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August 14, 2020

VIA ELECTRONIC MAIL ONLY

Mayor Jan Pepper and Los Altos City Council
c/o Calandra Niday, Assistant Planner
City of Los Altos
1 North San Antonio Road
Los Altos, CA 94022

E-Mail: cniday@losaltosca.gov

**Re: Appeal of Design Review Approval of 126 Mount Hamilton Avenue
City Council Meeting of August 25, 2020**

Dear Mayor Pepper and Councilmembers:

On behalf of my client Y.J. Chien, I submit this letter in support of the design review approval for 126 Mount Hamilton Avenue (the “Project”) and respectfully request that you deny the appeal submitted by Eugene Hyman and approve the Project.

This Project has had three hearings before the City’s Design Review Commission (DRC) and culminated in an approval on May 20, 3030 (which itself was a re-hearing of a DRC approval made on April 15, 2020). The approval was the result of considerable neighborhood outreach by the owners, as well as revisions made to the Project to respond to both neighbor concerns as well as those raised by the Design Review Committee.¹ Through this process, an improved Project emerged that clearly meets the all the applicable findings required for design review approval under the City’s Code. City Staff also recommended approval of the Project and found that it met, and was consistent with, all of the City’s requirements.

The appeal is de novo, however the Council is bound by the same rules that the Staff and the Design Review Committee evaluated and contained in Chapter 14.76 of the Los Altos Municipal Code (LAMC). The stated policy of the City’s single-family design review process is to review proposed projects in order to avoid an “unreasonable invasion of privacy, unreasonable interference with views, light and air, or create adverse impacts upon the aesthetic character of neighboring structures.” (LAMC § 14.76.010.)

¹ These included, but are not limited to removing the double-height entry and pushing the second story wall back over four feet, pushing a bedroom back by three feet to further reduce the second-story massing, reducing glazing, changing the roof material and relocation of pool equipment.

Approval of a design review application requires six findings per LAMC § 14.76.060:

- A. The proposed structure or alteration complies with all provisions of this chapter;
- B. The height, elevations and placement on the site of the proposed main or accessory structure or addition, when considered with reference to the nature and location of residential structures on adjacent lots, will avoid unreasonable interference with views and privacy, and will consider the topographic and geologic constraints imposed by particular building site conditions;
- C. The natural landscape will be preserved insofar as practicable by minimizing tree and soil removal; grade changes shall be minimized and will be in keeping with the general appearance of neighboring developed areas;
- D. The orientation of the proposed main or accessory structure or addition in relation to the immediate neighborhood will minimize the perception of excessive bulk;
- E. General architectural considerations, including the character, size, scale and quality of the design, the architectural relationship with the site and other buildings, building materials and similar elements have been incorporated in order to insure the compatibility of the development with its design concept and the character of adjacent buildings; and
- F. The proposed structures have been designed to follow the natural contours of the site with minimal grading, minimal impervious cover and maximum erosion protection. A stepped foundation shall generally be required where the average slope beneath the proposed structure is ten (10) percent or greater.

City Staff and the DRC determined that each of these findings could be made and were supported by evidence. No conflicts with the City's objective planning standards have been identified by the City. It is important to note that nothing in the City's design review commission prohibits a two-story home from being constructed when adjacent to a one-story home. The DRC acknowledged that a two-story house is permitted and that they could not legally require only a single-story to be built.

In fact it is uncontested that the Project meets each of these findings, accept for one alleged in the appeal. The appeal expressly concedes and accepts the conclusion of City staff that the Project plans "have complied with the technical specifics of the City Code." (Hyman Appeal at p. 1). The sole ground raised on appeal is that the second story is purportedly inconsistent with the "character" of the adjacent neighborhood, and references 14.75.060.E. The appellant

then claims that the definition of the “character of the neighborhood” should be confined to seven nearby homes that happen to be one-story. The appellant acknowledges that there are two, two-story homes located on Mount Hamilton Court “directly across the street” from the Project.²

As mentioned above, the key policy is that the Project avoid “unreasonable” invasions of privacy or interference with view or create an adverse impact on the aesthetic character. There is no evidence in the record to support a contention that the Project would result in any of these things. The design is thoughtful and respectful of adjacent properties. The second-story is notably stepped back so as to reduce the overall massing of the structure. The Project meets all setback, height and lot coverage requirements. No variance is sought or necessary.

Moreover, the City has an established process when a neighborhood seeks to exclude any second-story construction: the Single-Story Overlay zone (LAMC Chapter 14.13). That procedure has been available for years, but has not been pursued for this area. Therefore, any such restrictions are inapplicable to this Project’s design review application.

In summary, the mere fact that the Project features a second-story, or that immediate neighbors have not built a second story, would not provide valid grounds for granting the appeal. The Project clearly meets the required findings and those findings are supported by substantial evidence in the record. As such, the appeal should be denied and the application granted.

Very truly yours,

WENDEL ROSEN LLP



Todd A. Williams

/taw

cc: Y.J. Chien
Gloria On
Eugene Sakai, AIA, LEED AP

² Moreover, as pointed out in the Applicant’s presentation, there are approximately 18 two-story homes within the nearby neighborhood.

