



**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 03/09/2022

ITEM NO: 2

DATE: March 4, 2022  
TO: Planning Commission  
FROM: Joel Paulson, Community Development Director  
SUBJECT: Consider an Appeal of a Community Development Director Decision to Approve Construction of a Second Story Addition to an Existing Single-Family Residence on Property Zoned R-1:10. APN 532-10-019. **Located at 289 Marchmont Drive.** Property Owner: Durgaprasad Shamain. Applicant: David Britt. Appellants: Mark Jamieson and Don Woodward. Project Planner: Jocelyn Shoopman.

RECOMMENDATION:

Deny the appeal of a Community Development Director decision approving a request for construction of a second story addition to an existing single-family residence on property zoned R-1:10, located at 289 Marchmont Drive.

PROJECT DATA:

General Plan Designation: Low Density Residential  
Zoning Designation: Single-Family Residential (R-1:10)  
Applicable Plans & Standards: General Plan  
Parcel Size: 10,000 square feet  
Surrounding Area:

|       | Existing Land Use | General Plan            | Zoning |
|-------|-------------------|-------------------------|--------|
| North | Residential       | Low Density Residential | R-1:8  |
| South | Residential       | Low Density Residential | R-1:10 |
| East  | Residential       | Hillside Residential    | HR-1   |
| West  | Residential       | Low Density Residential | R-1:10 |

PREPARED BY: JOCELYN SHOOPMAN  
Associate Planner

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Reviewed by: Planning Manager and Community Development Director

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CEQA:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15301: Existing Facilities.

FINDINGS:

- The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15301: Existing Facilities.
- As required by the Residential Design Guidelines that the project complies with the Residential Design Guidelines.

ACTION:

The decision of the Planning Commission is final unless appealed within ten days.

BACKGROUND:

The subject property is located on the west side of Marchmont Drive (Exhibit 1). The property is 10,000 square feet with an existing 2,003-square foot one-story residence and a 483-square foot attached garage. The immediate neighborhood contains one- and two-story residences.

On September 24, 2021, the applicant submitted a Minor Residential Development application for the construction of a second story addition to an existing single-family residence.

In January of 2022, story poles and signage were installed on the site. On January 14, 2022, the Notice of Pending Approval for the application was mailed to the surrounding property owners and occupants as required by the Town Code. On January 24, 2022, the Minor Residential application was approved. An appeal of the Community Development Director must have been submitted by 5:00 p.m., February 2, 2022.

On January 31, 2022, the decision of the Community Development Director was appealed to the Planning Commission by an adjacent neighbor (Exhibit 8). On February 2, 2022, the decision of the Community Development Director was appealed to the Planning Commission by a second neighbor (Exhibit 9). The applicant has provided a summary of their neighborhood outreach efforts and a response to each of the two appeals received (Exhibits 6, 7, and 10).

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The subject property is located on the west side of Marchmont Drive (Exhibit 1). The PROJECT DESCRIPTION (continued):

immediate neighborhood includes one- and two-story residential structures.

B. Project Summary

The applicant is proposing to construct a new 1,320-square foot second story addition to an existing 2,003-square foot single-family residence with an existing 483-square foot attached garage (Exhibit 11).

C. Zoning Compliance

A single-family residence is permitted in the R-1:10 zone. The proposed residence is in compliance with the allowable floor area, building coverage, height, setbacks, and parking requirements.

DISCUSSION:

A. Minor Residential Development Analysis

The applicant is proposing to construct a new 1,320-square foot second story addition to an existing single-family residence with an existing 483-square foot attached garage to remain. The proposal also includes a reduction to the main floor of the existing 2,003-square foot residence to 1,737 square feet, for a total proposed square footage of 3,057 square feet (Exhibit 11).

B. Building Design

The Town's Consulting Architect reviewed the design of the proposed project within the neighborhood context to provide recommendations regarding the building design. The immediate neighborhood is comprised of one- and two-story homes with a grade change traveling north along Marchmont Drive.

The Consulting Architect noted that the proposed home is well designed with a traditional architectural style and simple details consistent with the proposed style (Exhibit 4).

The Consulting Architect provided five recommendations for further design refinement of the proposal:

1. Remove the second-floor porch cover and columns.
2. Increase all roof overhangs to be similar to the predominant roof details in the immediate neighborhood.

DISCUSSION (continued):

3. Recess all windows or add wood trim to be consistent with Residential Design Guideline 3.7.4.
4. Reduce the depth of lintels over the windows and doors.
5. Refine the roof edge details.

