

Marcus Martinez

From: Louis Maiwald [REDACTED]
Sent: Monday, March 30, 2020 4:15 PM
To: Edgar Maravilla
Subject: Comments for Application: 202000579

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Dear Edgar,

My response to you is regarding Application 202000579 located at 2579 Home Avenue.

I have lived on Hillcrest Ave in the Old Highlands since 1976 and was on the OHHA board for eleven years and president for 5 years. I was a resident when the streets were still two way. I am familiar with this community and the growth we have gone through. I was involved with the one way street system we proposed to Mayor Ilene Weinreb, the City Council and the City of Hayward for our neighborhood.

Unfortunately, I have watched the City of Hayward fail to maintain the semi-rural character for the Old Highlands. Among them are buildings that are being built at twice the size of existing homes with minimum setbacks only and no restriction to the narrow streets and neighboring terrains, sloped hills and riparian areas we are surrounded by. Further, PG&E shut our neighborhood off of power a second time last year at Hayward Blvd because of the canyon foliage.

I live next to the "GOLDEN OAKS II" Homes which have created much concern for the community and I now see a new project being proposed in the center of our community. That is the project at 2579 Home Ave. This is a multi-family home being built in the middle of our single family homes, in a semi-rural neighborhood. It does not appear to conform to the Hillside Design nor flow with the land contour well. It will be the biggest structure in this neighborhood (Lot 2 of GOLDEN OAKS II was reduced down from 6057 sq. ft. because it was so large). Additionally, It has no backyard for either structure.

I would say this structure does not represent the type of home this community agreed with the City of Hayward and it's concurrence with the City to maintain a rural environment for this area of Hayward.

Thank you,

Lou Maiwald

Marcus Martinez

From: George Dimic [REDACTED]
Sent: Wednesday, February 26, 2020 6:23 AM
To: Edgar Maravilla
Subject: Application # 202000579 - 2579 Home Ave

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Hi Edgar,

Thank you for meeting with me on 2.24.20 to review the proposed captioned development (plans dated 01.22.20). Upon a careful review of the plans, I (along with many of my neighbors) are vehemently opposed to this development on the following grounds:

1. the submitted plans are clearly an attempt to build multi-family development in an area zoned for low density single family residences. The stated address is 2579 Home Ave and it represents the ADU building, with Hillcrest access to the main unit???
2. the ADU and the Main Unit share no access to one-another....clearly meant that one of them will be a rental unit, thus not complying with single family residence definition
3. neither unit has the required 3-car garage or sufficient off-street parking
4. the design does not at all fit the in-fill development guidelines established for this area....style and character of the surrounding buildings
5. water management (run-off) is not adequately designed and will exacerbate flooding of downhill properties on Home Ave

I urge you and the Planning Department to reject this application.

Sincerely, George

George Dimic, PE
ACCO Engineered Systems
1133 Aladdin Ave., San Leandro CA 94577

[REDACTED]
email: [REDACTED]

Marcus Martinez

From: Sara Ellen Daniel [REDACTED]
Sent: Wednesday, March 18, 2020 5:31 PM
To: Edgar Maravilla
Subject: Notice of Receipt of Application 2579 Home Ave
Attachments: icon.png

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Dear Edgar Maravilla,

I'm writing to oppose the plan for building a massive, four story high structure on the lot adjacent to my home. The proposed home spans the entire distance from Hillcrest Avenue to Home Avenue, less the 20 foot setbacks. When I look out of my home towards the west, I will see a massive wall of stucco spanning 96 feet in length and 44 feet 11 inches in height with a total of 23 glass windows and/or doors on just the east side of the structure! Nearly the entire parcel will be graded due to the very large footprint of the proposed structure. This is definitely not consistent with the size, scale, and appearance of the existing neighborhood!

The existing neighborhood has winding roads with abundant changes in elevation. Many of the roads, including Home Avenue and Hillcrest Avenue, are narrow, one way streets. We don't have manicured lawns, but rather more of a natural look and with native vegetation. The California poppies are just starting to bloom! In the evenings, there are deer and foxes roaming the grassy hillsides. There are flocks of wild turkeys living here and walking in the roads. We definitely have a semi-rural look and feel to the neighborhood. Most of the homes are older and smaller with quaint appearances. The homes were built gradually over the decades, and some of the newer ones are stucco with tile roofs. But none have such a massive look and feel with 96 continuous linear feet on a side and nearly 60 separate windows and doors! The neighbors on Home Avenue will be looking up at a four story structure, while the neighbors on the sides will be looking at the 96' long by 44' 11" walls. Additionally, the ADU is not in keeping with the spirit of the law. The law was intended to provide affordable housing. This proposed ADU has a two car garage with cedar garage doors, a paver driveway, stone cladding, and a large deck. The architecture, finishes, and landscaping of the ADU will almost certainly make it a pricey rental unit.

