on Alameda County Assessor's Office Data

** Not available



4426 Bacon Court



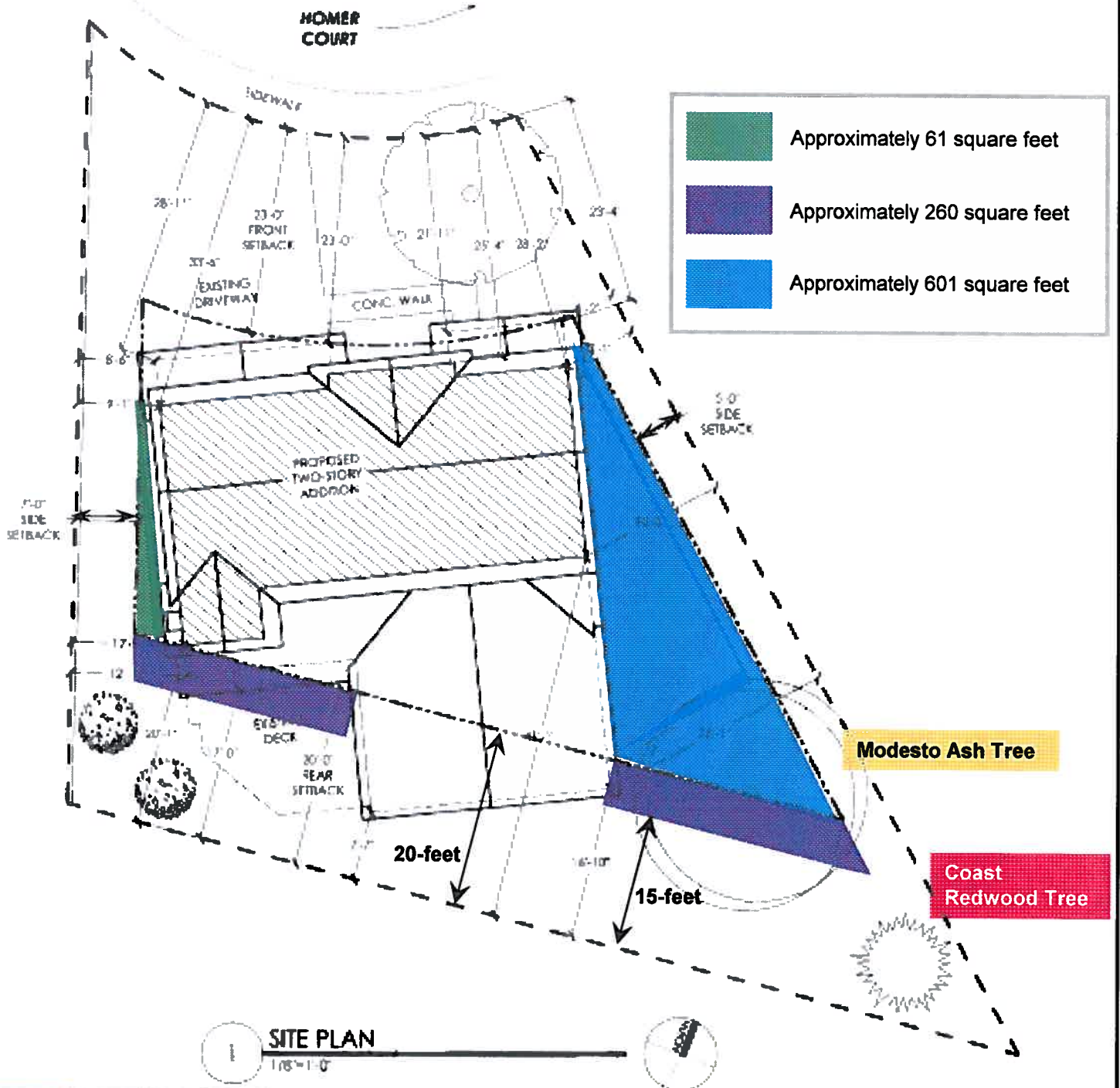
4435 Bacon Court



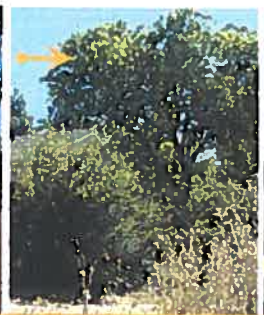
4486 Bacon Court



FIGURE 5: OTHER TWO-STORY HOMES IN THE VAL VISTA NEIGHBORHOOD AND APPROXIMATE SQUARE FOOTAGE DATA (BASED ON DATA FROM CITY PERMIT RECORDS AND ALAMEDA COUNTY ASSESSOR'S OFFICE)



PICTURES OF MODESTO ASH TREE



PICTURE OF COAST REDWOOD TREE

FIGURE 6: POSSIBLE AREAS FOR FIRST FLOOR ADDITION AND TREES IN SOUTHEAST AREA OF YARD

Additionally, the site plan indicates that an addition to this area encroaches within the canopy and trunk of an existing Modesto Ash tree located in the rear yard. Although the Modesto Ash tree may be located closer to the eastern side property line than is shown on the site plan, an addition to the first floor in this area may still be constrained due to location of this tree. Therefore, the potential square footage feasible for a first-floor addition in this area may be less than 260 square feet. Based on the dimensions provided on the site plan, it does not appear that compliance with the open space requirement is feasible if an addition in all of the purple and blue areas is proposed.

The area shaded in green represents a small area on the western side of home. Since this area accounts for approximately 61 square feet and is triangular in configuration, an addition on this portion of the home may not be optimal. The area shaded in blue is the largest area within the building envelope. This area is approximately 601 square feet in size, but similar to the purple area, partially encroaches within the canopy of the Modesto Ash tree. An addition to the area shaded in blue would eliminate the existing open space in the side yard, a concern that has been emphasized by the Lopez family.

Unique Configuration of Lot Placement

The appellants stated that the configuration of the subject property in relation to the surrounding neighbors is unique within the Val Vista neighborhood. The vicinity map in Figure 7 shows the configuration of the subject property (outlined in red) but also demonstrates that the configuration of the subject parcel, while a unique shape, is not unique to the Val Vista neighborhood. There are several other properties (highlighted with a blue rectangle) shaped in a similar manner to that of the subject property and where the rear property line is bisected by a mutual side property line of properties to the rear. Overhead satellite images of these properties indicate that several properties have reduced rear yard setbacks similar to the subject property.

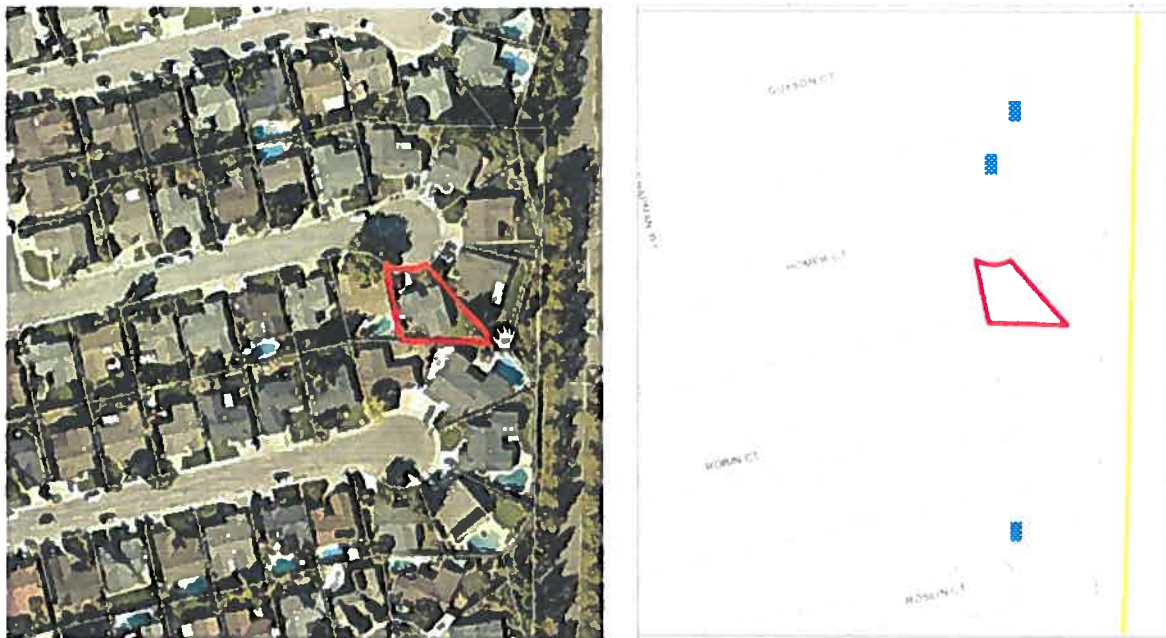


FIGURE 7: VICINITY MAP SHOWING CONFIGURATION OF SUBJECT PROPERTY AND OTHER PROPERTIES WITHIN THE VAL VISTA DEVELOPMENT (ALAMEDA COUNTY PARCEL VIEWER, OFFICE OF THE ASSESSOR)

Floor-Area-Ratio of other Homes within Vicinity of Subject Property

The staff report for the Planning Commission hearing includes the square footage of homes within a 300-foot radius of the subject property. The purpose of this data is to show the approximate range of the sizes of homes within vicinity of the project site. During the public hearing portion of the Planning Commission hearing, Mr. David Persin stated that the floor-area-ratio (F.A.R.) of the homes should be added to the chart to provide a more complete analysis of the data. A member of the Planning Commission stated that this additional information would be helpful in the decision making process. In reply to both of these comments, the chart shown in Figure 8 below has consistent data with that shown in the Planning Commission staff report, but also includes the F.A.R.

Address	Home Size	Property Size	F.A.R.	Address	Home Size	Property Size	F.A.R.
Guyson Street				Homer Court			
6280	1,415	6,200	22.82%	6179	1,889	6,200	30.47%
6272	1,584	6,200	25.55%	6167	1,415	6,200	22.82%
6264	1,538	6,200	24.81%	6155	1,584	6,200	25.55%
6256	1,405	6,200	22.66%	6143	1,405	6,200	22.66%
6248	1,759	6,200	28.37%	6131	1,759	6,230	28.23%
6232	1,538	6,316	24.35%	6119	1,538	6,485	23.72%
6224	1,415	6,232	22.71%	6107	1,538	7,252	21.21%
6216	1,584	7,985	19.84%	6101	1,584	8,445	18.76%
6217	1,889	8,475	22.29%	6104	1,759	7,940	22.15%
Robin Court				6114	1,489 2,607 (p)	6,521	22.83% 40% (p)
6249	1,415	6,200	22.82%	6126	1,618	6,263	25.83%
6241	1,584	6,200	25.55%	6138	1,415	6,200	22.82%
6233	1,405	6,200	22.66%	6150	1,538	6,200	24.81%
6225	1,538	6,200	24.81%	6162	1,759	6,200	28.37%
6217	1,415	6,501	21.77%	6174	1,415	6,200	22.82%
6209	2,911	9,167	31.76%	Roslin Court			
6204	2,305	10,000	23.05%	6243	1,405	6,200	22.66%
6212	1,806	9,002	20.06%	6235	1,538	6,201	24.80%
6220	1,538	6,501	23.66%	6227	2,016*	9,448	21.34%
6228	1,613	6,200	26.02%	6216	1,759	8,335	21.10%
6236	1,538	6,200	24.81%	* Based on Alameda County Assessor's Office Data			
6244	2,169*	6,200	34.98%				

FIGURE 8: CHART SHOWING RESIDENTIAL PROPERTY SIZES AND HOME SIZES WITHIN 300-FOOT RADIUS OF SUBJECT PROPERTY (BASED ON DATA FROM CITY PERMIT RECORDS AND ALAMEDA COUNTY ASSESSOR'S OFFICE)



As stated in the Planning Commission staff report, the size of the home if the proposed addition were constructed would be 2,607 square feet, reaching the maximum floor area ratio permitted of 40%. The range of the sizes of homes shown in Figure 8 varies in terms of both square footage and expressed as F.A.R. The square footage varies between approximately 1,405 square feet to approximately 2,911 square feet and the F.A.R. varies between approximately 18.76% and approximately 34.98%. The proposed project would have the highest F.A.R. of the homes within this 300-foot radius, but would not be the largest home in terms of square footage. The proposed project would be the only two-story home within the 300-foot radius.

CC&Rs

During the Planning Commission meeting, the applicants distributed a copy of the CC&Rs for their portion of the Val Vista development. Item number 5 on the first page states that "no building ... shall exceed two and one-half stories in height." While the members of the Planning Commission did not discuss the CC&Rs in full detail, one of the members commented that the CC&Rs indicate that a two-story home is allowed, but is not written in language that is explicitly permissive and does not necessarily make two-story homes a right. The City does not enforce CC&Rs, but the relevant language that appears in this document is attached to this staff report as Attachment 6 for review by the City Council.

OPTIONS FOR CONSIDERATION

The City Council has several options in considering this appeal and the proposed project. The following are options the City Council may wish to consider and/or discuss.

Option No. 1: Uphold the Appeal and Deny the Proposed Project

This option would entail that the applicants may not construct the project as proposed.

Option No. 2: Deny the Appeal and Approve the Project as Proposed, Subject to Conditions of Approval

This option would allow the project to be constructed as proposed, subject to the conditions of approval outlined in the attached resolution.

Option No. 3: Deny the Appeal and Approve the Project as Proposed, Subject to Conditions of Approval That Include Mitigation Measures Offered During Mediation

This option would allow the project to be constructed as proposed, subject to the conditions of approval outlined in the attached resolution in addition to the following conditions:

1. In order to allow for additional sunlight in the Perry residence, the applicants shall provide payment for the cost to purchase and install one skylight in the front room of the Perry residence. The amount of the payment shall be determined by the lowest of three bids obtained by the Perrys for the time and

materials of a licensed contractor to complete the installation of the skylight. The funds shall be provided to Joe and TinaMarie Perry by Rodney and Trina Lopez within 30-calendar-days of receiving all three bids. The cost shall not exceed \$2,500.00.

2. Within 45-days of the effective date of an approval for Case PADR-2090, the applicant shall plant landscape screening near the northeastern front corner of the subject home with the objective of addressing visual concerns from neighbors to the east. The plans submitted to the Building Division for building permit plan check shall be modified to show said landscape screening. The applicant shall maintain all landscape screening in good condition so as to present a healthy and orderly appearance and shall immediately replace any landscape screening materials that become dilapidated or cease to provide screening. The applicant shall select landscaping species subject to the review and approval by the Director of Community Development. The landscaping screening shall be evergreen, fast-growing, and have minimal leaf and fruit litter. The Director of Community Development shall consult with the City Landscape Architect or other resources as necessary to determine the appropriateness of the proposed alternative screening materials.
3. The applicant shall add a belly-band to the exterior of the home. The plans submitted to the Building Division for building permit plan check shall show this modification.
4. The applicant shall modify the project plans to show a hipped roof over the first-story portion in the northeastern corner of the home. The plans submitted to the Building Division for building permit plan check shall show this modification.

Option No. 4: Require the Applicant Modify the Project and Return to the City Council with the Modifications

This option would require that the applicant modify the plans per City Council direction and return to a City Council hearing with a revised proposal.

PUBLIC NOTICE

Notices regarding this appeal and related public hearing were mailed to the surrounding property owners and tenants within a 1,000-foot radius of project site. The public notice was also published in *The Valley Times*. At the time this report was prepared, staff has not received any additional comments or concerns.

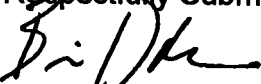
ENVIRONMENTAL ASSESSMENT

Projects of this nature are categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under section 15303 (Class 3) New Construction or

Conversion of Small Structures. Therefore, no environmental document accompanies this report.

