



**DATE:** March 2, 2021

**TO:** Mayor and City Council

**FROM:** Development Services Director

**SUBJECT:** Switzer Residence: Adopt a Resolution Approving a Proposed Single-Family Residence and Attached Accessory Dwelling Unit on a Vacant 0.21-Acre Hillside Lot with an Average Slope Greater than 20% Located at 2579 Home Avenue, Assessor Parcel No. 081D-1660-040-00, Requiring Approval of Site Plan Review and Grading Permit Application No. 202000579, Categorically Exempt from the California Environmental Quality Act (CEQA) per Section 15303, Class 3. Bich-Khoi Do (Applicant); Bradley Switzer Trust (Owner)

## **RECOMMENDATION**

That the Council adopts a resolution (Attachment II) approving the Site Plan Review with Grading Permit application for the proposed single-family residence and attached accessory dwelling unit on the vacant hillside parcel located at 2579 Home Avenue, based on the required Findings and subject to the Conditions of Approval.

## **SUMMARY**

The applicant is requesting approval for a Site Plan Review (SPR) with Grading Permit application to allow the construction of a multi-level, 3,522 square-foot single-family residence with an attached 1,198 square-foot Accessory Dwelling Unit (ADU) with related on- and off-site improvements on a 0.21-acre (9,301 square-foot) vacant hillside parcel located at 2579 Home Avenue, Assessor Parcel No. 081D-1660-040-00.

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 Council review for the Grading Permit per Section 10-8.023 of the Hayward Municipal Code (HMC). The project was reviewed by the Planning Commission at a public hearing on January 28, 2021 and the Commission voted 4:2 to recommend approval of the project. This item was originally scheduled to be reviewed by the City Council on February 16, 2021; however, was formally continued to a date certain for March 2, 2021.

## **BACKGROUND**

*Accessory Dwelling Units (ADUs)*. In 2016, the State of California enacted legislation pertaining to ADUs, codified as Government Code Section 65852.2, which significantly reduced barriers and zoning requirements related to their development in local municipalities. On January 1, 2020, updated state laws

became effective with the goal to increase streamlining the approval process for ADUs by further limiting local discretionary review and allowing more flexibility in the development standards pertaining to unit sizes, utility requirements, setbacks, etc. Benefits of ADUs have been cited to alleviate the state's housing crisis by promoting infill housing units in residential neighborhoods, allow for multigenerational properties, and provide more affordable housing by design.

With respect to the proposed development, state law mandates that the zoning review of ADUs by local jurisdictions shall be limited to "ministerial approval". This means that *if* a proposed ADU on a residentially zoned parcel, with either an existing or proposed single-family residence, meets the objective criteria prescribed within State law relating to unit size, setbacks, lot coverage, parking, etc., then the city or county is required to approve the ADU without discretionary review.

Planning Commission Hearing. On January 28, 2021, the Planning Commission reviewed the proposed project at a virtual public hearing via Zoom and voted 4:2 to approve the staff recommendation recommending approval to the Council with a revision to Conditions of Approval No. 39 to reflect a 10-year storm to be reviewed by the City Engineer and recommended that the owner and Old Highland Neighborhood Association (OHHA) meet to discuss parking and other items. Three members of the community shared comments and concerns regarding parking, storm drainage, and who may be residing at the subject residence. The property owner, Mr. Switzer, confirmed that he would be residing at the proposed dwelling and his extended family would reside in the ADU. A copy of the meeting minutes is included as Attachment V.

## **DISCUSSION**

Existing Conditions. The 0.21-acre project site is a vacant, unimproved parcel of land with an average slope greater than 20% and with dual frontages along Home and Hillcrest Avenues. The topographic survey identifies an approximate 34-foot elevation difference from the top of the slope at the Hillcrest Avenue street-level downhill to the Home Avenue property line. The project site is primarily surrounded by existing residential development along all property boundaries except for the vacant parcel at its southwestern corner. Thus, the proposed residential project will be located within an already established residential neighborhood consistent with the nearby structures and land uses.

Proposed Project. The applicant is proposing to construct a new, multi-level, single-family residence containing 5 bedrooms and 4 bathrooms with 3,522 square-feet of conditioned habitable floor area and an attached two-car garage accessible from Hillcrest Avenue. The main-level (street level) of the residence will include a bedroom, family and dining room, kitchen, and the two-car garage, while the upper-levels will include a laundry room, a media room, additional bedrooms and bathrooms, and private decks and patios for open space. In addition, the project will also include an ADU attached to the main home consisting of 2 bedrooms, 1 bathroom, a kitchen, living room, and private deck within about 1,198 square-feet of conditioned habitable floor area and its own dedicated attached two-car garage accessible from Home Avenue. The upper-level decks and private open space amenities will offer views of California State University, East Bay, and the Bay Area.