As a resident of this neighborhood, I, for one, am not wealthy. I moved here for the quiet, green, open feel and the gorgeous view of the San Francisco Bay. If the construction at 2579 Home Avenue is allowed to proceed as proposed, a big part of what I moved here for will be gone forever. I can't afford to move to a more expensive neighborhood. Please allow me and my neighbors to continue to enjoy what we moved here for.

I sincerely hope you take our concerns into consideration before you allow wealthy investors to change the nature of our neighborhood and degrade our quality of life.

Sincerely,
Sara Ellen Daniel

Hayward, CA 94542
[REDACTED]



Address not found

Your message wasn't delivered to edgarmaravilla@hayward-ca.gov because the address couldn't be found, or is unable to receive mail.

The response from the remote server was:

550 permanent failure for one or more recipients (edgarmaravilla@hayward-ca.gov:550 No such user (edgarmaravilla@hayward-ca.gov))

----- Forwarded message -----

From: Sara Ellen Daniel [REDACTED]
To: edgarmaravilla@hayward-ca.gov
Cc:
Bcc:
Date: Wed, 18 Mar 2020 17:26:15 -0700
Subject: Notice of Receipt of Application 2579 Home Ave
Dear Edgar Maravilla,

I'm writing to oppose the plan for building a massive, four story high structure on the lot adjacent to my home. The proposed home spans the entire distance from Hillcrest Avenue to Home Avenue, less the 20 foot setbacks. When I look out of my home towards the west, I will see a massive wall of stucco spanning 96 feet in length and 44 feet 11 inches in height with a total of 23 glass windows and/or doors on just the east side of the structure! Nearly the entire parcel will be graded due to the very large footprint of the proposed structure. This is definitely not consistent with the size, scale, and appearance of the existing neighborhood!

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From: Sara Ellen Daniel [REDACTED]
Date: Wed, Mar 18, 2020, 4:52 PM
Subject: Notice of Receipt of Application 2579 Home Ave
To: [<edgarmaravilla@hayward-ca.gov>](mailto:edgarmaravilla@hayward-ca.gov)

Dear Edgar Maravilla,

I'm writing to oppose the plan for building a massive, four story high structure on the lot adjacent to my home. The proposed home spans the entire distance from Hillcrest Avenue to Home Avenue, less the 20 foot setbacks. When I look out of my home

ATTACHMENT V

towards the west, I will see a massive wall of stucco spanning 96 feet in length and 44 feet 11 inches in height with a total of 23 glass windows and/or doors on just the east side of the structure! Nearly the entire parcel will be graded due to the very large footprint of the proposed structure. This is definitely not consistent with the size, scale, and appearance of the existing neighborhood!

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As a resident of this neighborhood, I, for one, am not wealthy. I moved here for the quiet, green, open feel and the gorgeous view of the San Francisco Bay. If the construction at 2579 Home Avenue is allowed to proceed as proposed, a big part of what I moved here for will be gone forever. I can't afford to move to a more expensive neighborhood. Please allow me and my neighbors to continue to enjoy what we moved here for.

I sincerely hope you take our concerns into consideration before you allow wealthy investors to change the nature of our neighborhood and degrade our quality of life.

Sincerely,
Sara Ellen Daniel

Hayward, CA 94542

██████████

Marcus Martinez

From: Valerie Caveglia [REDACTED]
Sent: Wednesday, March 18, 2020 4:48 PM
To: Edgar Maravilla
Subject: 2579 Home Ave

CAUTION: This is an external email. Do not click on links or open attachments unless you know the content is safe.

Valerie

Dear Edgar:

I am writing about my grave concern regarding the abomination that is being proposed to be built between Home Ave. and Hillcrest Ave.

In the 1980's and 1990's I personally spent 20 years working with my HOA and the City to keep our neighborhood in tact from overdevelopment. I felt we had succeeded. The Hillside Design Guidelines under the committee of past Councilman Joe Hilson, city staff, and many of us, and the Hayward Hills Task Force documents were the public input that the City, at the time, assured us would be respected over the years as time marched forward.