CONCLUSION

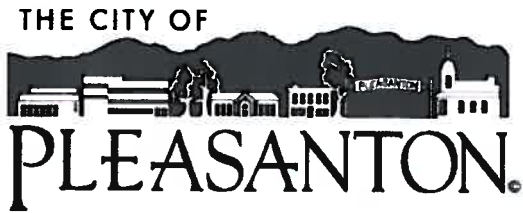
The existing configuration of the subject home and the surrounding properties make it difficult to mitigate all the concerns of all parties involved. Based on the analysis of this staff report, staff believes that the proposed project merits approval. A restriction against two-story homes does not exist for the subject property or the Val Vista neighborhood and other two-story homes currently exist within the area. Further, an addition to the first floor may not yield the square footage that the applicant finds is necessary and may result in an awkward interior configuration. Other constraints, such as the size and shape of the lot, existing mature landscaping, and elimination of usable open space may further restrict an addition only to the first story of the subject property. With respect to shadowing, the neighbors to the rear will be minimally, if at all, impacted by the proposed project. The property of the concerned neighbor to the east will experience additional shading by the proposed project, but the shadow cast by the home will be in addition to other landscaping and mature trees that are currently located adjacent to or near the mutual property line. As demonstrated by the photos of the site, the neighbors have a clear view of the existing home and the proposed second floor is proposed closer to the front of the subject property. The conditions of approval require the applicant to mitigate for concerns regarding privacy and view of the proposal with the use of landscape screening and modifications to second-story windows on the rear façade.

Respectfully Submitted,

Brian Dolan
Director of
Community Development


Nelson Fialho
City Manager

Attachments:

1. Draft City Council Resolution Denying the Appeal
2. Appeal from David and Stephanie Persin, dated "Received" September 8, 2010
3. Letter from Rodney and Trina Lopez, dated "Received" December 27, 2010
4. Exhibit B, Proposed Plans
5. Approximate Views of Proposed Project from November 22, 2010 Mediation Meeting
6. Excerpt of CC&R's for Subject Property
7. Planning Commission Staff Report, dated August 25, 2010 (without project plans)
8. Excerpts of the approved Minutes of the August 25, 2010 Planning Commission Hearing
9. Correspondence Distributed During the August 25, 2010 Planning Commission Hearing



Planning Commission Staff Report

August 25, 2010
Item 6.a.

SUBJECT: PAP-146 (Appeal of PADR-2090)

APPELLANTS: David and Stephanie Persin, Hans and Roxana Hoehne, Joe and TinaMarie Perry

**APPLICANTS/
PROPERTY OWNERS:** Rodney and Trina Lopez

PURPOSE: Appeal of the Zoning Administrator's approval for Administrative Design Review to construct an approximately 80-square-foot single-story addition and an approximately 1,038-square-foot second-story addition to the existing residence located at 6114 Homer Court.

GENERAL PLAN: Medium Density – 2 to 8 dwelling units per gross acre

ZONING: R-1-6,500 (One-Family Residential) District

LOCATION: 6114 Homer Court

ATTACHMENTS: Exhibit A: Draft Conditions of Approval
Exhibit B: Plans for Proposed Addition
Exhibit C: Appeal Letters
Exhibit D: Correspondence Received after the Zoning Administrator Hearing
Exhibit E: Zoning Administrator Approval Letter, Hearing Minutes, Correspondence

Exhibit F: Location Map
Exhibit G: Noticing Map

BACKGROUND

The applicants, Rodney and Trina Lopez, request approval to construct a first and second story addition to the existing one-story home located at 6114 Homer Court. The first floor addition consists of approximately 80 square feet and the second floor addition consists of approximately 1,038 square feet. Neighbors that own property to the south of the subject property, Mr. and Ms. David and Stephanie Persin (6209 Robin

Court) and Mr. and Ms. Hans and Roxana Hoehne (6217 Robin Court) have concerns regarding reduced sunlight, reduced privacy, their view of the second story, a reduction in property values, and that a two-story home is not consistent with the characteristics of the neighborhood. Mr. and Ms. Joe and TinaMarie Perry (6104 Homer Court) have also commented that the proposal may impact their privacy (particularly if a bedroom window that is currently on the second story rear elevation is moved to the eastern façade), that the addition will obstruct views out of their front living room window, negatively impact the appearance of their home from the street by making it appear recessed from the street, and that it will result in a reduction in their property value.

A Zoning Administrator hearing was held on June 30, 2010. The Zoning Administrator approved the proposed project, subject to conditions of approval, including stipulations that require landscape screening and modifications to windows on the second floor of the rear elevation (please see the "Zoning Administrator Hearing" section of this staff report for additional details). An appeal of that decision has been filed by Mr. and Ms. Persin, Mr. and Ms. Hoehne, and Mr. and Ms. Perry.

SITE DESCRIPTION

The project site is a residential lot in the Val Vista neighborhood and is generally located west of Hopyard Road and north of West Las Positas Boulevard. The lot size is approximately 6,521 square feet, is an interior lot, and is situated adjacent to the bulb of the cul-de-sac of Homer Court. The properties in immediate vicinity of the subject property are single story. Figure 1 shows a vicinity map with an insert of the subject property highlighted in magenta and the homes of the appellants highlighted in blue. Further discussion of the configuration of the site and its surrounding properties is in the "Analysis" section of this report.

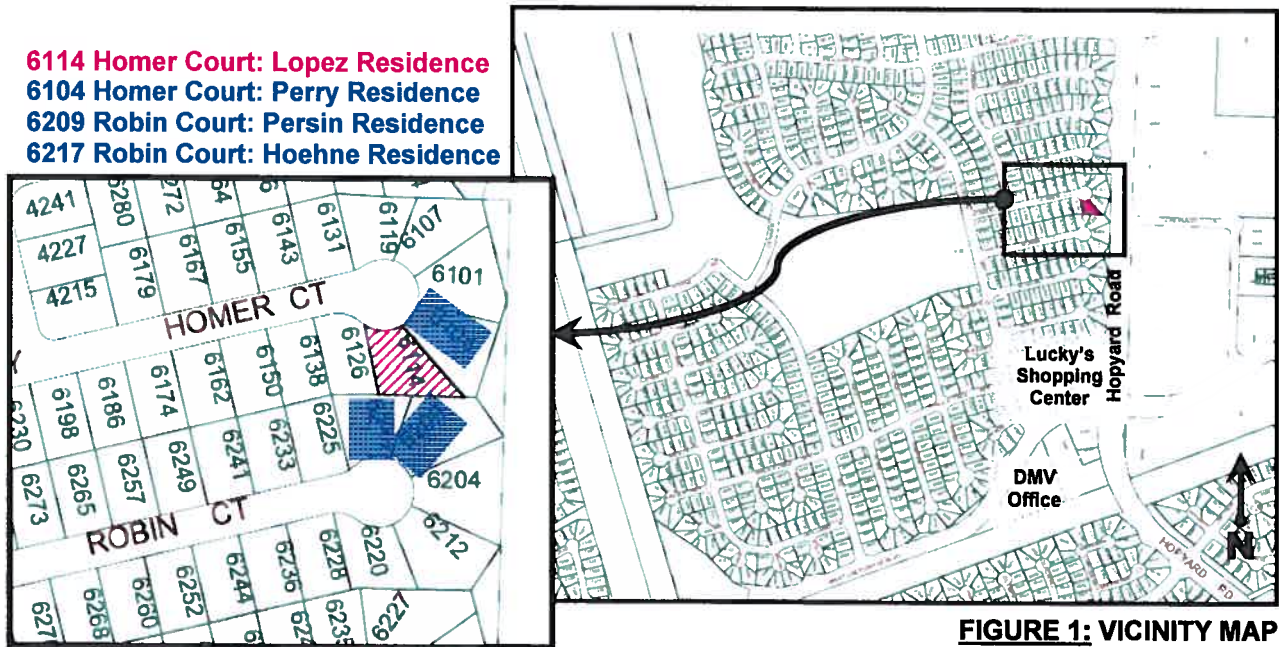


FIGURE 1: VICINITY MAP

PROJECT DESCRIPTION

The project plans are attached to this report as Exhibit B. The proposed addition to the first floor consists of approximately 80 square feet and the proposed addition to the second floor consists of approximately 1,038 square feet, resulting in a total of 1,118 square feet and a total house size of 2,607 square feet. The modifications to the first floor will consist of an expansion of the entry way and an alteration to the interior configuration of the first floor. The new second story consists of a master bedroom and bathroom, two bedrooms, bathroom, and a laundry room.



Proposed Rear Elevation (facing south and towards Robin Court, modifications to second story windows required per condition of approval)



Proposed Side Elevation (facing west and towards 6126 Homer Court)



Proposed Front Elevation



Proposed Side Elevation (facing east and towards 6104 Homer Court)



Partial View of Subject Property's Rear Elevation and Rear Yard



View of subject property from Homer Court



Partial view of existing east side elevation and rear/side yard

FIGURE 2: PROPOSED ELEVATIONS AND PHOTOS OF EXISTING HOME

ZONING ADMINISTRATOR HEARING

In accordance with code requirements and standard procedures, adjacent neighbors were mailed notices regarding the Administrative Design Review application. During the noticing process, staff received a phone call from Ms. Stephanie Persin, who lives in one of the homes south of the subject property (6209 Robin Court). Ms. Persin stated that she was concerned about privacy, lack of sunlight to her yard as a result of the project, and that it may decrease the value of her home. She also commented that a two-story home is not in keeping with the overall character of the neighborhood. Mr. David Persin also summarized his wife's comments in an email. Staff also received a phone call from Ms. Roxana Hoehne (6217 Robin Court), who has raised similar concerns to that of Ms. Persin and stated that she would like to see a single-story addition instead of a two-story addition.

The location of subject property and the neighboring properties that have appealed the Zoning Administrator's decision are shown in the aerial photo below (Figure 3).



FIGURE 3: AERIAL MAP (GOOGLE MAPS)

Staff conducted a site visit of both the subject property and the neighboring properties to the south prior to the Zoning Administrator hearing. The photos on the following page show the view of the subject property from the rear yards of Mr. and Ms. Hoehne and Mr. and Ms. Persin. Both the Hoehnes and the Persins would have view of the proposed addition from their properties. In an effort to mitigate their concerns related to privacy and view of the proposal, conditions of approval for the project required

landscape screening and modifications to the proposed rear second-story windows on the rear elevation.



View of Subject Property from 6217 Robin Court (Hoehne residence)



View of Subject Property from 6209 Robin Court (Persin residence)

FIGURE 4: PHOTOS SHOWING VIEW OF SUBJECT PROPERTY FROM NEIGHBORS DIRECTLY TO THE SOUTH

Prior to the Zoning Administrator hearing, staff received email correspondence from Ms. Jan Messerschmidt (6220 Robin Court), who has stated that the project will block view of the skyline of trees she sees out of her front door above roofs of houses across

Robin Court. Ms. Messerschmidt also commented that the house would not blend in with the neighborhood.

On the morning of the Zoning Administrator hearing, staff received separate phone calls from the owners of the property directly to the east of the subject property (6104 Homer Court), Ms. TinaMarie Perry and Mr. Joe Perry. Ms. Perry stated that she had concerns regarding privacy if the proposed second floor bedroom window on the rear façade is moved to the east side façade to accommodate privacy concerns from the rear neighbors. Additionally, they stated that the project would obstruct views out of their front room window, that the front of their house will appear recessed and less visible from the street as a result of the proposed project, and that the project would result in a decrease in their property's value.

Mr. and Ms. Lopez stated that they initially considered a single-story addition, but found that the lot size and lot configuration would not result in an addition to their home that would allow for the interior configuration or the square footage that they desired. Further, the applicants indicated an addition to the first floor would occupy the majority of open space in the rear and side yards.

As stated above, the staff-recommended conditions of approval for the Zoning Administrator hearing included mitigation measures to help address privacy and concerns regarding visibility of the addition. To address concerns regarding privacy and the view of the proposed home, landscape screening is required along the rear property line. The condition requires planting of either *Podocarpus gracilior* (Fern Pine) or *Cupressus sempervirens 'Stricta'* (Italian Cypress), a combination of these two landscaping materials, or other species subject to the review and approval by the Director of Community Development. The condition also requires the screening to be planted within 45-days of the effective date of approval for the project to allow the landscape to begin to mature as soon as possible to provide adequate screening.

The staff-recommended conditions of approval for the Zoning Administrator hearing also included mitigation measures regarding the windows on the rear elevation. The two double-hung bathroom windows on the rear elevation would be modified to slider windows and placed such that the bottom of the window is at least 5.5-feet above the finished floor to reduce visibility out of the window.

Mr. and Ms. Persin and Mr. and Ms. Hoehne were present at the Zoning Administrator hearing. Since Mr. and Ms. Perry were not able to attend, staff conveyed the comments received from them that morning as part of the staff presentation. The Zoning Administrator received testimony from the applicants as well as the neighbors to the south and acknowledged the comments received from Mr. and Ms. Perry to the east. The minutes for the Zoning Administrator hearing in addition to correspondence

received before or at the Zoning Administrator hearing are attached to this staff report as Attachment E.

The Zoning Administrator added several conditions to the project. The additional conditions consisted of:

- clarification of the size and orientation of the bathroom windows on the second floor;
- a reduction in the size of the bedroom window that faces the neighbors to the south without compromising ability to meet emergency egress requirements as stipulated by the Building Division;
- clarification that proposed landscape screening along the southern property line be located in-between existing landscaping and vegetation;
- clarification to allow a combination of species for the proposed landscape screening or to allow another type of species that is fast-growing and minimizes leaf litter;
- the applicant may add a one-story roof over the porch area to enhance the front façade and for weather protection.

The Zoning Administrator approved the project subject to the revised conditions.

NEIGHBORS' COMMENTS AFTER THE ZONING ADMINISTRATOR HEARING

Ms. Terry Young, owner of 6126 Homer Court, submitted an email to staff in support of the project. Ms. Young's property is located directly west of the subject property. Ms. Young's correspondence is attached to this report.

In response to the Perry's appeal, staff visited the residence of Mr. Joe and TinaMarie Perry (6104 Homer Court) to consider their comments and concerns regarding the proposal. As stated by Mr. and Ms. Perry before the Zoning Administrator hearing and in their appeal letter, their concern is regarding the second-story portion of the proposal that is closest to their property. The Perrys have stated that the proposed addition will cause shadowing and shading of their property and will impact the view from their front room window. They have also commented that the proposed addition will make their house appear more recessed from the street and reduce the value of the property. Additionally, they are concerned that the view from their kitchen window would be impacted since it faces towards the subject property.

In reply to the concern about views of the proposed addition, Mr. and Ms. Lopez have offered to plant landscape screening near the mutual side property line, but Mr. and Ms. Perry do not find that this alternative is a suitable solution for their concerns. Additionally, Mr. Lopez has indicated that the combination of trees located on the Perry's property, his property, and Ms. Young's property shade the Perry's home for the majority of the day.

Mr. and Ms. Perry have also stated that they are not completely against a two-story structure at the subject property, but would like to see the second story set back further from the mutual side property line or located closer to the rear of the home. Figure 5 below shows photographs taken from Homer Court and from inside the Perry's home.



FIGURE 5: PHOTOS SHOWING VIEWS OF 6104 HOMER COURT FROM STREET AND VIEWS OF SUBJECT PROPERTY FROM FRONT ROOM OF 6104 HOMER COURT

ANALYSIS

The existing juxtaposition of the home on the subject property and the homes on the surrounding properties make for a challenging situation to mitigate all concerns from all parties involved. The development standards for the property (setback requirements, floor area ratio, height requirements) required by the Municipal Code are intended to provide adequate separation between structures and establish parameters for which development may occur and minimize impact on neighboring properties. The following section serves to analyze and provide information to the Planning Commission regarding site configuration, two-story homes in the Val Vista neighborhood, and the sizes of homes in the vicinity of the subject property.