Architecturally, the proposed residence incorporates a contemporary modern design aesthetic with flat and minimally sloped/angled roof pitches. Due to slope and how the structure steps down the hillside the view from Hillcrest Avenue (top of slope), the single-family residence will be designed

to appear as a single-story structure from the street. The proposed residence would likely be wood-framed construction and the exterior will be finished with a combination of stone cladding, wood siding and smooth stucco to complement the wooden slat railings on the various decks. The color palette for the residence will be a light-white body contrasted against the more earth tone wood siding, dark fascia boards, and stone veneer features. Lastly at its tallest points measured along the hillside, the residence is measured at 30-feet which is compliant with the zoning height limit standards. A copy of the project plans with architectural elevations and renderings 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 new driveways along each frontage, concrete step pads for walkways, stairs, landscaping, and retaining walls.

*Landscaping and Tree Removals.* The applicant has submitted a landscaping and irrigation plan (Attachment III). 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 tree planting, shrubs, and groundcovers along the side property lines of the project site and facing the street. A new pathway with steps from Hillcrest Avenue will extend downward along the hillside to Home Avenue along the western edge of the new residence.

The landscape plans and the arborist report identify one (1) existing Live Oak tree and one (1) existing Poplar tree 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 (Tree Preservation Ordinance)<sup>1</sup> the goal 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 of the removed 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: two Crape Myrtles, and Chinese Pistache 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

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<sup>1</sup> Tree Preservation Ordinance, Chapter 10, Article 15:

[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU\\_ART15TRPR](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART15TRPR)

Area are subject to the Site Plan Review process and associated findings contained in Section 10-1.3025 of the HMC<sup>2</sup>. This is to demonstrate that proposed developments, along with any site improvements, are consistent with the development standards of the RS zoning district, City's 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 are made:

- a) The development is compatible with on-site and surrounding structures and uses and is an attractive addition to the City;
- b) The development takes into consideration physical and environmental constraints;
- c) The development complies with the intent of City development policies and regulations; and
- d) 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 in the resolution (Attachment II).

*Grading Permit.* The project is subject to 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 control plans) for the project that were reviewed by the City's Engineering Division. The applicant has also submitted a Geotechnical Report prepared by Gray Geotech (March 2019) which provides geotechnical recommendations that will be incorporated into the project's construction level plans by the applicant to mitigate any potential environmental impacts. The report identifies that the primary geotechnical concerns are the potential of downslope movement from erosion or creeping movement of the soil layer blanketing bedrock, shrink/swell movement of expansive soils, ground motions in a future seismic event, and managing both surface storm water and shallow groundwater. However, based on the findings of their investigation, the geotechnical engineers conclude that the property is suitable for the proposed site and landscape improvements provided the recommendation of the report are incorporated into the on-site construction and grading activities. 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 Low Density Residential (LDR) in the *Hayward 2040 General Plan*<sup>3</sup>. Properties within the LDR land use designation predominantly consist of single-family residences, second units, and ancillary structures on lot sizes that generally range from 5,000 to 10,000 square-feet throughout 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

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<sup>2</sup> Site Plan Review Findings, Chapter 10, Article 1:

[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU\\_ART1ZOOR\\_S10-1.3000SIPLRE](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.3000SIPLRE)

<sup>3</sup> Low Density Residential, Hayward 2040 General Plan: <https://www.hayward2040generalplan.com/land-use/residential>

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:

- **Land Use 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.
- **Land Use 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.

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 Design and Urban/Wildland 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<sup>4</sup>, the RS zoning district allows for the development of a single-family residence as a primary use and an ADU as an ancillary use, both permitted by-right. The project, as proposed, would allow the construction of a new single-family dwelling and attached ADU, which meet the following objective development standards. Table 1 includes a comparison chart displaying the development standard requirements with what is being proposed.

**Table 1: Development Standards**

<b>Criteria</b>	<b>Proposed</b>	<b>Required or Max. Allowed</b>
<b>Lot Coverage</b>	37%	40%
<b>Front Setback</b>	21’ and 20’-8”	20’
<b>Side Yard</b>	6’-9”	6’-9”
<b>Rear Yard</b>	21’ and 20’-8”	20’
<b>Parking</b>	(2) Two-Car Garages = 4 Enclosed Spaces plus Driveway Capacity for 4 Uncovered Spaces	Three-Car Garage <u>or</u> Two-Car Garage plus 2 Uncovered Spaces
<b>Driveway Length</b>	20’	20’
<b>Height</b>	30’	30’

*Hillside Design and Urban/Wildland Interface Guidelines.* The project is located on a hillside parcel that is subject to the design standards of the Hillside Design and Urban/Wildland Interface Guidelines<sup>5</sup>. The purpose of the Hillside Design and Urban/Wildland Interface Guidelines is to seek to identify

<sup>4</sup> Single-Family Residential District, Chapter 10, Article 1:  
[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU\\_ART1ZOOR\\_S10-1.200SIMIREDIRS](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.200SIMIREDIRS)

<sup>5</sup> Hillside Design and Urban/Wildland Interface Guidelines: <https://www.hayward-ca.gov/sites/default/files/COH%20Hillside%20Design%20Urban-Wildland%20Interface%20Guidelines.pdf>

elements of good design which will enhance the appearance of the City and make the neighborhood more livable, while being conscious of the natural topographies and slopes. The proposed project 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, consistent with the Guidelines.