Fast Forward: Where are the people at City Hall who know those guidelines exist? That the plans for 2579 were even accepted to be considered is shocking to me. Everything this neighborhood has worked for over the years is being ignored. This structure might as well be an apartment building. (I wouldn't be surprised if it became a multiple dwelling unit in disguise.) There is no consistency in size when this structure is compared to anything, anywhere, in our neighborhood, not to mention the immediate homes.

The man who bought that lot should know better, as he used to live here on Hillcrest before he got divorced. That he would pass this on to a firm across the Bay that specializes in speculative sale seems careless and ill thought out. Mr. Switzer is not behaving responsibly with his purchase and is threatening the very essence of our neighborhood.

Please put a stop to this madness!

Valerie Caveglia

Hayward CA 4542

Visit my website at:
ValeriesImagesinWood.com

"Less is more only where more is no good"
...Frank Lloyd Wright

Marcus Martinez

From: Robert Carlson [REDACTED]
Sent: Thursday, March 12, 2020 7:54 PM
To: Edgar Maravilla
Subject: Construction at 2579 Home ave -- Community member response

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March 12, 2020

Edgar Maravilla, Associate Planner
Delivered By Email

Dear Mr. Maravilla;;

I have reviewed the proposed construction for 2579 Home Ave., Hayward. I have several concerns including the concern that this huge 6,150 gross sqft house which is to be plopped squarely in a neighborhood of modest 1980's homes will destroy the character of the neighborhood, which is highly valued by the current residents. The stated goals of the City's design guidelines, developed in agreement with neighborhood representatives, are about the preservation and enhancement of the character of the existing neighborhood and maintenance of open space. A 6,150 ft residence(s) is completely out of keeping with the current neighborhood and contrary to both of these stated principles.

Policy Number One of the Hayward Highlands Neighborhood Plan, the current in-force plan for the neighborhood, states the goal of "Retain(ing) the single-family character of the Hayward Highlands area by allowing only appropriate residential infill development which is consistent in **size, scale, and appearance** with existing residential structures and encourage owner occupied buildings." This construction does none of this.

This lot is zoned as a RSB6 with a 6,000 sqft minimum. According to Hayward policy the City is committed to owner-occupied residences. OHHA already is being overrun by "dormitory" houses rented to students. Now this owner is stating up front that he is building a 1,198 square foot additional dwelling on the lot which by any stretch of the imagination cannot be owner occupied along with an owner-occupied primary residence. This construction is not owner occupied nor does it meet the 6,000 minimum lot size per residence.

The parcel in question consists of 9,300 sqft. Minimum lot size per residence in OHHA is 6,000. This helps assure that the intentions of the neighborhood plan are met. However, disguising two houses as one and building them on 9,300 feet is a sham designed to circumvent the agreed upon zoning for OHHA. Two houses would require 12,000 sqft lot. Building this house on this lot is contrary to long established agreements and zoning uniquely agreed between the City and Old Highlands Homeowners Association, OHHA.

The primary issue is raised when the lot location and size of the construction are considered together. There are 3,000+ sqft homes in the OHHA area but their size is usually mitigated by location. Often the size is hidden by slopes, flag lots or located in one of the OHHA areas with large homes already in place (Rainbow Court for example). Here is a lot sitting centrally in a neighborhood of modest 1970/80 homes. This new structure is FOUR STORIES HIGH and over 6,000 gross square ft. You might as well build a hotel in the middle of the town square.

Policies B1 and B2 of the Hayward Highlands Neighborhood Plan are also germane. Policy B1 states: "Allow only new development and improvements which respects the existing semi-rural character, especially in the Old Highlands . . . neighborhoods."

And B2 states: "Allow only infill development which is respectful of natural features including steeply sloped hillsides, creeks, and riparian corridors." B.2.1 goes on to say: "Allow only new construction which features stepped-back building envelopes on sloped areas and minimal onsite grading . . ." This construction does not follow the guideline/commitment that the City and neighborhood agreed upon when developing the Hayward Highlands Neighborhood Plan.

Regarding ADUs, they are a subterfuge for unilaterally changing neighborhood zoning by permitting anyone with enough space, money, and greed to build a second house on a lot zoned for a single family, low density project. ADUs target the very neighborhoods that value traditional spacing and development because of their larger lot sizes. However, in point of fact, the ADU ordinance also has an appropriate limitation on this construction when it states: "Assessory Dwelling Units proposed to be attached from the primary residence shall comply with the development standards set forth by the underlying zoning, for the primary structure including . . . architectural compatibility"

I also object to the form of the "Notice of receipt of Application" as it seems to intentionally downplay the size and scope of the project by understating its architecture through the elevation selected to picture on the notice, down-sizes the building by describing only inhabitable square feet in lieu of actual gross square footage, and by providing a very limited timeline for response. This notice needs to be resent with honesty and transparency in mind.