Existing Site Configuration

The site plan for the subject property (Figure 6) shows both the existing first floor and the proposed second floor. The existing home is generally located in the center of the property. As noted by the shaded area, the second floor is proposed closer to the front of the property and spans the width from the west to the east side. The 80-square foot addition on the first floor is to expand and reconfigure the entry way area. The plans indicate that the rear portion of the home has been constructed with a 7-foot 7-inch rear setback at the closest point. While this setback is non-conforming to current zoning standards, the original building permit for the home indicates that the subject property and several others in the Val Vista neighborhood were constructed with setbacks that do not conform to current standards. The applicant is not proposing to modify this existing non-conforming setback and the proposed second story meets or exceeds the 20-foot minimum rear setback requirement. The original building permit for the home also indicates that the home was constructed with a 20-foot front setback, which was the minimum required front yard setback at that time. The side setbacks for the home are a minimum of 5-feet with an aggregate of 12-feet between the two sides.

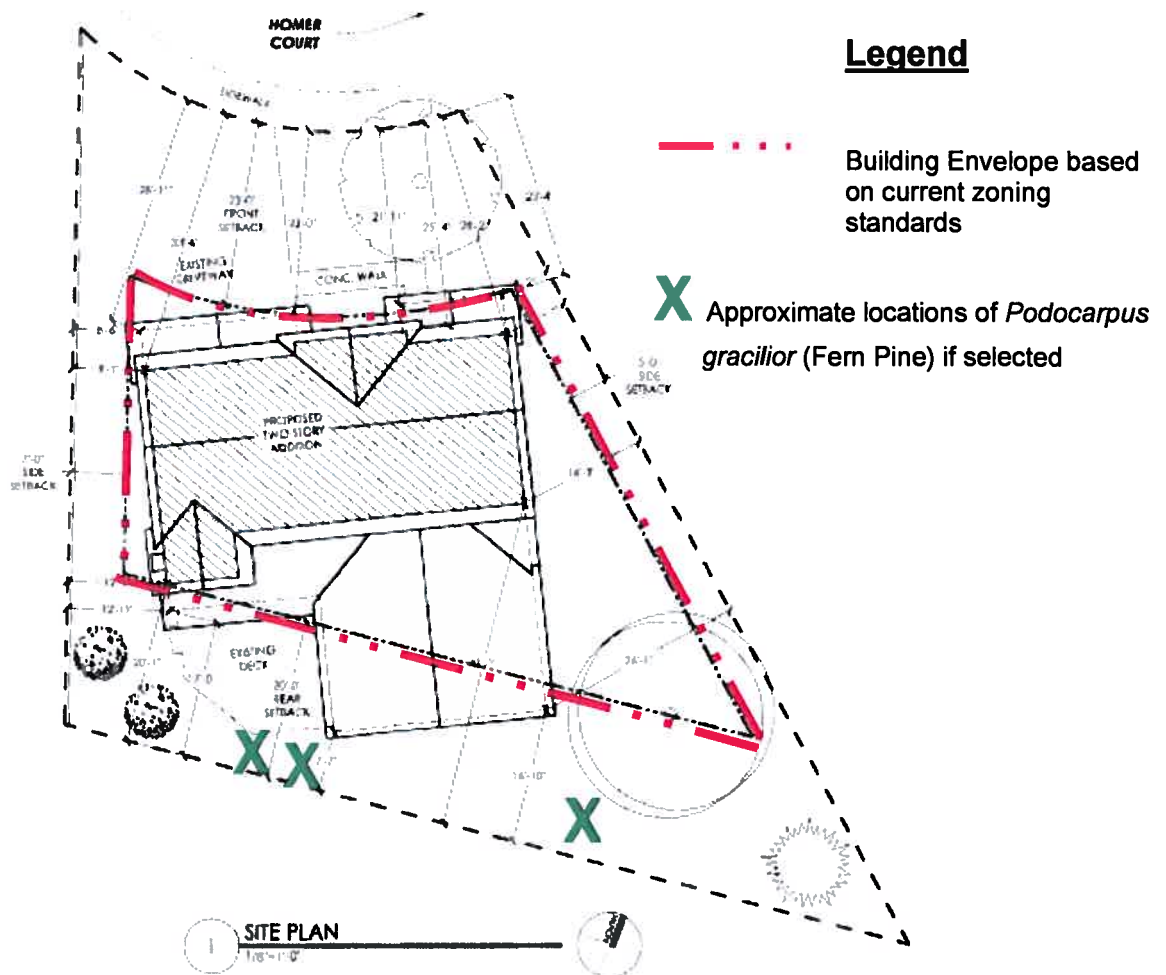


FIGURE 6: SITE PLAN FOR PROPOSED ADDITION (NOT TO SCALE)

The setback lines on the site plan have been emphasized with red in Figure 6. As visually demonstrated by the building envelope, an addition to the first floor would not yield the equivalent square footage that is proposed with this request, may result in an unusual floor plan configuration, and would occupy most of the space in the eastern side and rear yards that functions as usable open space. The existing mature landscaping located in the south-eastern corner of the property may further restrict development in this portion of the property.

Two-story homes in Val Vista Neighborhood

In the appeal correspondence, the appellants have listed twelve two-story homes within the Val Vista neighborhood. Figure 7 below shows a vicinity map with the two-story homes listed in the appellants' correspondence, highlighted in orange. The numbers shown in Figure 7 are in no particular order, but correspond with the photos in Figure 8.



FIGURE 7: VICINITY MAP WITH TWO-STORY HOMES (NUMBERS CORRESPOND WITH PHOTOS IN FIGURE 8)

The location of the two-story homes within the Val Vista neighborhood does not appear to follow a specific pattern, as they are interspersed within the neighborhood and are located on different streets. Some of the homes are located at the end of a cul-de-sac, others on a corner property and others are situated on interior lots.

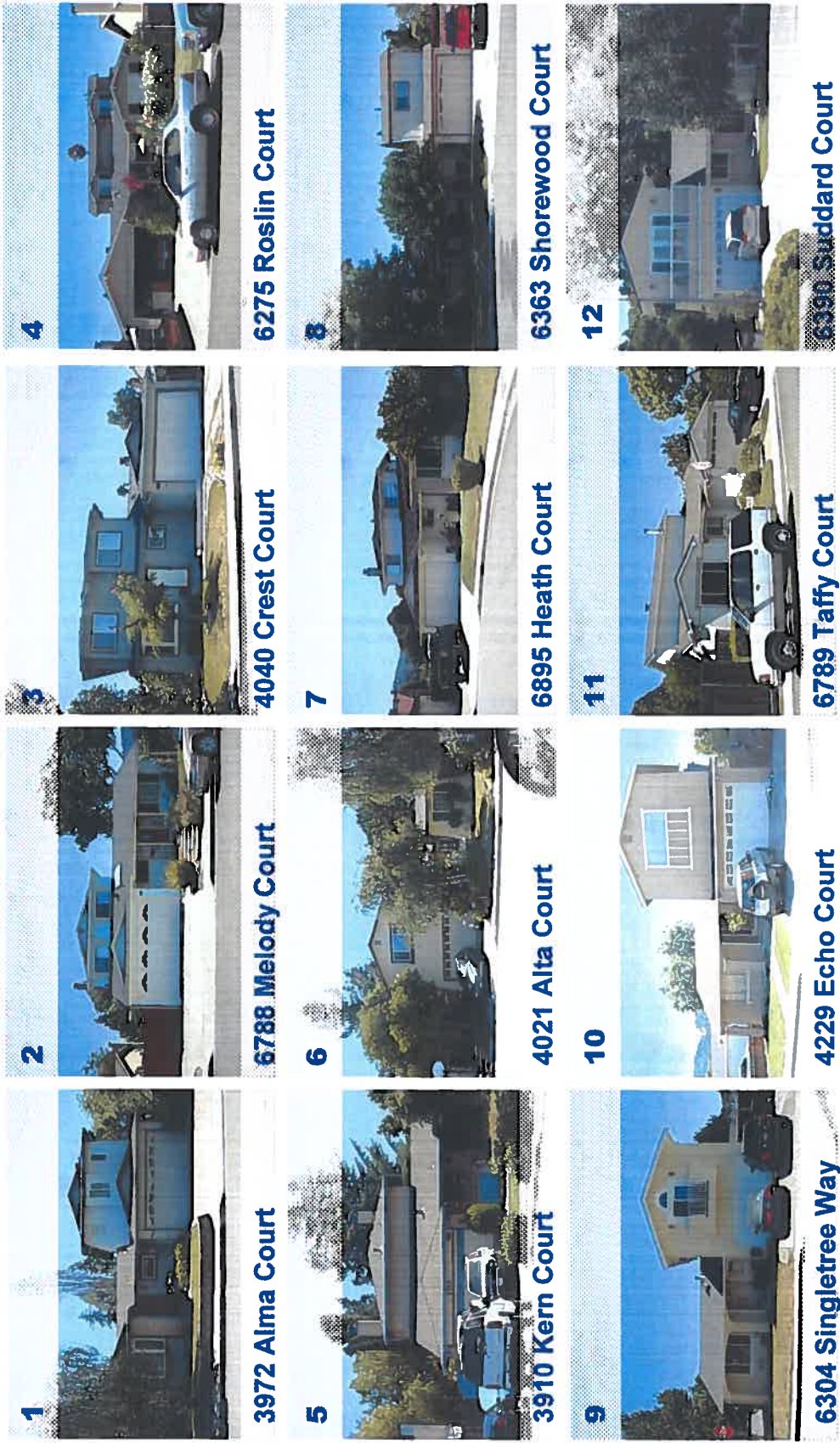


FIGURE 8: PHOTOS OF TWO-STORY HOMES IN VAL VISTA NEIGHBORHOOD (NUMBERS CORRESPOND WITH VICINITY MAP IN FIGURE 7)

Figure 8 shows photos of these homes as viewed from the street. The configuration of the homes varies, as some of the two-story portions of the homes are over the garage, but extend to the rear of the single-story portion of the home. On other homes, the two-story portion is situated over the center of the first story or is closer to either the front or the rear of the property. The original building permits for these twelve homes indicate they were

constructed as single story homes and thus the second story portions were added to expand the original structure.

There is no restriction in the Val Vista neighborhood that prohibits two-story homes. Other developments within the City, such as the Jensen Tract located across from Amador Valley High School, is another subdivision with the same zoning designation as the subject property (R-1-6,500) that was originally developed as single story homes and several second-story additions have subsequently been approved.

Staff believes that in this case there are no design options, short of removing the second-story addition, which would satisfactorily address the neighbor's concerns. Given that the addition meets all of the Code requirements, including height, and is typical of second-story additions approved in other areas of the City, staff does not believe that it is appropriate to deny the application just because it is a second story addition.

Sizes of Homes

The appellants' letters state square footages of the other two-story homes in the Val Vista neighborhood and indicate the proposed addition would make it the largest two-story home in the Val Vista neighborhood.

Staff has evaluated the sizes of homes in immediate vicinity of the subject property. There is no standard radius in the code that defines "vicinity" or "neighborhood." In order to incorporate a reasonable number of properties, staff has used a 300-foot radius. Figure 9 below shows a vicinity map of properties within a 300-foot radius of the subject property. Figure 10 shows the sizes of the homes based on City permit records and property sizes based on Alameda County Assessor's Office data (home size and property size values are in square feet). Standard practice is to accept home and property size figures as reliable, but Alameda County does not guarantee their accuracy. Precise measurements would not be known without "as-built" drawings and/or a site survey.

FIGURE 9: MAP SHOWING SUBJECT PROPERTY AND PROPERTIES WITHIN 300-FOOT RADIUS



ADDRESS	HOME SIZE	PROPERTY SIZE	ADDRESS	HOME SIZE	PROPERTY SIZE
Guyson Street			Homer Court		
6280	1,415	6,200	6179	1,889	6,200
6272	1,584	6,200	6167	1,415	6,200
6264	1,538	6,200	6155	1,584	6,200
6256	1,405	6,200	6143	1,405	6,200
6248	1,759	6,200	6131	1,759	6,230
6232	1,538	6,316	6119	1,538	6,485
6224	1,415	6,232	6107	1,538	7,252
6216	1,584	7,985	6101	1,584	8,445
6217	1,889	8,475	6104	1,759	7,940
Robin Court			6114		
6249	1,415	6,200	6126	1,618	6,263
6241	1,584	6,200	6138	1,415	6,200
6233	1,405	6,200	6150	1,538	6,200
6225	1,538	6,200	6162	1,759	6,200
6217	1,415	6,501	6174	1,415	6,200
6209	2,911	9,167	Roslin Court		
6204	2,305	10,000	6243	1,405	6,200
6212	1,806	9,002	6235	1,538	6,201
6220	1,538	6,501	6227	2,016*	9,448
6228	1,613	6,200	6216	1,759	8,335
6236	1,538	6,200			
6244	2,169*	6,200			

* Based on Alameda County Assessor's Office Data

FIGURE 10: CHART SHOWING RESIDENTIAL PROPERTY SIZES AND HOME SIZES WITHIN 300-FOOT RADIUS OF SUBJECT PROPERTY (BASED ON DATA FROM CITY PERMIT RECORDS AND ALAMEDA COUNTY ASSESSOR'S OFFICE)

The applicants' property is highlighted in Figure 10 and is shown with existing square footage. With the addition, the home size is proposed to be 2,607 square feet, reaching the maximum floor area ratio permitted of 40%. Figure 10 indicates that the square footage of homes within a 300-foot radius around the home vary greatly. The range of the sizes of homes varies between approximately 1,405 square feet to approximately 2,911 square feet. The range of the sizes of the properties also varies between approximately 6,200 square feet and 10,000 square feet. While recognizing that the proposed addition maximizes the square footage allowed on the property, the square footage of the subject property would be within the range of homes in the vicinity of the property.

GENERAL PLAN CONSISTENCY

The General Plan acknowledges the existing character or residential neighborhoods in the City. The Land Use Element states the following policy and programs:

Policy 8: Preserve and enhance the character of existing residential neighborhoods.

- Program 8.1:* Enforce provisions of the City's Zoning Ordinance and related planning ordinances to maintain the character of existing residential neighborhoods.
- Program 8.2:* Use the City's development review procedures to minimize intrusions into existing neighborhoods.

The neighbors to the rear have stated that a two-story home is not in keeping with the overall characteristics of the neighborhood. However, other two story homes exist within the Val Vista neighborhood and no restriction against a two-story home exists for the subject property or surrounding properties. With the proposed addition, the subject home would be one of the larger homes in the Val Vista neighborhood, but not the largest home, either in immediate vicinity or within the development. Standard procedure requires adjacent property owners be notified and have the opportunity to comment on projects such as the subject proposal. The proposed conditions of approval intend to mitigate for and minimize the impact of the proposed project to rear neighbors in the form of reduced window size and landscape screening. Neighbors adjacent to the subject property have also commented regarding the proposed project and their concerns have been incorporated into this report for the Planning Commission's consideration.

DESIGN REVIEW

Chapter 18.20 (Design Review) of the Municipal Code indicates that in order to preserve and enhance the City's aesthetic values and to ensure the preservation of the public health, safety, and general welfare, additions to single-family homes which exceed ten feet in height are subject to Administrative Design Review. As outlined in the Design Review Chapter, the Zoning Administrator's or Planning Commission's scope of review of the project plans shall include, but not be limited to, the following:

- 1. Preservation of the natural beauty of the city and the project site's relationship to it;*

The proposed project will preserve the natural beauty of the city in that it will preserve the mature landscaping on the property and additional landscaping will be planted to help screen the structure from adjacent property owners. The project is set back a minimum of 20 feet 1-inch from the rear property line and the rear yard setback increases as the project gets closer to the eastern property line. The open space within the rear and side yards will be maintained.

- 2. Appropriate relationship of the proposed building to its site, including transition with streetscape, public views of the buildings, and scale of buildings within its site and adjoining buildings;*

The applicants' property is located to the north of rear neighbors. Further, given that the addition will be located towards the front of the property, the rear neighbors to the south are not likely to be impacted by shadows of the two-story structure to the north. The size of the home is within the range of the square footage of homes in immediate vicinity of the subject property. Further, the proposed roofline is varied and is designed with minimal slope to reduce the overall height and appearance of bulk and mass. The proposal meets or exceeds the development standards for the R-1-6,500 zoning designation.