*Staff Analysis.* Staff finds that the proposed project is consistent with the development standards of the RS zoning district and the design requirements within the Hillside Design and Urban/Wildland Interface Guidelines in that the proposed development is designed to minimize excessive grading and blend into the existing slope. In addition, the proposed attached ADU on the site complies with the zoning development standards prescribed by State law. The proposed residence has been designed to reduce bulk and mass by stepping along the hillside through a series of outdoor decks and open area. The project includes a unique contemporary design aesthetic and will incorporate a mixture of materials including siding, stucco, and stone with a neutral contrasting color palette. In addition, the proposed landscaping along the street frontages 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 rights-of-way. As such, staff believes that the Council can support the draft findings and approve the proposed project.

In addition, staff reviewed the Planning Commission's request to amend Condition of Approval #39 (now bumped to #40 in Attachment II) with respect to storm drainage and planning for a 10-year storm. However, upon reevaluation, staff has added a new Condition #30 requiring that the project shall not block runoff from, or augment runoff to, adjacent properties, and that the developer may be required to mitigate augmented runoff to maintain post-development site discharge rates to less than or equal to pre-development discharge rates to the satisfaction of the City Engineer. This new condition of approval is to ensure that nearby properties will not be further adversely impacted by the proposed developed than they already are by existing conditions.

Staff also rereviewed the project in conformance with the parking requirements and reaffirmed that the proposed single-family residence complies with the parking requirements set forth in the City's Off-Street Parking Regulations and within state law for ADUs as the site will provide the capacity for 8 total parking spaces: 4 in enclosed garages and 4 on driveways in front of garages. In addition, the ADU will be within 0.5-miles of a public bus stop at Hayward Boulevard/Parkside Drive and thus is exempt from all parking requirements.

*Environmental Review.* The proposed development is deemed categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15303(a), Class 3 of the CEQA Guidelines as the project involves the construction of one (1) single-family residence on a legal parcel in a residential zone. Although the project will involve grading on a parcel with a slope greater than 10-percent, the project site is not located within an officially mapped area of severe geological hazard such as the Alquist-Priolo Earthquake Fault Zone area.

In addition, the proposed project also involves the concurrent construction of an ADU that will be attached and ancillary to the primary single-family residence. Pursuant to Section 65852.2 of the Government Code, ADUs shall be reviewed ministerially without discretionary review and thus are statutorily exempt from CEQA pursuant to Section 15268 (Ministerial Projects) of the CEQA

guidelines and Section 21080(b)(1) of the Public Resources Code. Therefore, no additional environmental analysis required.

### **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.

### **STRATEGIC ROADMAP**

In January 2020, the Council adopted six Strategic Priorities as part of its three-year Strategic Roadmap. This agenda item supports the Strategic Priority of Preserve, Protect & Produce Housing; however, this item is not specifically related to a project identified in the Strategic Roadmap. The project will result in an increase in number of housing units within the City and include an ADU that will provide affordable housing by design to extended family members of the applicant.

### **SUSTAINABILITY FEATURES**

The project has been designed to meet all applicable 2019 California Residential and Green Building Codes including the local REACH codes, which require a minimal level of energy efficiency, utility electrification, 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. 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 14, 2020, a Notice of Receipt of Application was sent to 80 addresses, including property owners and tenants located within a 300-foot radius of the project site, including interested stakeholder groups such as OHHA, Hayward Highland Neighborhood Task Force, and the Hayward Area Planning Association. In response to the Notice of Application Receipt, the Planning Division received correspondence from six persons stating their opposition to the

proposed project citing the massing, size, and compatibility of the proposed project with the rest of the surrounding neighborhood, the proposed project potentially being a multi-family residential development, and potentially adverse impacts that may arise as part of construction activity such as storm drainage issues. Following receipt of said concerns, Planning Division staff communicated with members of the community and listened to their concerns on the proposed project.

- On January 15, 2021, a Notice of Public Hearing was sent via standard mail to property owners, tenants, interested parties, and community stakeholder groups within 300-feet of the project site and a legal ad was published in The Daily Review newspaper providing notification of the upcoming virtual Planning Commission and City Council hearings.
- On January 28, 2021, the Planning Commission held a virtual public hearing and voted 4:2 to recommend approval of the project to the City Council. Three members of the community virtually attended the public hearing and provided comments.
- On February 5, 2021, 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. All public correspondence submitted to the City to date has been included as Attachment IV.
- On February 12, 2021, the applicant, Bradley Switzer, met with board members of OHHA, John Vukasin and Bob Carlson, at the project site to discuss the project in response to the recommendation by the Commission. Staff was informed by both parties that the conversation was positive and constructive. The applicant has agreed to explore solutions with OHHA on storm drainage issues along with the City's efforts on that area for future street improvements. The applicant planned to meet with the general OHHA membership before the City Council hearing to further explain the project.
- On February 16, 2021, the City Council held a public hearing and moved to formally continue this agenda item to a date certain on March 2, 2021. Thus, no additional noticing was required.

## **NEXT STEPS**

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

*Prepared by:* Marcus Martinez, Associate Planner

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

*Approved by:*



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Kelly McAdoo, City Manager