



**DATE:** July 17, 2018

**TO:** Mayor and City Council

**FROM:** Interim Development Services Director

**SUBJECT:** Proposed Single-Family Residence on a Vacant 0.27-Acre Hillside Lot Located at 2367 Rainbow Court, by Mark Bucciarelli (Applicant) on Behalf of Quan and Thip Tran (Property Owners), Requiring Approval of a Site Plan Review and Grading Permit and the Adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (Application No. 201700714)

### **RECOMMENDATION**

That the City Council adopt the attached Resolution (Attachment II) approving the Site Plan Review with Grading Permit application and adopting the Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP) for the proposed single-family residence on a vacant hillside parcel at 2367 Rainbow Court.

### **SUMMARY**

The applicant is requesting approval for a Site Plan Review (SPR) with Grading Permit application to allow the construction of a three-story, 4,112 square-foot single-family residence with related on- and off-site improvements on a 0.27-acre (12,078 square-foot) vacant hillside parcel located at 2367 Rainbow Court (Assessor Parcel No. 425-0410-026-00).

Normally, Site Plan Review applications for single-family residences within the hillside areas are subject to administrative staff level review. However, the City Engineer determined the average slope of the property exceeds 20% which requires City Council review for the Grading Permit per [Section 10-8.023](#) of the Hayward Municipal Code (HMC).

An Initial Study was prepared and concluded that with the adoption of a Mitigated Negative Declaration, the project could be built with mitigation measures that would reduce potential impacts to a level of less than significant.

### **BACKGROUND**

The project site is located within the Single Family Residential (RS) zoning district and is designated Suburban Density Residential (SDR) in the *Hayward 2040 General Plan*. The proposed development is located on a vacant 12,078 square-foot lot that slopes downward from Rainbow Court.

In 1978, Tract No. 3992 was recorded formally subdividing the land into ten individual residential lots creating the Rainbow Court cul-de-sac – accessible from Parkside Drive, a one-way street. Of the ten lots, three are currently developed with single-family dwellings and remaining seven lots remain vacant. This proposed project and application seeks to entitle one of the vacant lots located at the terminus of Rainbow Court to construct a new single-family dwelling.

Planning Commission. On June 28, 2018, the Planning Commission held a public hearing and voted 5:0 (one absent) to recommend approval of the project to the City Council.

## **DISCUSSION**

Existing Conditions. The 0.27-acre project site is a vacant, unimproved parcel of land located at the terminus of the Rainbow Court. The Boundary and Topographic Survey identifies an approximate twenty-foot drop from the concrete sidewalk at street-level down to the existing tree line of Live Oaks. Existing conditions include eleven existing Live Oak trees on-site which range in levels of maturity and health. The project site also is located approximately 300-feet from Ward Creek from the edge of the rear property line; however, the subject parcel does not immediately abut or share property lines with the creek.

Currently, Rainbow Court contains a mixture of existing two- and three-story single-family residences as well as several vacant parcels - all zoned for residential use. Off-site infrastructure such as roads, sidewalks, curb, and gutter have previously been installed on Rainbow Court and utilities are available within the public right-of-way pending connections with any future developments.

Proposed Project. The applicant is proposing to construct a new, three-level 4,112 square foot, single-family residence containing 5 bedrooms, 5.5 bathrooms, and an attached two-car garage. The property currently obtains access from Rainbow Court and the proposed residence and two-car garage will utilize the existing driveway approach located at the terminus of the Rainbow Court cul-de-sac. The main-level (street level) of the residence will include a living room, dining room, kitchen, family room, guest room, and the two-car garage, while the lower- and upper-levels will include bedrooms and the master bedroom. In addition, the project has included either a balcony or deck along the rear of each of the three levels to serve as a private open space feature for the residence. Such balconies and decks will offer views of the California State University, East Bay, the Bay Area, and the preserved vegetation and trees along to the downward slope toward Ward Creek.