- 3. Appropriate relationship of the proposed building and its site to adjoining areas, including compatibility of architectural styles, harmony in adjoining buildings, attractive landscape transitions, and consistency with neighborhood character;*

The proposed addition will match the colors, materials, and architecture of the existing home and will be compatible with the architectural styles found within the neighborhood. Several two-story homes exist in close vicinity of the subject property and no restriction prohibiting two-story homes exists within the development. Mature landscaping that currently provides screening will be maintained and additional landscaping along the rear property line will be added to provide screening and address visual concerns from rear neighbors. Additionally, the addition meets or exceeds minimum setback requirements.

- 4. Preservation of views enjoyed by residents, workers within the city, and passersby through the community;*

The project meets this criterion in that the applicant will plant additional landscape screening in response to concerns about views of off-site landscaping that will be impacted by the proposed project. The first story of the subject home is visible to the neighbor to the east and the view out of the front room window will not be significantly altered. The addition will be located towards the front of the property and thus has been designed to minimize impact to views of neighbors to the rear.

- 5. Landscaping designed to enhance architectural features, strengthen vistas, provide shade, and conform to established streetscape;*

No heritage size trees will be removed to accommodate the proposal. Landscaping materials will be added to the site to provide screening of the project in response to neighbors' concerns about privacy and views of the additions. The landscaping along the streetscape will not be altered since no trees will be removed or added to the front yard for this project.

6. *Relationship of exterior lighting to its surroundings and to the building and adjoining landscape;*

The proposal consists of an addition to a single-family residence and thus will not change the relationship of exterior lighting to its surroundings, to the building, and the adjoining landscape.

7. *Architectural style, as a function of its quality of design and relationship to its surroundings; the relationship of building components to one another/the building's colors and materials; and the design attention given to mechanical equipment or other utility hardware on roof, ground or buildings;*

The architectural style of the home will remain consistent with the proposal and the proposed addition will match the colors, materials, and architecture of the existing home. No roof-mounted mechanical equipment or utility hardware is proposed and any ground-mounted equipment will be required to adhere to requirements of the Pleasanton Municipal Code.

8. *Integration of signs as part of the architectural concept; and*

No signs are proposed as part this project.

9. *Architectural concept of miscellaneous structures, street furniture, public art in relationship to the site and landscape.*

No miscellaneous structures, street furniture, or public art is proposed as part of this project.

EFFECT ON PROPERTY VALUES

Neighbors cite a concern about the impact of the proposed addition on their property values. The fiscal impact of a project on surrounding homes is not included in the design review process, and because it is a debatable issue, the City usually tries to avoid basing decisions on property values.

PUBLIC NOTICE

Notices regarding this appeal and related public hearing were mailed to the surrounding property owners and tenants within a 1,000-foot radius of project site. A map showing the noticing area is attached to this report. The public notice was also published in *The Valley Times*. At the time this report was prepared, staff has not received any comments or concerns other than from the appellants.

ENVIRONMENTAL ASSESSMENT

Projects of this nature are categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under section 15303 (Class 3) New Construction or Conversion of Small Structures. Therefore, no environmental document accompanies this report.

CONCLUSION

The existing configuration of the subject home and the surrounding properties make it difficult to mitigate all the concerns of all parties involved. Based on the analysis of this staff report, staff believes that the proposed project merits approval. A restriction against two-story homes does not exist for the subject property or the Val Vista neighborhood and other two-story homes currently exist within the area. Further, an addition to the first floor may not yield the square footage that the applicant finds is necessary and may result in an unusual interior configuration. Other constraints, such as the size and shape of the lot, existing mature landscaping, and elimination of usable open space may further restrict an addition only to the first story of the subject property. The conditions of approval require the applicant to mitigate for concerns regarding privacy and view of the proposal with the use of landscape screening and modifications to second-story windows on the rear façade.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission deny PAP-146, thereby upholding the Zoning Administrator's approval of Case No. PADR-2090 subject to the conditions listed in Exhibit A.

Staff Planner: Shweta Bonn; (925) 931-5611, sbonn@ci.pleasanton.ca.us

**PAP-149, David & Stephanie Persin (PADR-2090, Rodney & Trina Lopez)
Appeal of the Planning Commission's approval of an application for
Administrative Design Review to construct an approximately 80-square-foot
single story addition and an approximately 1,038-square-foot second-story
addition to the existing residence located at 6114Homer Court**

Brian Dolan gave the staff report and PowerPoint presentation regarding an appeal of an application for an 80 square foot single story addition and 1,038 square foot second story addition. He presented a site plan, existing and proposed elevations, issues relating to visuals and non-agreement to mediation, visuals showing viewpoints and shadows, examples of two story homes in Val Vista, evaluation of the project size showing that in the immediate neighborhood the proposal would be the second largest house and the highest FAR. He reviewed appellant concerns regarding lot configuration and CC&R's which state that no building shall exceed 2.5 stories in height. He discussed the mediation process held on October 6 and November 22, 2010 and proposed concessions. Over the last few days, over 21 emails were received in support of the project, and a revised Condition 7 is proposed for flexibility of landscape species. The Council's options are to: 1) uphold the appeal and deny the proposed project, 2) deny the appeal and approve the project as proposed subject to conditions, 3) deny the appeal but to add mitigations offered by the Lopez' during the mediation process, or 4) continue to work on the proposal.

David Persin, appellant, on behalf of three different families said the applicants fill their supporting documentation with accusations which decreases their credibility. He spoke of statements regarding placement of a trampoline in their backyard, and the fact that the applicant's backyard is less than 8 feet from their rear side bedrooms is the dispute. He added information about never exceeding noise levels, 9:00 p.m. curfews during school nights, and said the only numbers provided for the current project and neighborhood comparables those provided by the applicant to the City. The chart of mitigations, compromises, concessions and considerations positions the applicants as having done all they can do to compromise and this has led him to the conclusion that there is always more that can be done.

Mr. Persin asked that the Council postpone making a decision to provide time for each member to visit the applicant and appellant homes and form their own opinions, which is critical to make a fair and representative position. They asked to make a decision based on creating compromise which may involve redrafting of plans for a smaller second story addition, combined with a partial first story addition or other revision. He acknowledges this is not what the applicants want, but they similarly do not want any second story addition at all and asked for an actual compromise and not simply cosmetic fixes.

Councilmember McGovern read requirements of the 1969 document, Condition #6 and questioned whether it was assumed that a review process by a Committee would be conducted.

Mr. Dolan said yes, but it was considered in the context that the Committee does not exist.

Councilmember McGovern suggested the need for a Commission or peer review process and a process to address disputes prior to projects going to the Planning Commission and Council. She also suggested staff provide colored renditions of elevations in the future.

Mr. Dolan said there are no design guidelines specific to the neighborhood and staff utilizes the zoning code and to retroactively include an additional design process for one neighborhood could be problematic.

Councilmember Sullivan cited the proposal as discretionary, believes approval has much to do with neighborhood compatibility, impacts to neighbors, appropriate relationship of building to adjoining areas, scale of buildings, consistency with neighborhood character and preservation of views enjoyed by residents and others.

Councilmember Thorne referred to pages 4 to 8 on Attachment 3 and confirmed with Mr. Dolan that the applicant had provided this chart.

Vice Mayor Cook-Kallio questioned the square footage of 6895 Heath Court and 4426 Bacon Court which look more balanced than some of the other two-story homes.

Mr. Dolan said one of the second story additions is 1,030 square feet which is comparable to the proposal. He confirmed that 4229 Echo Court looks disproportionate at 734 square feet. Mr. Dolan also pointed out that second stories are not always designed by architects, and he was not sure whether the Lopez's plans were prepared by an architect or a designer.

Mayor Hosterman called for a brief break at 10:20 p.m. and thereafter, reconvened the regular meeting at 10: 22 p.m.

Rodney Lopez, applicant, spoke of their need for a home to accommodate their growing family's personal and green business (work at home) needs, said the CC&R's and the zoning regulations will state that second stories are allowed but not a right, and stated their preference to remain in their home and not move. He met with neighbors in the cul-de-sac and received support from all. They took into account aesthetics, size and impacts, and decided on the roof height of 7 feet under the allowed limit, moved the addition to the front of the home which minimize impacts to rear neighbors. They also considered single story expansion and found it would take away most of the children's play area, would still require them to build on the second floor, was not financially economical, require them to move out during construction, and more off-site storage capacity.

Mr. Lopez said design with concessions is the best option for their family's situation at this point. Theirs would not be the largest in Val Vista but would be within the range of

homes' square footage and FAR. He said all mitigations and changes have added thousands to their budget, and while passionate concerns have been raised, their home addition is well designed that will add value to the neighborhood. He said the home is in compliance with all zoning codes, they meet or exceed all requirements for setbacks, height and FAR, and are requesting no variances. They have given several concessions to plant trees on the south side of the property, the bathroom windows will be reduced in size and raised overhead to address privacy, the single south facing bedroom window will be reduced in size, since there are no proposed windows on the second floor east side, there will be no privacy concerns for the Perry family, and they have given up Saturday construction work. They have tried to sit down with neighbors which he discussed as being initially rejected. He agreed they initially rejected mediation, but in October, met and offered several resolutions to arguments, which were all rejected. He presented an array slides showing views of the revised proposal from neighbor's homes which he said all address privacy, noise, light, and views. They regret plans have caused concerns, but believe that any stated negative impacts do not warrant preventing them the ability to enhance their property under established zoning guidelines. The appellants have verbally stated they will make the process last as long as possible, which they have succeeded in what is now approaching one year build season. He asked the Council take into consideration the expertise, professionalism, and approval of the Planning Department and Planning Commission decision, and the many letters of support in the community. There is precedence of 15 other two story homes and several are located in a cul-de-sac as well as one that is in the process of obtaining their building permit, which was approved with a setback variance without objection. They have offered many concessions, have spent two months in mediation, and feel they have always been responsible and have maintained their integrity throughout the process and requested the Council render a decision denying the appeal and upholding the original approval of their case with no additional requirements, or Option 2 in the packet. He clarified remaining issues regarding setbacks, videotaping and incidents, their offer to show their plans and arrange a visit with Councilmembers.

Mayor Hosterman and Councilmember Cook-Kallio indicated they both drove by the property.

Mr. Lopez also indicated that the belly band and the hip roofs were rejected by the appellants and this is why they did not show them in the pictures. However, he took a picture of a home down the street with a belly band and hip and gabled roof.

Vice-Mayor Cook-Kallio referred to page 8, Figure 5, #7 at 6895 Heath Court that has 1030 square feet in a cul-de-sac and asked if this was similar in terms of shape and design of the lot.

Mr. Dolan said it is a similar shaped lot, but staff does not have a graphic of how the property lines up to the rear of it.

Councilmember Sullivan did not believe it was a similar situation, as it was a 9400-square-foot lot and at 26% FAR versus 40% FAR with a 6,000 square foot lot.

Mayor Hosterman opened the public hearing.

December Lotz, Bacon Court, said they are the 16th two-story proposal with a similar situation. No neighbors have voiced rejection to their plans and she asked the Council to be upfront with the Lopez's.

Johann Keyser spoke of her need to build an addition for her mother and she cannot believe the neighbors have acted this way.

Glen Bunting, Echo Court, supported the Lopez family and likened his situation to the Lopez's.

Rob Nath spoke of his family's decision to return to town and purchase their old neighbors two-story house on Rosalyn Court, and said neighborhood animosity is unfortunate.

James Hvidt, Audrey Court, voiced support of the Lopez's project and testified to their good character.

Margaret Bartlett said she has lived next to the Lopez's for 35 years, supported the project, believes whatever shade is received at the Perry's will be welcomed because it is very hot from the sun and there will be no privacy issues.

Helen Sullivant, Alma Court, supported the Lopez's addition, is surprised that the issue is still on-going since there are already 15 two-story homes, and encouraged the Council to support approval.

Judy Trence, said she lives next to the two-story home on Crest Court, voiced support of the Lopez's addition and the good neighbors there.

Kim Hereld, Homer Way, said both the Lopez's and the Perry's are great neighbors, said it is unfortunate the neighbors are not agreeable, and thinks it is the Lopez's right to have a second story home, as there are already 15 that exist, and if denied, it would negatively affect her property value.

Marthel Green, Bacon Court, said the situation is unfortunate and supported the Lopez's ability to build the addition.

David Persin, appellant, spoke most strongly for the Perry's who stand to have the most impact, and they have asked pushing back the front of the building where it does not impact the front window as it does right now. He asked for compromise.

Mayor Hosterman closed the public hearing. She said appeals do occur and matters like this take long, and she recognized the parties' work to achieve acceptance and compromise. She felt the way the Lopez's configured their addition is in the middle of

the property with very little exception. It makes sense given the architecture of the existing home. There have been two mediations, buyers are made aware they are able to enlarge their homes up to two stories, and she believes they have made sacrifices and supported the staff and Planning Commission recommendation.

Councilmember Sullivan agrees with Commission Blank that the lot and setting is unusual and is surprised with the 1969 agreement and whether it is something the Council would necessarily approve today. He also felt that a two-story addition on this lot would be completely out of character with the neighborhood, as all nearby streets are all one-story houses on very small lots. The fact that the addition would increase the FAR to 40% when literally every other house in a 3-4 block radius is 20% to 25% FAR is not something he would support. He believes the addition would put an unacceptable impact on the immediate neighbors, said most speakers in support do not live on the street and most have two stories homes that have been approved. The zoning is not an entitlement but subject to discretionary review, design review, and in looking at the criteria in the staff report, he cannot make the findings that have the appropriate relationship of the building to its site, the scale of buildings within the site and adjoining buildings, consistency with neighborhood character and preservation of views enjoyed by residents. He acknowledged the need to have a larger home, but to him, it is not an appropriate place to do it. He would support the appeal, and if there is room for compromise, he would be willing to support a smaller second story addition.

Vice Mayor Cook-Kallio said she was sad this could not be settled between neighbors. She must make her decision on what she sees, is concerned that the mediation did not work as well as it might have. The Lopez's have not asked for any variances. It is within zoning, allowed by the CC&R's and supported by the Planning Commission. Regarding staffs options, she would like to see a modified Option 3, and asked whether or not the Perry's want the skylight, which she thinks is a reasonable mitigation, as well as additional landscaping. If the belly band is something the appellants did not necessarily want, she did not want the applicant to incur the added expense.

Mayor Hosterman suggested a motion to approve Option 3 which is deny the appeal and approve the project as proposed, subject to conditions of approval that include mitigation measures offered during mediation, which she felt could be worked out.

Councilmember Thorne said it is very difficult in such situations given conflict in a neighborhood. He thinks the project meets all criteria and zoning requirements and no variance has been requested. Therefore, he would lean on the rights of the property owner. He thinks it was a mistake not to erect the story poles which he thinks would have solved many problems, and supported Option 3.

Councilmember McGovern said she sees this was not done by an architect, said the windows closest to the front door are not correct, and she suggested future staff reports include colored photos or renderings. She said going to a second story will occur more and more in Val Vista, and she noted the home is a 6 bedroom, 4 bath house on a 6,000 square foot lot, which is an incredible size for the lot, as well as its unusual lot

configuration. She referred to the picture A.2.1 and it sounds as if neighbors are asking that it be move back from the street.

Mr. Dolan stated neighbors request it be moved back from the east side and away from the Perry's which would result in a reduction in the square footage on both sides.

Councilmember McGovern supports the idea of the Lopez's needs for their family, but said the house is too big for the lot.