The applicant revised the plans to address the Consulting Architect's recommendations identified in the report (Exhibit 11). The plan changes are as follows:

1. The roof over the second-floor porch was removed to reduce the two-story mass along the front elevation. The gable roof form was retained to maintain an architectural balance with the gable roof form above the existing attached garage.
2. All roof overhangs were increased to be more consistent with the immediate neighborhood.
3. Wood window and door trim was added to be consistent with Residential Design Guideline 3.7.4.
4. The depth of the lintels over the windows and doors was reduced.
5. Further refinement of the roof edge details was illustrated in the plans to show a more accurate representation of the proposal.

C. Neighborhood Compatibility

The immediate neighborhood is made up of one- and two-story single-family residences. Based on Town and County records, the residences in the immediate area range in size from 2,211-square feet to 3,277-square feet. The floor area ratios range from 0.15 to 0.26. The proposed residence would be 3,057-square feet with a floor area ratio of 0.31. Pursuant to Town Code, the maximum allowable square footage for the 10,000-square foot lot is 3,100-square feet. The table below reflects the current conditions of the immediate neighborhood:

| Address                  | Zoning | House | Garage | Total | Lot Size | FAR  | No. of Stories |
|--------------------------|--------|-------|--------|-------|----------|------|----------------|
| 289 Marchmont Dr. (Ex)   | R-1:10 | 2,003 | 483    | 2,486 | 10,000   | 0.20 | 1              |
| 289 Marchmont Dr. (Prop) | R-1:10 | 3,057 | 483    | 3,540 | 10,000   | 0.31 | 2              |
| 293 Marchmont Dr.        | R-1:10 | 2,466 | 542    | 3,052 | 9,968    | 0.25 | 1              |
| 285 Marchmont Dr.        | R-1:10 | 2,571 | 480    | 3,051 | 9,840    | 0.26 | 1              |
| 273 Marchmont Dr.        | R-1:10 | 2,349 | 440    | 2,789 | 9,840    | 0.24 | 1              |
| 292 Marchmont Dr.        | R-1:10 | 2,385 | 460    | 2,845 | 10,120   | 0.24 | 1              |
| 288 Marchmont Dr.        | R-1:10 | 2,515 | 460    | 2,975 | 10,362   | 0.24 | 1              |
| 284 Karen Ct.            | R-1:10 | 2,211 | 46     | 2,671 | 15,068   | 0.15 | 1              |
| 280 Karen Ct.            | R-1:10 | 2,599 | 460    | 3,059 | 12,472   | 0.21 | 2              |
| 276 Karen Ct.            | R-1:10 | 2,654 | 480    | 3,134 | 13,717   | 0.19 | 1              |
| 272 Marchmont Dr.        | R-1:10 | 3,277 | 770    | 4,047 | 12,800   | 0.26 | 2              |

DISCUSSION (continued):

The proposed residence would not be the largest home in the immediate neighborhood in terms of square footage. The proposed residence would be the largest in terms of floor area ratio in the immediate neighborhood at 0.31 with the second largest floor area ratio being 0.26 for the homes located at 272 Marchmont Drive and 285 Marchmont Drive. If the immediate neighborhood were to be extended, there are additional two-story residences located at 269 Marchmont Drive and 256 Marchmont Court.

D. Appeals

On January 31, 2022, the decision of the Development Review Director was appealed to the Planning Commission by the adjacent neighbor, Mark Jamieson (Exhibit 8).

A summary of the specific reasons for the appeal are provided below, followed by the staff's analysis in *italic* font. The applicant's response letter addressing each of the appellant's concerns is also attached to this report (Exhibit 10).

1. Loss of solar easement blocking future solar access and increasing shade to yards. The second story addition will be an encroachment on sight boundaries and sunlight to the property. A formal shadow study should be done to assess loss of potential solar access from the proposed second story addition.

*Response: Staff coordinated with the Town Attorney and found nothing in the Town's Municipal Code that would prohibit or limit additions due to casting shadows on an adjacent residence in the case where there are not existing solar panels being affected. State Law has a restriction that trees and shrubs may only block 10 percent of existing solar panels. A shadow study was completed by the applicant and can be located on Sheet A9 of Attachment 11. The shadow study shows that that the proposed residence would cast a partial shadow on the adjacent homes at 285 Marchmont Drive and 293 Marchmont Drive during the winter shadow line of December 21<sup>st</sup>.*

2. A 1,320-square foot second story is not in character with neighborhood. The sheer size of 3,057 square feet is slightly below the maximum of 3,100 square feet and is not in character for the neighborhood. Of the 25 houses in the subdivision, only five are two-story homes and these were originally built as two-story structures. These two-story houses are located on corners or cul-de-sacs where they do not encroach on their neighbors. Adding four additional bathrooms does not seem in alignment with California water conservation guidelines.