The proposed three-level, contemporary residence will incorporate a 2:12 pitched shed roof toward the street and a flat roof on top of the main-level extending along the rear of the dwelling. The proposed residence would use wood-framed construction and the exterior will be finished with a combination of white cement plaster and a decorative tile base. To contrast, the residence will incorporate a one- to two-foot roof recess from the main-level to the upper-level using a darker, metal roof material that will break up the scale and mass of the dwelling. A copy of the project plans with architectural elevations are included as Attachment III.

Site Improvements. The proposed single-family residence will require on-site improvements to the subject property prior to the issuance of a Certificate of Occupancy. On-site improvements will include the installation of drought-tolerant landscaping, erosion control measures (during construction), and stormwater management features. and shall incorporate Best Management Practices (BMPs) for construction noise, grading and construction activities to prevent adverse negative impacts onto adjacent properties. Other site improvements would include a new driveway, concrete step pads for walkways, stairs, landscaped planters, and retaining walls.

Tree Removals and Landscaping. The applicant has submitted a landscaping and irrigation plan (Attachment III) along with an Arborist Report (prepared by Arborwell, 2018). The landscape and irrigation plans include conceptual level drawings that demonstrate compliance with the Bay-Friendly Water Efficient Landscape Ordinance (WELO) which requires sustainable landscaping practices by using drought-tolerant native species, appropriate irrigation methods, and water budget calculations. Much of the landscaping proposed on site will be near the proposed residence and include new trees plantings, shrubs, perennials, and ferns. New pathway with steps from Rainbow Court and the dwelling entrance will extend downward along the hillside to a grassy area to serve as an open space amenity for the house.

The landscape plans and the arborist report identify four existing Live Oak trees which are proposed for removal and will require the issuance of a Tree Removal Permit to allow the construction of the new single-family residence at the project site. Pursuant to [Chapter 10, Article 15](#) of the HMC , the intent of the Tree Preservation Ordinance is to protect and preserve significant trees and control the re-shaping, removal or relocation of those trees that provide benefits for the neighborhood or the entire community while recognizing that there are rights to develop private property. Additionally, the Ordinance requires that any protected trees to be removed shall require on-site planting of trees with like-size, like-kind trees to meet or exceed the appraised value tree(s) as determined by a certified Master Arborist and reviewed by the City Landscape Architect. As proposed, the landscape plan includes four 24"-box trees to mitigate the loss of the trees to be removed: one Dogwood, one Crape Myrtle, and two Live Oak trees. The landscaping and irrigation plans would be reviewed in greater detail during the building permit phase to ensure that all mitigation is adequate. Additionally, the City Landscape Architect will inspect the construction site to verify the trees are planted correctly with proper irrigation that will maximize the health of the trees.

Site Plan Review. Development on parcels within the designated Hillside Urban/Wildland Interface Area are subject to the Site Plan Review process and associated findings contained in [Section 10-1.3025](#) of the Hayward Municipal Code. This is to demonstrate that proposed developments, along with any site improvements, are consistent with the development standards of the RS zoning district, Hillside Design Guidelines, as well as the applicable General Plan goals and policies. Per the HMC, the City Council may approve or conditionally approve an application for Site Plan Review when all of the following findings area made:

- The development is compatible with on-site and surrounding structures and uses and is an attractive addition to the City;

- The development takes into consideration physical and environmental constraints;
- The development complies with the intent of City development policies and regulations; and
- The development will be operated in a manner determined to be acceptable and compatible with surrounding development.

Staff has provided a more detailed analysis for the required Site Plan Review findings for approval within the Resolution (Attachment II).

Grading Permit. The project is subject to City Council review for the proposed grading since the average slope of the site exceeds 20%. The applicant has submitted preliminary civil plans (grading, drainage, utility and erosion plans) for the project that was reviewed by the City's Engineering Division. The applicant has also submitted a Geotechnical Report prepared by Hallenbeck/Allwest Geotechnical Engineering Consultants (2016) providing recommendations and mitigation measures that reduce any environmental impacts to a level of *less than significant*. Additionally, a standard set of conditions will include the review and approval of an erosion control plan; standards for import, export, and containment of construction materials; and a limitation on the days and hours of grading activity to minimize impacts on the surrounding neighborhood.