MOTION: It was M/S by Hosterman/Cook-Kallio to adopt Resolution No. 11-420 deny the appeal and approve Option 3, PADR-2090, subject to conditions of approval and subject to mitigation measures offered during mediation. Motion passed by the following vote:

Ayes:	Councilmembers Cook-Kallio, Thorne, Mayor Hosterman
Noes:	Councilmembers McGovern and Sullivan
Absent:	None

PAP-146, David & Stephanie Persin, Hans & Roxana Hoehne, and Joe & TinaMarie Perry, Appellants (PADR-2090, Rodney & Trina Lopez, Applicants)

Appeal of the Zoning Administrator's approval for Administrative Design Review to construct an approximately 80-square-foot single-story addition and an approximately 1,038-square-foot second-story addition to the existing residence located at 6114 Homer Court. Zoning for the property is R-1-6,500 (Single-Family Residential) District.

Shweta Bonn presented the staff report and described the scope, layout, and key elements of the project and the appeal.

Commissioner Blank first complimented staff on a well-written staff report and presentation. He then noted that staff mentioned that there are no restrictions on two stories and inquired if there were any viewscape easements on the area.

Ms. Bonn replied that there were none.

Commissioner Blank further noted that staff had indicated that the windows had been reduced and inquired what the size of the bedroom windows in the bedroom would be.

Ms. Bonn replied that Condition No. 5 estimates that the windows would be approximately 12 to 14 inches tall by approximately 24 to 36 inches wide. She added, however, that the size would not be formalized until the drawings are submitted for building permits

Commissioner Blank stated that the modified size was for the two second-story bathroom windows; however, Condition No. 6 refers to the second-story bedroom window as being reduced in size to the maximum extent feasible. He indicated that this does not specify a size and felt that this was somewhat open-ended. He inquired if the bedroom window would be the same size as the bathroom windows.

Ms. Bonn replied that it would not be the same size. She explained that the Building Division has specific requirements for bedroom windows to meet egress purposes.

Commissioner Blank inquired if bedroom windows are required to be six square feet in size and three feet off the floor.

Ms. Stern indicated that the emergency egress window requirements are that the window be 5.7 square feet with a minimum of 20 inches net clear width when the window is opened. She also noted the window must be a maximum of 44 inches from the floor.

Commissioner Blank referred to the vicinity map slide identifying the two-story houses in the area and showing the subject house at the end of Homer Court. He inquired if staff looked farther north to determine if there were any other two-story homes.

Ms. Bonn said no.

Commissioner Blank stated that reference is made to 2,607 square feet in various correspondence and numbers. He inquired if staff arrived at this number by adding up the first and second floors in the architect's plans.

Ms. Bonn said yes.

Commissioner Blank requested confirmation that the proposed home would be the second largest home in the area, with the largest being on Robin Court.

Ms. Bonn confirmed that was correct.

Commissioner O'Connor noted, however, that the proposed home would not have the largest floor area ratio (FAR), based on the chart of residential property and home sizes on page 13 of the staff report.

Commissioner Blank stated that he was looking at other 2,000-square-foot homes in the area and noted the 2,900-square-foot and 2,300-square-foot homes.

THE PUBLIC HEARING WAS OPENED.

David Persin, appellant, read from a prepared statement, copies of which he distributed to the Commissioners and staff. He stated that he and his wife, Stephanie, were one of the three appellants in the matter. He indicated that many issues and accusations have been raised between the applicants and the appellants that have created a very contentious environment. He noted that he would not address the applicants' allegations which, with no merit, include racially motivated actions. He added that he would also not address the rationale behind the applicant's desire to increase their home size as that is their personal business; however, he believed that the applicants can find other less impacting and less costly solutions to their challenges.

Mr. Persin continued that their home is located to the rear of the subject property and that they have lived there for 15 years. He indicated that they have spent considerable time, effort, and money upgrading the interior and exterior of their house without ever impacting their neighbors. He stated that their backyard is a place of entertaining with a pool, barbecue island, and a trampoline where most of the neighbors and their children regularly enjoy spending time. He added that their master bedroom is located on the side of their home closest to the subject property.

Mr. Persin then presented some pictures demonstrating how the applicants' second story addition would clearly impact their indoor and backyard views, their sunlight, their privacy, and their family's overall quality of enjoying the life they have built and experience in their home. He noted that they have planned for many years to enjoy their retirement in the home where they have raised their seven children and shared so many wonderful memories. He stated that he had attached to his statement, some

letters from local realtors who, like themselves, believe that their property value would decrease considerably due to the close proximity of a second-story addition. He noted that they do not have the option of going back in time to undo their planning, expectations, or capital outlay; while the applicant can still make other plans for their family's future and find a less detrimental solution for all neighbors concerned.

Mr. Persin stated that the appellants have provided the City with a list of the 12 two-story homes of the 939 total residences in the Val Vista development, attached to their letter as Exhibit C. He noted that the list shows that the applicants' proposed project would result in the largest two-story home in the entire development. He indicated that they are not arguing that the applicants should not be allowed to build the largest two-story home in the neighborhood simply because it would be the largest in the neighborhood, but rather, because, based upon the applicants' lot size of only 6,521 square feet and the unusual configuration of their home in relation to their neighbors' homes, the proposed addition is too large and impacts the surrounding neighbors.

Mr. Persin then referred to page 13 of the staff report which states that with the proposed addition, the house would be 2,607 square feet and would reach the maximum 40 percent FAR permitted. He noted that while it is quite obvious what it means to maximize the permitted FAR from a mathematical perspective, it would be all the more impacting from the perspective of the surrounding neighbors when a 2,607-square-foot house, which was configured in an unusual way when it was originally built, is crammed to capacity on a relatively smaller-sized lot. He added that when the applicants are unable or unwilling to increase their home size through a first-story addition, the only course is to build up, which creates more of an impact to the surrounding neighbors.

Mr. Persin then referred to a section on page 12 of the staff report: "The appellants' letters state square footages of the other two-story homes in the Val Vista neighborhood and indicate the proposed addition would make it the largest two-story home in the Val Vista neighborhood. Staff has evaluated the sizes of homes in immediate vicinity of the subject property. There is no standard radius in the code that defines the 'vicinity' or 'neighborhood.' In order to incorporate a reasonable number of properties, staff has used a 300-foot radius." Mr. Persin noted that staff then analyzes 40 properties in a 300-foot radius of the subject property and concludes that the square footage of the subject property would be within the range of the other homes in the vicinity of the property. He stated that staff's analysis and conclusions are entirely irrelevant because the issue under appeal is not whether the subject home at a proposed 2,607 square feet would fit within the square footages of all of its neighboring properties, but rather, whether or not there is too much additional home being built on too small a lot and in too impacting a fashion, especially in light of the non-conforming, to today's standards, way in which the home was originally built and positioned on the lot.

Mr. Persin noted that the planner acknowledges on page 9 of the staff report that the existing configuration of the subject property is non-conforming to current zoning

standards, with the rear portion of the home constructed with only a seven-foot, seven-inch rear yard setback at its closest point. He stated that although the subject property was conforming to then zoning standards when originally built in approximately 1968, its proximity to both rear neighbors' yards clearly exacerbates the impact of the proposed addition on his wife and himself and his surrounding neighbors. He added that, in fact, looking in more detail at staff's use of the surrounding property numbers, there are no two-story homes listed, and the maximum FAR of the two largest homes are 32 percent and 23 percent, respectively. He noted that even with more than the typical square footage, the two largest homes within the 300-foot radius are still single story, considerably less than the maximum allowable FAR, and not of any impact to their surrounding neighbors, in stark contrast to the applicants' proposed second story addition.

Mr. Persin acknowledged that over many years, approximately one percent of the homes in the Val Vista development have been increased in size from one to two stories. He indicated that he had verified with staff that in none of these other 12 instances were there any objections or appeals from surrounding neighbors filed with or communicated to the City Planning Commission. He noted that it was okay with those neighbors in their specific situations to allow the second-story additions to be built, but it is not okay with them in this specific situation to allow this second story, as proposed, to be built.

Mr. Persin further noted that on page 12 of the staff report, it states: "Staff believes that in this case there are no design options, short of removing the second-story addition, which would satisfactorily address the neighbors' concern. Given that the addition meets all of the Code requirements, including height, and is typical of second-story additions approved in other areas of the City, staff does not believe it is appropriate to deny the application just because it is a second-story addition." He indicated that having no Code restrictions prohibiting two-story additions in the Val Vista development does not mean that the Planning Commission should simply rubber-stamp the applicants' proposed addition. He added that it is their understanding that the Planning commission is composed of Pleasanton residents just like themselves and that it is their hope that as Pleasanton residents, the Commission will place itself in their shoes when it comes to examining the unique and problematic circumstances of allowing a second-story addition to be built in this unusual property configuration.

Mr. Persin then referred to a section of page 8 of the staff report: "The existing juxtaposition of the home on the subject property and the homes on the surrounding properties make for a challenging situation to mitigate all concerns from all parties involved." He stated that in dealing with the City planners, they have been continuously been told of staff's desire to try and find a compromise between the applicants and the appellants; however, at this point, they believe the City has been remiss in finding a real compromise between the parties involved. He noted that to get their project pushed through, the applicants have made modifications relating only to window size and type and the planting of foliage. He added that although these are concessions, they are

basically minor ones and made mainly as a way to placate the planner's continued approval of their project.

Mr. Persin stated that the appellants feel the applicants can make stronger, more viable efforts to expand their home in a less impacting manner which would be more representative of a real compromise. He agreed that while this situation may be challenging, as the planner stated, this should not translate to a default position that the applicants' proposal should be granted because no solution can be identified which makes everyone happy.

Mr. Persin stated that if the Planning Commission decides it must approve the subject property addition, the appellants are asking the Commission to have the applicants reassess their ability to utilize their substantial ground level unused side yard lot space as well as or in addition to restructuring the second-story addition so it is smaller in size and primarily located in the western front quadrant of their home, where it would be of less impact to all three objecting neighbors. He added that a second-story addition in the western front quadrant of the subject property would be closest to the applicants' western next-door neighbor who has indicated that she has no issues with a second-story addition being built.

Mr. Persin concluded by thanking the Planning Commission and directing its attention to the newly submitted letters opposing the second-story addition from seven neighbors who received a postcard notice of the proposal.

Mr. Persin then read a letter from a next-door neighbor who is not a party to the appeal but in support of the appellants.

"This letter is written in support of the Appellants in the matter PAP-146.

"My name is Myra Miliambiling, and my uncle George Toumazos and I reside at 6204 Robin Court, next door to Stephanie and David Persin (one of the three Appellant couples). We have resided at this location for three years now.

"In my time living at this location, I have found Stephanie and David to be the most easy-going neighbors I have ever encountered. They are always hosting all of our neighbors and the children of our neighbors in their home, at the pool in their backyard, and on their side yard trampoline. They are quick to lend a hand no matter what the request and they are always accommodating to all those who interact with them.

"For Stephanie and David to take the unusual step of appealing their backyard neighbor's planned addition, I believe there must really be some issue there. When I see how close the back side of the Applicant's home is to Stephanie and David's rear fence, I can understand their concerns.

"I too would feel like my privacy, quality of life, and home value would be compromised if I was in their situation and the second story addition was allowed to move forward.

"In fact, as a neighbor living only a couple of homes away from the proposed addition, I am also firmly against it. One of the most defining characteristics of this neighborhood is its original spaciousness and its lack of two story homes.

"In this particular circumstance, I ask the Planning Commission to deny this proposed project.

"Thank you for taking the time to read my letter."

Chair Olson stated that he had first encountered Mr. Persin's proposed solution that the applicants utilize the unused side-yard lot space and limit the second-story addition to the front western quadrant of the home in the three appellants' letter of July 15, 2010, which is part of the appeal packet. He asked Mr. Persin whether all three appellants still hold the view that there is a solution within the confines of the applicants' property.

Mr. Persin stated that this was a difficult question to answer as each of the appellants have their own individual concerns, and he does not know if he would be capable of answering the question without individually asking each of the other two appellants.

Commissioner Pentin asked Mr. Persin if he would be amenable if the applicants utilized most of the first floor and still built on the second floor.

Mr. Persin said yes. He acknowledged that compromise is difficult but that while they do not want a second floor addition, they would like to see the applicant give more.

Commissioner Blank asked Mr. Persin to verify that he had stated that this proposal would make the house the largest in the Val Vista development.

Mr. Persin replied that he stated it would be the largest two-story home out of the 12 two-story homes in the Val Vista development. He added that he had taken his information from the public records.

Commissioner Blank inquired if the 2,900-square-foot home on Robin Court is single story.

Ms. Bonn said yes.

Commissioner Blank asked Ms. Bonn if she would agree the proposed project would make it the largest two-story home in the development.

Ms. Bonn replied that she was not certain it would be the largest and noted that the homes listed on page 13 of the staff report were all single stories and were located within the 300-foot radius of the subject property.

Mr. Persin stated that the houses listed in his letter, which is in the packet, are all two stories.

Commissioner Pearce requested clarification from Mr. Persin that when he refers to limiting the second-story addition to the western front quadrant, he was talking not about taking and shifting the entire addition west but cutting the addition in half and using only the one-quarter of the house.

Mr. Persin said yes.

Commissioner O'Connor asked Mr. Persin if the 2,911-square-foot house is his.

Mr. Persin said yes.

Commissioner O'Connor stated that one of the concerns expressed by Mr. Persin and a neighbor at 6217 Robin Court in their letters included in the packet was that the addition would have an impact on sunlight; however, Commissioner O'Connor noted that Mr. Persin's house is south of the new addition and that any shading would go to the north side and not to the south side.

Mr. Persin stated that their point is that in looking at the aerial views, they do not know to what extent the blocking of sunlight would be; however, the second story would be very close because the setback between their fence and the back of their homes is only seven feet.

Commissioner O'Connor noted that the entire second-story addition would be within the required setback.

Mr. Persin agreed but added that the entire house will be shifted back dramatically and will be closer than any typical addition of this type because of the lot configuration.

Commissioner O'Connor reiterated that it would still meet all the setbacks requirements. He added that the concern might be that the addition could shade the swimming pool area in Mr. Persin's backyard but that it was difficult to make that determination.

Stephanie Persin, appellant, stated that because the applicants' property is pie-shaped, there would be quite a bit of shading on the side of their home because of the closeness of the house. She added that this is also the reason why it is impacting so many neighbors.

Carol Hoehne Graham stated that she is the daughter of Hans and Roxana Hoehne, appellants, and that she is representing the Hoehne family, particularly her father, who

is a 40-plus-year resident and taxpayer of Pleasanton. She indicated that she has extensively reviewed the General Plan, City codes, staff report, and properties involved and that it is very clear that the application and appeal have unique aspects. She added that she hoped the planners give weight to this as a unique situation and do not make a cookie cutter decision, and that the democratic principle of serving the greater good is upheld.

Ms. Graham stated that the first thing that should be emphasized is the uniqueness and the way the Lopez property is situated. She then handed the Commissioners pictures of an aerial view from a satellite that shows how close the Lopez property is to both the Hoehne and the Persin backyards. She noted that while there are 12 other two-story additions in the Val Vista development, not one is situated as close to another backyard as the Lopezes' proposed addition is. She indicated that the Lopezes' proposed second-story addition would create a looming presence in her parents' backyard that no other home in Val Vista has been forced to accept.

Ms. Graham then referred to a second picture showing a ground-level view of her parents' kitchen table. She stated that both her parents are retired and that her father likes to watch the Giants game with a view of the blue sky behind. She noted that should the Lopezes add a second story, her father would be looking directly onto concrete.

Ms. Graham stated that her parents have hosted countless barbeques, birthday parties, christenings, anniversaries, and outdoor get together's in their backyard. She indicated that the Lopezes' second-story addition would convert their backyard into a courtyard instead of the open, airy space it now is. She noted that the Italian Cypress suggested to stripe the concrete uprising would cause it to look like a 1960's apartment building. She asked the Commissioners if they would prefer a view of tall columns of shrub or open blue sky from their own backyards and why they would wish any less for her parents.