*Response: The proposed expansion of the single-family residence complies with the Town Code requirements for floor area, height, setbacks, lot coverage, and parking*

DISCUSSION (continued):

*requirements. The proposal would not be the largest home in the immediate neighborhood in terms of square footage. The home located at 272 Marchmont Drive, within the immediate neighborhood, received approval of a Minor Residential Development application for a new second story addition on January 16, 2001. The Town Code does not regulate the number of bathrooms in a residence. The proposed addition is subject to the 2019 California Building Standards Code which requires water-conserving plumbing fixtures.*

3. A soil study should be done to evaluate potential effects on the hillside, as well as the homes sitting below 289 Marchmont Drive.

*Response: A soils report, prepared by a licensed Civil Engineer specializing in soils mechanics, containing foundation recommendations is required to be submitted with the Building Permit application.*

4. The proposed dining room window creates privacy and noise concerns. The construction noise will impact remote learning and the ability to work from home.

*Response: An approximately six-foot by three-foot window is proposed along the left elevation facing the adjacent neighbor located at 285 Marchmont Drive. The window is not required for ingress and egress pursuant to Building Code, should the Planning Commission choose to recommend a modification to its location and/or size. Pursuant to Section 16.20.035 of the Town Code, construction activities are limited to the hours of 8:00 a.m. to 6:00 p.m. weekdays, and 9:00 a.m. to 4:00 p.m. Saturdays.*

5. Construction vehicles will pose a traffic hazard.

*Response: The applicant proposes to accommodate construction vehicles in the existing driveway, as well as along Marchmont Drive, a public street in which construction vehicles are permitted to park. The Hillbrook School traffic counts are monitored by the Engineering Division should there be issues with the traffic flow.*

On February 2, 2022, the decision of the Community Development Director was appealed to the Planning Commission by a second adjacent neighbor, Don Woodward (Exhibit 9).

A summary of the specific reasons for the appeal are provided below, followed by the staff's analysis in *italic font*. The applicant's response letter addressing each of the appellant's concerns is also attached to this report (Exhibit 10).

DISCUSSION (continued):

1. Potential lethal hazard with existing shared power line infrastructure adjacent to proposed construction.

*Response: The existing electrical distribution line that runs the length of the rear property line of 289 Marchmont Drive is serviced by PG&E. The Town does not have the authority to require PG&E to modernize or upgrade the electrical distribution line.*

2. Injury to property value from loss of privacy created by proposed construction.

*Response: The Town Code does not regulate views as a protected right from proposed construction. The applicant proposes to retain all existing trees on-site, including trees along the rear property line which currently provide screening.*

E. Neighbor Outreach

The applicant provided a summary of their efforts to communicate with their neighbors (Attachments 6 and 7).

F. Environmental Review

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15301: Existing Facilities.

PUBLIC COMMENTS:

Story poles and signage were installed on the site and written notice of the Planning Commission public hearing was mailed to property owners and occupants within 300 feet of the subject property. Public comments received by 11:00 a.m., Friday, March 4, 2022, are included as Exhibit 12.

Following the filing of both appeals the applicant has met separately with each appellant to discuss the concerns raised by each party. No update has been provided at the time of this report's preparation.

CONCLUSION:

A. Summary

The proposed project is in compliance with the Residential Design Guidelines and Town Code regulations. As proposed, the project would create a 3,057-square foot two-story residence with an existing 483-square foot attached garage.

B. Recommendation

Staff recommends that the Planning Commission deny the appeals and uphold the decision of the Community Development Director to approve the Minor Residential Development application subject to the recommended conditions of approval (Exhibit 3).

C. Alternatives

Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction;
2. Grant the appeals and deny the application; or
3. Approve the application with additional and/or modified conditions.

EXHIBITS:

1. Location Map
2. Required Findings
3. Recommended Conditions of Approval
4. Consulting Architect's Report, dated October 6, 2021
5. Letter of Justification, received February 16, 2022
6. Applicant's Neighborhood Outreach Efforts, received February 15, 2022
7. Additional Neighborhood Outreach and Signatures of Support, received February 26, 2022
8. Appeal of the Director of Community Development, received January 31, 2022
9. Appeal of the Director of Community Development, received February 2, 2022
10. Applicant's Response to Appeals, received February 16, 2022
11. Development Plans, received November 29, 2021
12. Public Comments received prior to 11:00 a.m., Friday, March 4, 2022