Hayward 2040 General Plan. The project site is designated as [Suburban Density Residential \(SDR\)](#) in the *Hayward 2040 General Plan*. Properties within the SDR land use designation predominantly consist of single-family residences within the rural and suburban areas located within the eastern hills of the Hayward Planning Area. The General Plan indicates that future development within this land use area will primarily consist of additional residential development, building and landscape improvements, and neighborhood enhancements.

The *General Plan* also provides goals and policies which serve as guiding principles and provide a host of strategies for future development in the City. The proposed project was evaluated against the applicable goals and policies and found to be consistent with the following:

- LU Policy LU-1.7 (Design Guidelines): The City shall maintain and implement commercial, residential, industrial, and hillside design guidelines to ensure that future development complies with General Plan goals and policies.
- LU Policy LU-3.7 (Infill Developments): The City shall protect the pattern and character of existing neighborhoods by requiring new infill developments to have complimentary building forms and features.
- LU Goal LU-7: Preserve the rural and natural character of hillside development areas.

Staff has reviewed the project components and finds that the development is consistent with the goals and policies of the City's General Plan and the Hillside and Urban/Wildlife Design Guidelines by proposing a residence which architecturally steps with the natural topography of the hillside and is compatible with the other dwellings in the area.

Zoning Ordinance. The project site is located within the RS (Single-Family Residential) zoning district. Pursuant to [Section 10-1.200](#), the RS zoning district allows for the development of

single-family residence as a primary use permitted by-right. The project, as proposed, would allow the construction of a new single-family dwelling, which meets the following objective development standards. Table 1 includes a comparison chart displaying the development standard requirements and the proposed.

**Table 1: Development Standards**

CRITERIA	PROPOSED	REQUIRED OR MAX. ALLOWED
<b>Lot Coverage</b>	26%	40%
<b>Front Setback</b>	20'	20'
<b>Side Yard</b>	5'	5'
<b>Rear Yard</b>	Greater than 40'	20'
<b>Parking</b>	Two-car garage	Two-car garage
<b>Driveway Length</b>	20'	20'
<b>Height</b>	30'	30'

*Hillside and Urban Wildlife Interface Guidelines.* The project is located on a hillside parcel that is subject to the design standards of the [Hillside and Urban Wildlife Interface Guidelines](#). The purpose of the Hillside and Urban Wildlife Interface Guidelines is to seek to identify elements of good design that will enhance the appearance of the city and make the neighborhood more livable, while being conscious of the natural topographies and slopes. The proposed residence has been designed to minimize impacts to the existing hillside and will be attractively designed to minimize visual impacts from adjacent properties and the street frontages.

Staff finds that the project is consistent with the development standards of the RS zoning district and the design requirements within the Hillside Design and Urban/Wildlife Interface Guidelines in that the proposed development is designed to minimize excessive grading and blend into the existing slope. The proposed residence has been designed to reduce bulk and mass and will incorporate significant window detailing, a mixture of materials (cement plaster and decorative tile) and with a neutral color palette.

The proposed landscaping along the street frontage and along the side of the residence, coupled with the sloped topography of the site, will also help to soften the bulk and mass of the proposed building and minimize visual impacts from adjacent properties or from the public right-of-way. As such, staff believes that the City Council can support the draft findings and approve the project.

*Environmental Review.* The project required the preparation of an Initial Study which evaluated the potential environmental impacts of this project in accordance with the California Environmental Quality Act (CEQA) Guidelines. The Initial Study (Attachment IV) found that the proposed project would result in potential impacts related to Geology and Soils because the new construction on a project site could be susceptible to strong ground shaking or unstable soils created by planned cuts and fills on the hillside property. Mitigation Measure GEO-1 requires that the applicant incorporate all recommendations set forth in the Geotechnical Report (Attachment III) to reduce the potential environmental impacts to a *less than significant level*.