Ms. Graham then referred to page 13 of the staff report regarding General Plan consistency to "Preserve and enhance the character of the existing residential neighborhoods." She noted that while 12 of the houses do have second stories, it is 12 of 900 homes in the development, which is not 25 percent, 15 percent, or 10 percent, but less than 1.5 percent of the homes. She added that if one stands in the middle of Robin Court and slowly turns 360 degrees, one would see the ridge, blue skies, and trees; not two-story houses.

Ms. Graham concluded by stating that in the staff report, the Zoning Administrator, Steve Otto, indicated that he likes to work out a win-win situation but it does not always work out that way. She asked if, in a case when both parties have legal and civil rights, democracy then takes into account what is for the greater good. She noted that three families will be impeded negatively by one family's need for more space. She added that while the Lopezes did not know when they purchased their home that they may someday need office space or that their children may grow in number or that their

parents may age, it is entirely unfair and irresponsible of them to impose on the neighbors for those reasons. She asked the Commission to deny the Lopezes' application to impose on their neighbors.

Commissioner Pentin suggested that Chair Olson ask Ms. Graham the same question he asked of the Persins.

Chair Olson noted that the three appellants, in their July 15, 2010 letter, proposed a possible solution to this issue of building on the front western quadrant of the home where its impact to all three objecting neighbors would be minimized. He asked Ms. Graham if her parents are still amenable to this solution.

Ms. Graham inquired if the second story would move forward or if square footage would be added onto the first floor.

Chair Olson replied that it would be a combination of both.

Ms. Graham replied that the preference is to move the addition forward. She reiterated that as shown in the photos, her parents will lose all privacy inside their home as well as in their backyard. She added that, cypress trees would not change this situation and that what the applicants should do is move to a larger house.

Chair Olson referred to the letter that the Hoehnes signed.

Ms. Graham referred the question to her mother.

Roxana Hoehne, appellant, stated that she would prefer not to have a second-story addition; however, as a compromise, she would agree to having a major portion of the second story on the front western quadrant.

Chair Olson then asked the same question to the next speakers, appellants Joe and TinaMarie Perry.

TinaMarie Perry, appellant, replied that they are amenable.

Ms. Perry stated that she and her husband, Joe, live on the east side of the Lopezes' property. She indicated that they were unable to attend the Zoning Administrator hearing and would like to review their opposition to the proposed additions at 6114 Homer Court or discuss a potential modification. She referred to page 8 of the staff report and indicated that as shown in the left bottom photo, their view of their home looking out is already greatly blocked and that adding a second story structure would greatly impact any view they have left. She added that it will block their side views, and natural sunlight as their home is considerably tucked back behind the Lopezes' home by 19 feet.

Ms. Perry stated that building a home of this magnitude in their quaint, single-story neighborhood will take away the very reason they had bought their home five years ago. She noted that they have lived in this part of town for the last 13 years and that the addition will damage their resale value. She added that while the Lopezes need more space, they do not need to build such a large addition that clearly impacts the majority of the surrounding homes. She indicated that there are alternative options such as building on the garage side where the next-door neighbor has voiced support of the addition.

Ms. Perry concluded that they are a community and that the decision should not be based on one family's needs.

Rodney Lopez, applicant, stated that he believed staff had not received an email he had sent negating some of the misleading statements made in opposition to their request, as that email was not attached to the staff report.

Ms. Bonn confirmed that she had not received the email.

Mr. Lopez stated that their proposed addition has been considered in view of their family's personal and professional needs as well as neighbor's needs. He indicated that the Zoning Administrator approved their proposal on June 30, 2010 with a few modifications. He noted that one of the key points made by the Zoning Administrator is that zoning does allow two stories to be built under certain parameters, such as setback, height, limits, and FARs, all of which they meet or exceed. He added that the Zoning Administrator also specifically stated that their home addition has been designed to minimize impact to neighbors. He stated that they completely agree with the assessments and noted that the designs before the Commission, along with the design modification, are absolutely different from their initial design because it takes additional consideration of their neighbors' concerns to lessen perceived impacts.

Mr. Lopez stated that when they bought their house 12 years ago, they knew that adding a second story to their home was an option, and they had counted on it. He noted that their real estate agent and title company were required to disclose this information to them by having them sign the CC&R's, which stated that their home or any home in the neighborhood could be modified to a two-story home. He added that the declaration of restrictions were specifically written for Tract 2953, residents of Homer Court and Robin Court, and have been in effect since the homes were built in 1969. He stated that these neighborhoods were initially intended to support one- and two-story homes and that everyone who purchased a home on Homer Court or Robin Court over the last 40+ years was informed and required to sign the same declaration or restrictions, stating that two-story homes were permitted. He added that the CC&R's were also backed up by the current zoning regulations in place today.

Mr. Lopez stated that disallowing second-story additions in this area is wrong and goes against the initial intent of the neighborhood as well as current zoning regulations. He added that a precedent has already been set by 15 other Val Vista two-story homes

including three homes that were missed in the staff report located on Bacon Court, north of the subject property.

Mr. Lopez stated that his property has been mistakenly granted as being unusual or unique in several of the documents submitted to the City by the appellants. He noted that his floor plan is different from any other house in the development, and the pie-shaped lot coupled with the color of the house might make this unique; however, the zoning regulations do not consider it unique as the proposed additions fall within current zoning regulations as set forth by the City and do not require any variances.

With respect to being the largest home in the neighborhood, Mr. Lopez stated that it would not be the largest or the largest two-story home in the development. He noted that as presented in the staff report, their proposed home size at 2,607 square feet would be in the range of the homes within the vicinity of a 300-foot radius. He further noted that the Persins would still have largest home in the neighborhood and indicated that he wants to be given the same courtesy granted to the Persins when they increased their home size.

Mr. Lopez then addressed the proximity issue, stating that there are many other existing homes with these same circumstances in cul-de-sacs within the development. He indicated that they are proposing a second-floor addition on a portion of their pre-existing first-floor footprint and that the second-floor addition is closer to the front of their home and farther away from the rear neighbors; at its closest location, the addition would be 20 feet away from their rear neighbor's property line.

Mr. Lopez clarified that they do not use their home for personal business but work from home and telecommute. He added that the proposal to move the addition to the west side of the property is a false sense of compromise that has come about because the staff report seems to be in support of the project. He indicated that he had asked several times if he could present their plans to the appellants, and they have always said no without looking at the plans. He stated that he felt the appellants do not understand that by reducing the scope of the home by one side, they will still be as close to the Hoehnes' residence to the rear and that there will probably be some additional windows to the east which will be facing the Perrys' home and which the Perrys have emphatically indicated they did not want. He noted that this would also not provide the additional square footage they need, given the current setbacks and regulations. He indicated that he did not find it is reasonable to ask them to build on their back yard as it would remove the area their three children use and play in. He also noted that at no time would the rear neighbors have the sun blocked in their backyards because they are located to the south, and their pool would never be affected since it is quite a distance away from the home area.

Mr. Lopez then congratulated the Planning Commission and Planning staff, stating that the past month's issue of Money Magazine indicated that a national survey ranked Pleasanton as one of the top 100 best places in the U.S. in which to live. He added that Pleasanton was the only Bay Area city to earn this national honor. He noted that this

was made possible because Commission members abide by existing zoning regulations and CC&R's, which he has met or exceeded. He stated that all parties involved should feel comforted and realize that these national honors and potential buyers seeing existing residents investing in their homes and neighborhoods will not decrease property values but would, in fact, increase because of projects like this

Mr. Lopez then addressed a letter dated August 16th and signed by Mr. and Mrs. Persin to clarify some misleading and incorrect information labeled as factual in a written narrative in support of the appeal. He stated that the letter had the incorrect square footage for the second-story, which was already corrected in the Zoning Administrator's hearing, but which numbers the Persins continue to use in order to mislead. He further mentioned that the Persins stated there are only 12 two-story homes, but there are 15 with two on Bacon Court that were not included. He noted that the Persins have also stated that the addition would make it the only home in the entire development to add a second story which is not limited in scope to only one side of the home. He indicated that a simple drive around the neighborhood would prove that this statement is not true and would not make his proposed addition unique. He re-emphasized that they are adding a second floor on their existing first-floor footprint and that the second-floor addition is closer to the front of their home.

Mr. Lopez reiterated that the development was designed to be one of single-story homes on reasonably-sized lots and that the original homes were single story; however, they also know that the development was designed to sustain single and two-story homes per the CC&R's, which were signed by all the homebuyers at the time they purchased their homes. He then asked the Commission to keep in mind that they have modified their original plan, reduced their scope, and moved it farther front to take into consideration the proximity of the new addition to the rear neighbors' property line.

In summary, Mr. Lopez indicated that the plans before the Commission is their second revision, modified based on the issues raised at the Zoning Administrator hearing and based upon what their contractor had run into in the past. He reiterated that they moved the addition farther away from the rear neighbors, maintained FAR and setback guidelines, improved the home cosmetics such as jutting out the roof line to make the addition more appealing to the eye, and recessing the front second-story addition to help with any impact of views to their side neighbors. He stated that they also agreed to modify the plans once more to address window relocation and sizing, as well as landscaping and other modifications as agreed upon in the Zoning Administrator hearing. He concluded that during the entire process, they have been accommodating to all parties involved and have agreed to the City's recommended revisions pertaining to the neighbors' concerns.

Trina Lopez addressed one of the appellants' statement that the Lopezes move to a larger house and indicated that moving is absolutely not an option.

Commissioner O'Connor referred to Mr. Lopez' statement that the appellants misstated the square footage of the house and inquired what the total square footage would be.

Mr. Lopez replied that the proposed square footage would increase the total square footage to 2,607, which is the number the Commission has.

Ms. Lopez noted that there is a 2,664-square-foot two-story home in Taffy Court.

Mr. Lopez referred to the 300-foot radius list on page 13 of the staff report and stated that this describes all the homes. He noted that the size of their two-story home does not come close to that of the Persins', who increased the size of their home several years ago. He added that the Persins' argument that the Lopez home would be the largest two-story home is incorrect.

Chair Olson asked Mr. Lopez if he felt there was room for further compromise.

Mr. Lopez replied that there is nothing to compromise with respect to what has been stated at this meeting. He stated that he did not believe the appellants were aware of the compromises they have made as their initial plans were actually drawn as a box on top of their existing home and actually drawn farther back toward the rear neighbors, which they moved forward at the request of the rear neighbors. He noted that moving the addition to one side and removing one portion of their proposal would not achieve the size they need. He added that they would then go beyond some of the requirements set by the development regulations, and he does not see a variance being granted, given what is going on between them and their rear neighbors.

Ms. Lopez added that trying to fit a single-story addition within the pie-shaped area would not be feasible. She indicated that they have three young elementary school children who play in the backyard, and it would not be reasonable or feasible to remove their entire backyard.

Mr. Lopez also noted that they attempted to work this out with their neighbors but was not well received. He added that they had no help from the rear neighbors until they received their letters at the Zoning Administrator's hearing.

Commissioner O'Connor asked Mr. Lopez how long they have lived at their residence.

Mr. Lopez replied that they had lived there for 12 years.

Commissioner Blank asked to see the declaration of restrictions from Ms. Lopez.

Ms. Lopez noted that at the bottom of one section under number 5 or 6 of the document, it states that homeowners can build up to a two-and-one-half-story home and a three-car garage.

THE PUBLIC HEARING WAS CLOSED.

Chair Olson asked staff if they believe there was room for further compromise in this case, stating he will never forget his first item which was a similar situation, and the City brought in a mediator and sat the parties down to hammer out an agreement. He indicated that not talking to each other is not an option.

Mr. Dolan replied that this is a possibility; however, there is a cost involved, and it must be determined who bears that cost. He added that they must also be willing participants.

Commissioner Pearce noted that in the past, retired Planning Commissioners acted as mediators. She then asked what the current side setback regulations were.

Ms. Bonn replied that the setback requirements were a minimum of five feet on one side with an aggregate of 12 feet between the two setbacks.

Commissioner Blank inquired whether or not this project meets this setback.

Ms. Stern replied that the existing rear first story does not meet the setback because it comes within seven feet as opposed to the required 20 feet.

Commissioner Pentin noted, however, that the proposed second story does meet the 20-foot setback and requested staff verification.

Ms. Stern replied that was correct.

Commissioner Blank stated that he found the language in the declaration of restrictions very interesting: "No lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any residential lot other than a one-story, single-family dwelling not to exceed 2.5 stories in height, and a private garage for not more than three cars." He noted that the language specifies a minimum with a "not-to-exceed" verbiage, obviously written by a lawyer, but it is not as permissive a language as what he would have originally thought.

Commissioner Pearce stated that she likes the idea of mediation. She noted that she sees no evidence of extensive discussions between the neighbors and would like to see more of this.

Chair Olson stated, however, that if he were the appellant, recognizing that City staff is recommending denial of the appeal, he would want to come to the table.

Commissioner O'Connor stated he recalls that when the Planning Commission sent one project to mediation, the Commission actually took a break during the meeting, and staff spoke with each party, who then agreed to go to mediation. He suggested a five-minute break for staff to talk to the parties.

Commissioner Blank disclosed that he has driven around the neighborhood several times but has not spoken with the appellants. He stated that he always tries to put his hat on as a neighbor living there. He added that he must also put on another hat and see that there are no view easements nor restrictions, but reasonability. He stated that he recalls one very large project in a very disruptive area where the Commission actually required the homeowner to put up story poles. He noted that there were no requirements to do the story poles, but they were erected and with them, the Commission was able to fashion some better compromises because it was able to see exactly what the impact would be and where the limits were. He stated that professionally prepared viewscales could also be done; however, the story poles might be less expensive.

Commissioner Blank stated that he believes the setbacks do not comply with today's standards and inquired whether the homeowner must be mandated to comply with today's standards when building a second-story. He indicated that he could not tell what the project would look like without story poles or viewscales. He noted that he actually walked the neighborhood and found the house to be pretty crowded in on the lot. He indicated that he wants to make sure the Commission does not make a mistake.

Commissioner Narum suggested a five-minute break. She stated that she drove both courts this morning and agreed with Commissioner Blank that it is hard to visualize what the second story would look like. She added, however, that if the additions are within all of the requirements, the tendency would be to approve it. She indicated that she recognizes that this is somewhat of a unique property, particularly with regard to the Perrys' house and the way they are angled on the lot.

Commissioner Blank stated that he likes the idea of mediation and added that perhaps doing something like story poles would help. He indicated that this would also allow the Commission to obtain some enhancements to the staff report, such as the addition of the two-story homes that were not included and the inclusion of all FAR's.

Commissioner Pentin stated that considering the tone of the Zoning Administrator's hearing and the comments made, he would like to know if staff believed mediation would work and change things or if the Commission simply pushing this off, only to return to the same place.

Mr. Dolan replied that a month ago, he did not believe the City would have an agreement on Staples Ranch either, so anything is possible. He stated that these questions are often more difficult for staff and the Commission than the larger projects. He added that mediation takes a lot of time and is not always successful; however, if it is worth the effort and that is what it takes, and if this is the direction the Commission wants to go, staff is completely willing to go down this path and pursue it. He indicated that it sounds like the Commission would prefer to have some fine-tooth compromise as opposed to a fundamental principle of second stories being allowed. He added that no matter what is built, some view will be blocked, and there will be windows looking in the

backyards. He noted that this is more of a conceptual question: if it meets the criteria, then it will be approved.

Commissioner Blank stated that it is the uniqueness of this particular lot and the layout, and if these were identical lots in the middle of the street with no unique positional issues, it might be exactly as described.

Mr. Dolan stated that this is a fairly dense neighborhood without large yards or setbacks and not a lot of wiggle room. He noted that if a second story is added, sunlight will be blocked, windows will look into other people's backyards. He added that staff could cut the addition in half and still have 90 percent of the impact.

Commissioner Blank stated that if all of the windows were facing the street, there would be no complaints of looking into backyards; however, he was not sure this was reasonable or could be made part of a compromise.