From: [REDACTED]
Sent: Wednesday, August 19, 2020 10:36 AM
To: Guido Persicone <gpersicone@losaltosca.gov>
Cc: [REDACTED]
Subject: 126 Mt. Hamilton Ave. — Objection to second story

Dear City Council:

I am a many year resident at 174 Mt. Hamilton Avenue, which is one of the one-story ranch-style homes on the same block as 126 Mt. Hamilton Avenue. I agree with the objection Mr. Hyman has filed that the second story of the proposed construction at 126 Mt. Hamilton Avenue is inconsistent with the character of the adjacent neighborhood for the same reasons as stated on his June 1, 2020 "Appeal" letter to the City Council. In short:

1. That the character of the neighborhood be considered as the full block of seven homes with addresses 100 through 190 Mt. Hamilton Ave.
2. All above are one-story ranch-style homes.
3. Homes directly across the street at 95 through 145 Mt. Hamilton Ave. are all one-story homes.
4. Mt. Hamilton Court has 12 homes and only 2 of them are two-story homes.
5. Out of 25 neighboring homes on Mt. Hamilton Ave. and Mt. Hamilton Court and surrounding streets, only 3 are two-story.
6. I also agree that many of the homes have been remodeled over the years and that the residents have kept to the one-story.

I hope the City Council will reconsider and reverse the May 20,2020 decision of the Design Review Commission. The 126 Mt. Hamilton Ave. second story proposed construction is inconsistent with the character of the adjacent neighborhood.

Thank you for your attention to this.

Sincerely,

Leslie Higashiuchi

From: [REDACTED]
To: [City Council](#)
Cc: [Andrea Chelemengos](#); [Guido Persicone](#)
Subject: public comment on agenda Item 5 of the August 25 Council meeting agenda
Date: Tuesday, August 18, 2020 1:57:34 PM

I am writing as a resident and taxpayer of Los Altos.

The proposed house at 126 Mount Hamilton should be denied because it runs afoul of city code 14.76.060-E which requires that *General architectural considerations, including the character, size, scale and quality of the design, the architectural relationship with the site and other buildings, building materials and similar elements have been incorporated in order to insure the compatibility of the development with its design concept and the character of adjacent buildings.*

The proposed house fails this "neighborhood character" test. Although there are a limited number of two-story houses in the Mount Hamilton Avenue/Hamilton Court area, they are low-key and blend in with the "ranch-style" house architecture of the area. The application for the new house at 126 Mount Hamilton should be reconsidered in light of city code 14.76.060-E.

William Hough
244 Mount Hamilton Avenue

From: Abhambly <[REDACTED]>
Sent: Sunday, August 16, 2020 11:29:52 AM
To: City Council <council@losaltosca.gov>
Cc: Guido Persicone <gpersicone@losaltosca.gov>
Subject: 126 Mt. Hamilton Ave. appeal

Madame Council Members,

My husband and I have lived at 100 Mt. Hamilton Ave., next door to this project, for 34 years. According to the city's Design Guidelines, in consistent character neighborhoods, new designs should have appropriate elements, materials and scale to those found in the neighborhood, and size that is not significantly larger than others. Our neighborhood is a consistent character neighborhood., including 10 homes on Mt. Hamilton, all one story, 12 homes on Hamilton Ct., which only has two 2-story homes, 77 View St. and 112 Garland Way, both one story. The home at 72 View St. is the original 2-story farmhouse, built in 1917. It sits on a much larger lot, nearly 3/4 acre. There are 25 homes, only three of which are 2-story. I ask you how does this design meet the Design Guidelines for scale and size with the rest of our consistent character neighborhood?

I invite you to visit our neighborhood, take a walk around. Knock on my door, if you feel inclined. Stand at the corner of Mt. Hamilton Ave. and Hamilton Ct., in front of the project, turn around 360 degrees. You won't see any 2-story houses. Commissioner Sam Harding referred to the proposed house as the "elephant" in the neighborhood.

I hope to see some of you on your visit!

Thank you,
Anne Hambly
[REDACTED]

From: Brian Korek [REDACTED]
Sent: Monday, August 17, 2020 9:54 PM
To: Guido Persicone <gpersicone@losaltosca.gov>
Cc: [REDACTED]; Abhambly [REDACTED] >
Subject: 126 Mount Hamilton Ave proposal code issues

To the City Council of Los Altos,

The proposal for 126 Mt Hamilton Ave does not adhere to the following Los Altos Municipal Codes:

14.76.060 B: **avoid unreasonable interference with views and privacy**

14.76.060 E: **insure the compatibility of the development with its design concept and the character of adjacent buildings**

I urge you to oppose the development of a monster house that would be greater than 3 times as large as their next door neighbor at 142 Mount Hamilton Ave, which is 1,679 square feet.

All the houses around 126 Mt Hamilton Ave vary between 1600-3300 square feet total. This proposal is for 6650 square feet, which is far out of character with their adjacent buildings. The only house anywhere near that size is behind them, but that is on a massive pre-subdivision lot over twice the size and that house is setback more than twice as far from the street. Me, my wife, and my neighbors on Hamilton Court currently enjoy our views of the hills when looking toward Mt Hamilton Ave, and this mega house's 2nd story will unreasonably interfere with our views. The proposal made a point of showing 2 story houses in the larger neighborhood, but none are within their block on Mt Hamilton Ave. In addition, they failed to show square footage comps within their block because they have gone off the chart in scale.

Here in our Village of Los Altos we want our council to enforce the municipal codes and represent the will of the people at large.

Brian Korek
132 Hamilton Ct
since 1971