A Notice of Intent to Adopt the MND was filed with the Alameda County Clerk on June 1, 2018 for a twenty (20) day public comment period, which expired on June 21, 2018 with no correspondence received. The proposed MND with Mitigation Monitoring and Reporting Program were posted and available for public review at City Hall, the City's website, and delivered to Hayward libraries. Section 15074 of the CEQA Guidelines states that an advisory body (Planning Commission) making a recommendation to the decision-making body (City Council) shall solely consider, rather than adopt, the MND before making its recommendation.

## **ECONOMIC IMPACT**

The proposed project would result in the development of a currently vacant lot in an existing residential neighborhood. The proposed development would not require the expansion of public utilities or services and is not expected to have a negative impact on the City regarding public utilities or public services. Furthermore, the project would result in new residents moving into Hayward, which should generate demand for goods and services, thereby providing stimulus for new or existing jobs in the City's economy.

## **FISCAL IMPACT**

According to the City of Hayward Fiscal Impact Model (2017) prepared by Applied Development Economics, Inc., the project would generate an estimated \$2,442 in annual revenue from property and utility user taxes and approximately \$2,377 in annual costs related to City services, resulting in a net positive impact of approximately \$65 per year. Additionally, the project would generate an estimated \$53,525.64 in one-time revenue prior to occupation through the payment of various development impacts fees such as park dedication fees, school impact fees, and utility (water and sewer) fees (Attachment V).

## **STRATEGIC INITIATIVES**

This project supports the Complete Communities Initiative. The purpose of the Complete Communities Strategic Initiative is to create and support services and amenities that provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work and play for all. The project supports the following goal and objective:

Goal 2: Provide a mix of housing stock for all Hayward residents and community members, including the expansion of affordable housing opportunities and resources.

Objective 2: Facilitate the development of diverse housing types that serve the needs of all populations.

## **SUSTAINABILITY FEATURES**

The project has been designed to meet all applicable 2016 California Residential and Green Building Codes, which require a minimal level of energy efficiency, conservation, material recycling, and air quality, for new construction. In addition, the landscaping areas and

irrigation system will be compliant with Bay Area-Friendly Water Efficient Landscape Ordinance, which requires the use of drought tolerant planting with water-efficient irrigation systems. The applicant is also proposing the house to be “EV charger ready”, which provides the capability of electrical vehicle charging within the garage. Furthermore, the applicant will comply with ordinances related to construction debris and recycling to divert waste from landfills.

## **PUBLIC CONTACT**

Following receipt of the application, staff conducted the following public outreach:

- On February 22, 2017, a Notice of Receipt of Application was sent to all property owners and tenants located within a 300-foot radius of the project site, including interested stakeholder groups such as the Old Highland Homeowners Association (OHHA), Highland Neighborhood Task Force, and the Hayward Area Planning Association.
- On June 1, 2018, a Notice of Public Hearing and Notice of Intent to Adopt a Mitigated Negative Declaration was advertised in the newspaper and sent to all property owners, relevant stakeholders, and site addresses within 300-feet of the subject property. As of the date this staff report was written, Planning Division staff has received no comments with respect to the proposed project nor the environmental document.
- On June 1, 2018, a Notice of Public Hearing for the Planning Commission was published in the Daily Review newspaper and sent to all property owners and interested stakeholders within 300 feet of the subject property.
- On June 28, 2018, the Planning Commission held a public hearing and voted 5:0 to recommend approval of the project to the City Council.
- On June 29, 2018, a Notice of Public Hearing for the City Council was published in the Daily Review newspaper and sent to all property owners and interested stakeholders within 300 feet of the subject property.

## **NEXT STEPS**

If the City Council approves the project, the decision will be final and the applicant may then proceed with obtaining building permits.

*Prepared by:* Marcus Martinez, Assistant Planner

*Recommended by:* Laura Simpson, Director of Development Services

*Approved by:*



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Kelly McAdoo, City Manager