Commissioner Pentin stated he was not sure this was legal.

Ms. Stern suggested the Commission consider putting some amount of time limit the parties must meet in mediation.

Commissioner Blank suggested taking a five-minute break for staff to talk separately to the appellants and applicant to determine whether or not they would be amenable to mediation.

Commissioner Pentin inquired whether the mediation would involve one applicant and three appellants or would the appellants appoint one person to meet with the applicant.

Commissioner Blank suggested that staff work this out.

Chair Olson called for a five-minute break, and thereafter reconvened the regular meeting.

Mr. Dolan announced that the applicants do not believe mediation would be successful and have declined to participate.

Commissioner Pearce referred to the rear setbacks and asked staff to confirm that the second story meets current setback standards, but the current first story does not.

Ms. Stern confirmed that was correct.

Commissioner Pearce noted that the proposal is not to push additional first-story space into old setbacks.

Commissioner Blank moved to continue the item; to direct the applicant to install story poles or create digital viewscales with views from each of the appellants' properties; to direct staff to revise the staff report to include all two-story homes and their square footages and FAR's; and to have the item return to the Commission at the earliest possible meeting date.

Ms. Stern requested clarification on what the story poles should show.

Commissioner Blank requested to show corners, edges, and tops, similar to what was done for a previous large project. He added that this would be at the applicant's expense.

Commissioner Narum seconded the motion.

Chair Olson suggested the public hearing be re-opened to ask the applicant whether he was willing to conduct a story pole analysis.

THE PUBLIC HEARING WAS RE-OPENED.

Mr. Lopez stated that that they looked into such an analysis and the cost is something he is not willing to pay for, as he knows what the addition will look like based upon elevation plans. He added that if the appellants are willing to pay for the installation of story poles, he would give them access to his property to install them.

Commissioner Narum asked Mr. Lopez if he would agree to pay for a photo simulation of the addition.

Ms. Lopez replied that they would have to take that into consideration with their architect but that they were looking at receiving a decision tonight. She noted that the neighbors have told them that they plan to extend this for as long as possible. She added that they believe they have compromised on several areas and have accepted all the conditions, while the neighbors have done nothing but take.

Chair Olson advised the applicants and the appellants that regardless of whether the Commission decides to uphold or deny the appeal, the other party has the right to appeal the decision to the City Council.

Mr. Lopez indicated that he was aware of the 15-day appeal period.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Blank inquired if staff could provide an estimate of the cost to install story poles.

Mr. Dolan replied that it would depend on whether or not a contractor installs them, but he believed it would cost somewhere between \$600 and \$1,000.

Commissioner Blank stated that he assumed that if the motion on the table were to pass, the applicant could appeal the Commission's decision to the City Council.

Julie Harryman clarified that the motion was to continue the item and to instruct the applicant to construct story poles. She noted that the applicants had indicated that they do not want to do this and they could appeal this as well as the motion to continue.

Commissioner Blank stated that he was not sure of the exact cost, but an additional \$1,000 to \$2,000 is a small percentage of the construction cost for the project. He indicated that he wants to maintain the motion on the floor as he did not have enough information at this meeting to make an informed decision. He noted that the Commission has asked for story poles in the past, and the applicant is the party refusing mediation. He stated that from his perspective, it appears to him that the applicant has already made a decision. He indicated that on one hand, the Commission may think after the story poles are installed that the additions are too overbearing; but alternately, the Commissioners could see that they over-reacted and find that the impact is less than it thought; or the Commission may also stay in the middle.

Commissioner Narum stated that more importantly, the appellants may learn that it might not be as bad as they thought or that only minor adjustments might need to be made.

Commissioner O'Connor noted that based on the testimony, it appears that there will not be a lot of compromise. He stated that he believes the applicants are looking for a decision so they can move on. He added that the applicants have spent a lot of time making modifications and compromises, and he feels the Commission has seen many of these types of proposals where it can envision what the second story will look like.

Commissioner O'Connor continued that the fact that the proposal meets all of the Codes and that there are some extenuating circumstances with the way the lot is laid out and the way the original house is built gives the Commission enough information to make a decision. He indicated that he believes the Commission's decision will be appealed either way but that the Commission owes it to the applicants to give them a decision. He noted that the applicants have chosen not to compromise or go to mediation or spend any more money. He added that the applicants have already invested a lot of money in the project and that even if another compromise were reached, more money would be involved.

Chair Olson stated that he came to the meeting wanting to find a compromise, and he thought he had one in what the appellants had written. He noted that it appears to him that the appellants are willing to sit down and talk, but the applicant has refused to do so. He stated that he could make a decision at this point.

Commissioner Pentin indicated that his impression of both sides is that the appellants have said they were not willing to compromise until tonight, and the applicants have

been told over and over that the appellants are willing to take this to the nth degree. He stated that he feels the applicants are asking for an answer, whether the Commission denies or approves the proposal, because they are ready to move forward.

Commissioner Pearce agreed and stated that she was not willing to concur with a motion that forces the applicants to do something they do not want to do. She added that she does not think the money issue is relevant, but she believes the applicants feel mediation or the story poles will not get them anywhere. She indicated that she thinks everyone is ready for a decision. She noted that the level of the vitriol she saw in the Zoning Administrator hearing minutes was nothing she has seen in a long time, and although she does not have all of the information she could possibly have, she has enough information to make a decision.

Commissioner Blank amended his motion to uphold the appeal.

Commissioner Narum withdrew her second of the original motion.

Chair Olson seconded the amended motion to uphold the appeal.

Commissioner Pentin indicated that he would not support the amended motion. He noted that in everything he has read and from what has been presented, he would deny the appeal.

Commissioner Blank stated that the reason he would like to uphold the appeal is because this is a unique property and a unique situation. He indicated that having walked and driven that neighborhood, he had a very difficult time seeing where the placement of the addition would be. He noted that if this was simply permitted by zoning and the Code, the Commission would not have to be involved; the application would just go to staff who would go through the checklist.

Commissioner Pentin stated that he does not believe this is what happened because there have been modifications proposed which the applicants have implemented such as moving and redesigning the additions and reducing the size of the windows and providing screening. He indicated that he thinks there has been movement for what the applicants need to do within their rights, and this is what they are asking for.

Commissioner Blank stated that he feels there has been movement as well, but not enough. He indicated that he is concerned about the visual impact the addition will have on a large portion of the neighborhood. He noted that if the applicants want a decision tonight, they will have an appealable decision. He added that he firmly believes the lot is unique.

Commissioner O'Connor agreed that it is a unique lot because it does meet all regulations. He noted that they are not building over out the entire existing first floor and are staying well back and within the 20-foot setback. He added that the CC&R's are clear as well.

Commissioner Blank stated that the CC&R's were not as clear as they were portrayed as they state that one has the right "not to exceed" rather than one has the right to "x".

Commissioner O'Connor stated that "not to exceed two-and-one-half stories" indicates that one can build two stories.

Commissioner Blank agreed that it allows two stories but that it uses limiting language as opposed to permissive language.

Commissioner O'Connor noted that there is no request for a variance and that this is where he has difficulty.

Commissioner Narum stated that if the lot were located on the straight portion of the street and not at the end of the cul-de-sac, this would be a cut-and-dry decision; however, because of the way the house is sited on the lot and the Perrys' lot, she finds there needs to be some judgment applied. She indicated that she is not as concerned about those on the back side on Robin Court and that the one she is most concerned about is the Perrys.

Commissioner Pearce stated that these are some of the hardest things the Commission does as there is never anything that makes everybody happy, especially not in this case. She indicated that the Commission always searches for compromise, for community versus property rights, and there is discretion. She stated that for her, the applicants are not asking for any variances, there is a current setback, they have altered the second story so it is more toward the front, they have modified the windows, and they have articulated the roof. She noted that the compromise the appellants have put forth is that the applicant cut the addition in half, not have an addition at all, or move, neither of which is much of a compromise. She indicated that she was inclined to support the application.

Commissioner Blank stated that he agreed but that there is not enough information to make a decision, and that is the reason he made the original motion. He added that it would be helpful to see what was proposed before and the change after and that he feels the Commission is making a decision without the data it needs.

Commissioner Pentin stated that the Commission talks about the applicant being within the structure, rules, and zoning; and looks at the community and the effects on the neighbors; and goes into view sheds, screening, and privacy. He indicated that what is important is that the applicants are doing this for a reason too: they are telecommuting, working from home, and spending more time with their children, all of which would keep the family in that home. He added that community is also within the home.

Chair Olson stated that the motion on the floor is to uphold the appeal.

ROLL CALL VOTE:

AYES: Commissioners Blank and Olson.
NOES: Commissioners Narum, Pearce, and Pentin.
ABSTAIN: None.
RECUSED: None.
ABSENT: None.

The motion failed by a vote of 2 to 3.

Commissioner Pearce moved to deny PAP-146, thereby upholding the Zoning Administrator's approval of Case PADR-2090, subject to conditions of approval listed in Exhibit A.

Commissioner Pentin seconded the motion.

Commissioner Narum proposed an amendment to Condition No. 3 to change the construction hours from "8:00 a.m. to 5:00 p.m., Monday through Saturday" to "8:00 a.m. to 5:00 p.m., Monday through Friday."

Commissioners Pearce and Pentin accepted the amendment.

ROLL CALL VOTE:

AYES: Commissioners Narum, Pearce, and Pentin.
NOES: Commissioners Blank and Olson.
ABSTAIN: None.
RECUSED: None.
ABSENT: None.

Resolution No. PC-2010-22 denying the appeal, thereby upholding the Zoning Administrator's approval of PADR-2090, was entered and adopted as motioned.

Chair Olson advised the appellants that they had 15 days to appeal the Commission's decision to the City Council.

MINUTES
ZONING ADMINISTRATOR
Pleasanton, California
200 Old Bernal Avenue, Pleasanton, CA
Friday, June 30, 2010

CALL TO ORDER

The meeting was called to order at 10:00 a.m. by Steve Otto, Zoning Administrator.

Present: Steve Otto, Zoning Administrator; Shweta Bonn, Assistant Planner; Rodney and Trina Lopez, Applicants; Stephanie and David Persin, neighbors residing at _____; and Roxana and Hans Hoehne, neighbors residing at _____

PADR-2090, Rodney and Trina Lopez

Application for administrative design review approval to construct an approximately 80-square-foot single-story addition to the front and an approximately 1,038-square-foot second-story addition at the existing residence located at 6114 Homer Court.

Mr. Otto explained the hearing and appeal process.

Mr. Otto introduced Shweta Bonn, Assistant Planner, who then presented a summary of the project listed above, and the comments and concerns from neighboring properties.

Ms. Bonn explained that the notice stated a 1,118 square-foot second-story addition, but that was the total for both the first-and second-story additions; she clarified that the proposed second-floor addition is 1,038 square feet.

Ms. Bonn stated that this morning she received a call from TinaMarie Perry, resident at 6104 Homer Court, regarding the project and that she stated that she has concerns about privacy and she would not want the bedroom window on the rear façade to be moved to the side façade facing her property and since the addition is closer to the front it may obscure her view out her front room window. Ms. Perry further stated to Ms. Bonn that her property values would decrease.

Ms. Bonn also received a call this morning from Mr. Perry, who reiterated the same concerns as his wife.

Mr. Otto asked for clarification that the bathroom windows would be smaller in size, 12-inches by 2 feet to 3 feet and horizontal sliders. Also, the landscaping would include Italian Cypress in between existing landscaping.

Ms. Bonn stated that was correct.

The Public Hearing was opened.

Ms. Lopez stated they bought the home 12 years ago when they were first married and that the home is currently 1,489 square feet. She explained that they have three grade school-aged children and that two of them currently share a room. They are a two-income family and in 2006 she began telecommuting. At that time they moved one daughter into the other daughter's bedroom, so she could use one bedroom as an office. In 2009, her husband began to work from home using the dining table as his office space. The reason they are looking at expanding their home is for her husband to have adequate privacy and work space.

Ms. Lopez stated that this addition is not just a desired request, but a necessity.

Mr. Lopez mentioned that they had thought about building up for some time and had noticed other two-story homes in the neighborhood. He stated they like the neighborhood and they do not want to uproot their children.

Ms. Lopez stated that their nine year old will soon be a teenager and would not want to share a room with a younger sister.

Ms. Lopez explained that they would like to give her daughter back her room that they had moved her out of back in 2006. This addition would also allow both her and her husband the needed workspace.

Ms. Lopez stated that in their culture they take care of their family members. She explained that her parents live locally and if poor health issues develop down the road, they want her parents to be able to stay with them if needed.

Mr. Lopez stated that they did consider keeping the addition to a one-story, but the lot shape did not work for the amount of space they needed to keep the addition just on the first floor.

Ms. Lopez addressed the four concerns of the neighbors; privacy, sunlight, view, and property values. She explained that they do respect people's privacy and they do insure their children to do the same. She mentioned the conditions of approval address the landscape screening needed for this project. She stated her husband had gone to local nurseries to ask what would be most beneficial to everyone. She added that the architectural drawings show the second-story addition is more to the front.

Mr. Lopez mentioned the moving of the windows would alleviate the line sight into anyone's yard.

Mr. Lopez agreed that originally when Val Vista was developed it was a single-story neighborhood, but in the last few years the neighborhood has evolved into a blend of one and two-story homes. She mentioned that there are twelve two-story homes in the neighborhood.

Mr. Lopez mentioned that the two-story homes blend into the neighborhood

Ms. Persin said that in her opinion the two-story homes in the neighborhood do not blend in.

Ms. Hoehne concurred with Ms. Persin.

Ms. Persin stated she had only seen four two-story homes and those additions were limited to only over the garage. She further stated that she would not want to live next door to any of those additions as she does not like the way they look.

Ms. Hoehne stated she has only seen four two-story homes and asked if they had pictures of these twelve homes.

Ms. Lopez answered that they have the addresses of those homes.

Mr. Lopez stated he has pictures in his camera, but did not print them.

Ms. Hoehne asked if they knew when the additions were built and how long it took for the trees to grow.

Mr. Lopez he only knew of one addition that was done in 2006 and another that was signed off by the City this month.

Mr. Lopez explained that depending on the type of tree they picked, it could grow two to three feet a year, could be more or could be less; and of course, they want something to provide privacy right away.

Mr. Lopez mentioned another two-story home on a court over that is 500 feet from the Hoehne residence.

Ms. Hoehne stated that 500 feet is a lot farther compared to where the proposed addition will be behind her home.

Ms. Persin commented that she looked at that two-story home and that the landscaping has been there for years and is certainly is not as tall as that home. She suggested the applicants look at that landscaping.

Ms. Lopez answered that they would look into the type of trees to accommodate the proposal.

Ms. Persin stated that when suggesting what landscaping is beneficial to everyone, she noted that she hates cypress and she does not want another pine tree. She mentioned when she bought her home she did not have to deal with another home hovering over her home. She commented that she bought her home for the view and the openness.

Ms. Lopez explained that the Val Vista area is not restricted from building two-story homes and that they are staying within the code requirements for the R-1-6,500 zoning district. She mentioned that the neighbors want to keep Val Vista a quaint and simple neighborhood, but

the Persin's residence is 3,000 square feet and not a typical Val Vista home, quaint and simple.

Ms. Pesin commented that their home does not impact the neighbors.

Ms. Lopez mentioned that their lot does not allow them to keep their addition to the first-floor as the Persin's lot shape accommodated their first-floor addition.

Mr. Lopez commented on that the sunlight would not cast a shadow on the neighbor's home. He also stated that they took the appearance of their home and view into consideration when drawing up the plans to make it more appealing to the eye. He mentioned they did not make the addition a plain or flat box, but recessed the second-story from the first-story and jogged out some of the roofs on top.

Ms. Lopez agreed with her neighbor that property value is a very subjective area. She stated that their real estate agent has commented that there are no findings that a two-story next to a one-story devalues a one-story home.

Mr. Lopez commented that their real estate agent said there is no impact on property values in Pleasanton in reference to two-story or one-story homes; that buying is based on personal preference.

Mr. Lopez stated they did look at other homes before deciding to add on, and when looking at a one-story or a two-story home next to each other, it was not a concern to him. He reiterated that his real estate agent informed him that there is always a buyer for the city of Pleasanton because they want to live here.

Ms. Lopez commented that the neighborhoods with a blend of one-story and two-story mixtures have not decreased in value, except maybe last year when everything took a turn in California, but they are maintaining or definitely rebounding compared to other areas.

Ms. Lopez stated this project will definitely generate revenue for the County of Alameda, the school district, City of Pleasanton, and would employ contractors and landscapers.

Ms. Lopez thanked staff for the time and attention given to this project and acknowledged that two-story homes do coexist with one-story homes, happily, in the City of Pleasanton and the Val Vista community. She also reiterated that this addition was not a desire, but a necessity to give her and her husband workspace and her daughter back a bedroom.

Mr. Persin also thanked staff for listening to their concerns.

Mr. Persin stated they had five areas of concern and property value was one of them. He added that he realizes that the City tries to stay away from the impact of property values, but the reality of this specific situation is that they have put a lot of money into their property and they cannot go back in time, but they are here today because something can potentially be reconfigured to be more beneficial with less impact.

Mr. Persin then read a letter from a real estate agent regarding the reduced valued to their home if the proposed addition is built and that the applicants could use other options that would reconfigure the addition to have fewer impacts to the Persin's home.

Mr. Persin stated that they themselves considered all the potential options as far as adding to their home and reconfigure their design to utilize the nature of the lot.

Mr. Persin stated that the other two-story homes in the neighborhood are not near as big as the proposed addition and are also on very different lot configurations. He explained this proposal is a unique situation because all the homes at the end of the court are very close together and are on top of each other. He mentioned that one house is just seven feet from the fence. This particular home is on top of all three surrounding homes, the two in the back and the one on the right.

Mr. Persin explained that this proposal deserves more discussion and research because this addition would be more impacting to the surrounding neighbors than the other twelve two-story homes in the neighborhood. He mentioned that the Val Vista is a neighborhood with unique style and distinctive flavor; it is not postage stamp lots. The City has approved the other two-story additions, but he is sure none of them are as big as the proposed addition. He stated that the addition can possibly be modified and reduced to lessen the impact to the rear neighbors. He mentioned that they, along with their neighbors, have been there for many years and that this proposal will lessen their enjoyment of their home and lifestyles. He stated that the addition would be directly in front of their master bedroom and they will look out and see a second-story structure. He added that because of the specific nature of this lot and how little the setback is from the property line, there is no distance and no way to escape this size of the second-story addition.

Mr. Persin suggested that the addition be constructed more over the garage, or to the front, or to just keep the addition to the first-floor.

Ms. Persin stated that three of the four neighbors have expressed their concerns. She mentioned the only positive to the addition is benefiting the applicant, but the impact to the neighbors is totally negative.

Ms. Persin explained that they have seven children and live in a 2,800-square foot home. Originally the square footage was only 1,800 square feet and they made due by juggling what needed to be juggled. She mentioned they had bunk beds in some of the bedrooms.

Ms. Persin stated that the choices one makes should not impact others. She suggested the applicants be creative, like they were, and keep the addition to the first-floor.

Mr. Persin showed pictures that illustrated the proximities of all of the properties and how close they are to each other.

Ms. Persin stated she was totally against this addition. She asked the City to take into consideration the comments and concerns of the neighbors and to encourage the applicant to only add to the first floor.

Ms. Persin strongly reiterated that three of the four neighbors that are specifically impacted by this addition have spoken out in opposition. She stated that she is totally against this addition. She added that it is important to not make your neighbors enemies and to accommodate them. She encouraged the applicants to take into consideration the comments and concerns of the neighbors and to add only to the first floor as they did and to not impact the enjoyment and value of their home.

Mr. Persin again commented on the three neighbors speaking out about this addition.

Ms. Persin explained that the fourth neighbor is not home and that she possibly does not quite understand the extent and square footage that will be added on and that she will be affected more than she realizes.

Ms. Hoehne stated that they are the original owners. She stated the original trees took 40 years to grow to the height they are now. She stated that the proposed trees would take years to screen the addition.

Ms. Hoehne explained that she does understand the economy of today and appreciates the fact that the applicants are able to work from home. She also mentioned she understands the applicants not wanting to uproot their children from school. She explained that her culture also takes care of family members and that she in the process of dealing with her elderly mother at this time. She stated that it is a difficult and heart wrenching experience and that she decided to put her mother in an assisted living facility.

Ms. Hoehne did ask why the neighbors have to endure the impacts from the addition being built up and having a building in front of them because the applicants need office space and are lucky enough to have the opportunity to work from home. She acknowledged that her children are struggling to hang on to their jobs and stay in their three bedrooms with five and six children. She stated that she is not sympathetic to the applicants because they need office space. She mentioned that it was hard for her to comprehend this situation.

Ms. Hoehne explained that they did not have the opportunity to build out and that they feel very lucky to afford a four-bedroom home. She stated that at this stage in their life, enjoying their home is important and will continue to be more important as they will not be able to do more things. She mentioned that it is important to her children that they are left with something that they might be able to sell at a price that they could then divide among five children.

Ms. Hoehne stated the addition is an impact on her yard, her view of the trees and enjoyment of the open space.

Mr. Hoehne stated that he spends much of his time in the kitchen where he looks out over the applicant's roof to see blue skies and trees. He stated the addition would take that view away. He also stated that the neighbors would be able to look into his bedroom from the addition. He stated that the trees would not grow tall enough during his lifetime and that they want to enjoy their retirement years.

Mr. Hoehne mentioned that his property values would also decrease.

Ms. Hoehne stated that the trees have taken 40 years and that the proposed trees would not grow fast enough, tall enough or big enough during their lifetime.

Ms. Hoehne stated they have worked hard all these years and want to enjoy their retirement years.

Mr. Hoehne asked why the applicants do not buy in a two-story neighborhood and not just add a two-story in front of others.

Ms. Hoehne mentioned that the Valley Trails neighborhood and Del Prado neighborhood would allow the applicant's children to remain at Donlon School.

Mr. Lopez answered that they did look at other areas to possibly buy, but did not want to uproot the children. He mentioned the houses they looked at were out of their price range, or not what they were looking for. She agreed that some trees do take 40 years, but they plan on planting fast-growing trees.

Ms. Hoehne stated that the Persins were very concerned and very considerate when they decided to build on to their home.

Ms. Hoehne asked how much room they actually need and if they have conferences. She suggested they applicants get an office for all their business.

Mr. Lopez explained they needed a closed area for conference calls not for meetings.

Mr. Hoehne stated that Mr. Lopez is lucky to have this job dropped in his lap, but this job is his choice. She mentioned that her children are fighting to keep their jobs.

Ms. Lopez explained that if they do not get the space necessary, then her husband may not have a job.

Mr. Lopez explained that they have looked at moving, but it is expensive and building the addition made the most sense. He stated that they love the neighborhood and there is a neighbor that does not want them to move.

Ms. Persin stated that everyone has a neighbor like that, but three of the neighbors strongly oppose this addition and they would not be your friends and would be very upset if this addition goes forward.

Mr. Lopez stated that he heard right away that the neighbors were opposed to the project, but they had not even looked at the plans to see what was being built. He stated that it was a no from the get-go.

Ms. Persin stated that the proposal was going up and with a two-story and she knew what that would look like. She explained that she does not want another home hovering over her home. She explained that she has put too much time and money into her home to have the value go down. She reemphasized that a one-story addition is what is acceptable.

Ms. Person expressed that she does not want the value of their home to go down while the applicants' value goes up.

Ms. Lopez stated that they cannot build out more on the first-floor without eliminating their entire backyard.

Mr. Lopez stated that the City requires a 20-foot backyard. He explained that the City allows for a 30-foot tall home and a 40% floor area ratio and that they have complied with all the code requirements. He explained that they cannot build out and still follow those guidelines.

Ms. Hoehne stated that they chose to live in that house.

Mr. Lopez agreed and stated that the house is in the City of Pleasanton and the City of Pleasanton allows them to build up. He explained that the City of Pleasanton wants to ensure that you have adequate light, air and privacy. He stated that the rear neighbors are to the south and are not affected by light or air. He mentioned that the trees would take care of the privacy issues.

Ms. Hoehne strongly stated that the trees would not take care of the privacy issue. She asked if the trees would come to the top of the roof when the addition is completed.

Ms. Lopez stated that that was not a realistic question.

Ms. Lopez showed a picture of the view from the proposed window and that a tree would block the view from that window.

Ms. Hoehne stated that the view is into her bedroom window. She asked how tall the tree would be at the beginning.

Mr. Lopez replied that it would be just about 7 to 8 feet in the beginning.

Ms. Hoehne stated that that would not work for her.

Ms. Hoehne asked about the sensor light on the side of the house that comes on in the middle of the night and shines in their bedroom window.

Mr. Lopez replied that he did not know that, but it is possibly the cat walking by and he will look into that.

Ms. Hoehne told Mr. Lopez not to bother.

Mr. Lopez showed more pictures of views from his proposed project. He stated that their addition is placed as far forward as possible. He mentioned that one neighbor will still see the same building in front of them, but that neighbor does not use their front room. He mentioned that they do not use their front room either.

Ms. Hoehne stated that maybe the applicants could use their front room as an office.

Ms. Hoehne mentioned that the pictures are taken from a slanted roof looking down. She explained that it would be a different look from a flat floor. She asked if the floor would be flat. She asked how far back the addition would go back.

Mr. Lopez stated they are building more forward. He explained the addition would go three to four feet back, but they are not going all the way back to keep the addition appealing to the eye.

Ms. Hoehne stated it was not appealing to the eye and that the picture is taken from a slanted roof and would be a different look then if they were from a flat surface.

Mr. Lopez stated that his real estate agent said it would increase the value of surrounding properties when improvements are made to existing homes.

Ms. Persin asked if the real estate agent had come out to the house and seen the four surrounding properties.

Mr. Lopez replied that he did not see the properties.

Ms. Persin stated that of course a real estate agent would say the property value would increase in value if additions and improvements are made. She explained the neighboring properties that were impacted by views and openness would not increase in value. She stated that she bought openness and wants to retain openness.

Mr. Lopez reiterated that in the City of Pleasanton, neighboring properties do not go down in value due to second-story additions.

Mr. Lopez stated that they have followed the site standards and have addressed the neighbor's concern with privacy.

Ms. Hoehne stated that three of the four neighbors do not agree.

Mr. Persin asked if projects are processed with a stamp of approval based on the requirements. He stated that the neighbor's objective would be for the City to look at the unique circumstances that make this project different from the other projects that have got the stamp of approval. He explained the circumstances to be that three of the four surrounding neighbors oppose the addition. Also, this particular lot setup at the end of a court is very different because the homes are only seven feet from the fence, not the typical 20 feet. He stated they did say no before looking at the plans because they are adult people that know when adding 1,000 square feet on a 1,489-square-foot house, that is only seven feet from the fence, it would obviously be a significant size and a significant impact. There is no distance between homes; they are right on top of each other, so there would be more of an impact.

Mr. Persin asked that the City take the time to please review these plans before saying it is okay because accommodations have been made to address the privacy and other issues with windows and trees, but to look for a way to put a second-story on that would be less impacting to the neighbors.

He would like the city's confirmation that the applicants have done everything needed. He stated that they have done their research on all the second-story additions in Val Vista and all of them are much more limited in scope and none have been put on a lot where neighbors are so close to each other, especially the rear impact to all the surrounding owners.

He stated the neighbors understand that they are asking for more time for the City and the applicants to review the circumstances, but we are talking about the neighbors who have to find a way to peacefully co-exist and three of the neighbors are so adamantly against this addition. He explained that it would be much better to try to come to more of a compromise regarding this second-story structure, so that we do all peacefully co-exist and make it comfortable for everybody.

Mr. Persin thanked staff for their consideration.

The Public Hearing was closed.

Mr. Otto stated that the City does prefer to work out the details for a win, win situation, but it does not always work out. He noted that the decision today would not make everyone happy based on the testimony from today.

Mr. Otto stated he does know that the Val Vista neighborhood is mostly a one-story development, but the zoning there does allow for two-story homes that meet the code requirements. They are subject to a design review process just like a one-story. He explained that staff does look at the design and how these additions impact the surrounding neighbors.

Mr. Otto stated that this design does transition from a one-story to a two-story; the roof pitch is extremely low, so the overall house height is 22.6 feet to the ridge which would help minimize the impacts to the neighbors. The roof is a side gabled roof making the massing reduced toward the rear. Given the size and shape of the lot it is pretty limited to where they

can add on and with this size addition it is geared to a two-story. There are some limited areas to add to the first-floor, but they would create impacts and be closer to the adjacent properties than the proposed addition. It is a trade off with the two-story being limited to the existing footprint towards the front compared to putting it out as a one-story which would be closer to the neighbors. There is a benefit to having a two-story in some cases like this one. In respect to the view impacts, given the low height and location being pushed toward the front, this would minimize those impacts. He agreed there would be some impacts, but they would be limited. The photos do not do justice as there is the whole sky above the addition, so the view impacts would be limited based on the design of the project. The condition on the bathroom windows adequately addresses the privacy issue. The landscaping that is proposed by the bedroom window will help with that privacy issue and will not take 40 years to grow. He mentioned the City's landscape architect picked fast-growing species for this landscaping.

Ms. Hoehne asked how fast they would grow.

Mr. Otto stated some would grow two to three feet a year and the conditions do require them to be in 15-gallon for the cypress and 24-inch box.

Ms. Hoehne asked how many years it would take to reach the roof; an actual time span.

Mr. Otto replied that landscape screening is not an instant screen, but would like to require that the bedroom window to be reduced in size, but still meet the building code egress requirement.

Mr. Otto stated due to the orientation of the homes, there would be no sunlight impact, but possibly a more openness concern, but the addition is setback away from the neighbors and pushed as forward as possible to minimize the openness concern.

Mr. Otto explained that the City does not include the issue of property values in their scope of review with projects such as this; it is a debatable issue.

The Zoning Administrator granted approval of PADR-2090, subject to the modified conditions of approval on the attached Exhibit A.

Mr. Otto mentioned that typically it is nice to have a roof over the front porch as to not have the full two-story above the entry. He noted that he would like to add a condition as an option, not a requirement, that if the applicant desires, he could add a one-story roof over the porch.

Mr. Otto stated that this decision could be appealed within 15 calendar days and that Shweta could provide the information on how to file an application for appeal.

Mr. Otto thanked everyone for coming to the hearing.

Ms. Hoehne mentioned that she felt the Zoning Administrator had his mind made up before the hearing and that their time was wasted as he did not take into consideration their point of views.

Mr. Otto stated he was sorry she felt that way because that was not the case. He explained that he did listen to all concerns and took into consideration before coming to this decision.

Mr. Hoehne asked if he had his mind made up before the hearing.

Mr. Otto replied that he did not. He explained that he had spent hours researching and reviewing this application. He stated he visited the project site and the surrounding homes. He stated the project meets the zoning criteria and the concerns can be mitigated.

Ms. Hoehne asked if he lived in Pleasanton.

Mr. Otto answered that he does live in Pleasanton, but that is not relevant to this project.

As there was no further business, the Zoning Administrator adjourned the meeting at 11:30 a.m.

Respectfully submitted,

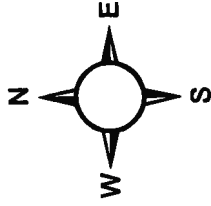
A handwritten signature in black ink, appearing to read "Shweta Bonn", with a stylized flourish at the end.

Shweta Bonn
Assistant Planner

City of Pleasanton

GIS

Department



Scale 1 in = 500 ft

EXHIBIT F