I respectfully request that this application be summarily denied and the current lot owner be advised and copied the neighborhood plan so that future potential buyers of the property can be informed of the policies and agreements which are in place to limit housing construction to size, scale, and appearance that reflect the neighborhood values and culture.

Sincerely,

Robert Carlson

Edgar Maravilla, Associate Planner
City of Hayward
777 B St.
Hayward, CA 94541
Also sent by Email



RE: Response to "Notice of Receipt of Application"
regarding construction of a residence at 2579 Home Avenue

Dear Mr. Maravilla:

Having already sent correspondence to your office expressing the Old Highlands Homeowners Association's (OHHA) concern about the notice given for this project this correspondence will address the specific concerns the neighborhood has with its construction.

To start, with absolute clarity, the OHHA Board and residents it represents, are vehemently opposed to this project. This monstrous sized home has no place in the neighborhood under consideration for its construction. This is an attempt to build a multi-family development in an area zoned for low-density single-family homes.

The primary issue is raised when the lot location and size of the construction are considered together. There are 3,000+ sqft homes in the OHHA area but their size is typically mitigated by location. Often the size is hidden by slopes, flag lots or located in one of the OHHA areas with large homes already in place (Rainbow Court for example). However, in this situation the lot is sitting centrally in a neighborhood of modest 1970/80 homes. This new structure is four stories high, a block long, and over 6,000 gross sqft. It has a two-car garage and entrance facing Home Ave and another two-car garage and entrance on Hillcrest.

While this construction may be viewed to be legal when comparing its physical measurements against City specifications it is clearly illegal when measured against the Old Highlands Master Plan and the 1977 zoning agreement between the Old Highlands and the City. Specifics of its illegality and contravening of established agreements are as follows:

- 1) City/OHHA Agreements: As a result of ten years of debate over OHHA zoning wherein the citizens of OHHA wanted to retain the open rural character of the area while speculators wanted to build student housing and apartments; on October 11, 1987 the City agreed to OHHA's requests and rezoned the area for low density single occupancy housing. While the institutional memory at City hall may have forgotten this conflict over zoning, there are many OHHA residents who have not. We need to keep the agreement reached between OHHA and the City. Two houses on 9,300 sqft does not belong on a lot zoned as RSB6 with a 6,000 sqft minimum.
- 2) 2040 Hayward City Plan: The 2040 City Plan regarding infill states: "The City shall protect the pattern and character of existing neighborhoods by requiring new infill

developments to have complimentary building forms and site features.” This is not the case with this project.

- 3) The Hayward Highlands Neighborhood Plan: The 1998 Hayward Highlands Neighborhood Plan, the plan currently in effect and posted on the City website, states the goal of “Retain(ing) the single-family character of the Hayward Highlands area by allowing only appropriate residential infill development which is consistent in size, scale, and appearance (*emphasis added*) with existing residential structures and encourage owner occupied buildings.” This construction does none of this. One of the two structures is not likely to be owner occupied and the size, scale, and appearance of the entire project is NOT consistent with the rest of the neighborhood.

The Plan further states in sections B1 and B2 that Hayward will “Allow only new development and improvements which respects the existing semi-rural character, especially in the Old Highlands . . . neighborhoods.”

And in B2 “Allow only infill development which is respectful of natural features including steeply sloped hillsides, creeks, and riparian corridors.” B.2.1 goes on to say: “Allow only new construction which features stepped-back building envelopes on sloped areas and minimal onsite grading . . .”

These are commitments derived from extensive negotiations and work by both community members and the City and should never be lightly tossed aside for convenience. This construction does not follow the guidelines/commitments that the City and neighborhood agreed upon when jointly developing the Hayward Highlands Neighborhood Plan.

- 4) Project use and potential for misuse: The development has seven bedrooms and not too far in the future when all the rules of construction and Accessory Dwelling Units (ADU) are forgotten this structure will likely follow the pattern of several other houses in the OHHA neighborhood and become student housing providing rented rooms to as many as 14 Cal State Eastbay students.
- 5) Parking: Seven bedrooms also raises the issue of parking. Again, out of respect for neighborhood concerns, the streets in OHHA are primarily one way and narrow with parking allowed only on one side. In this case the parking is already used up by existing residents and the project only has space for four vehicles. Since street parking is unavailable and the project lacks enough parking for its size, this is a major issue on streets too narrow for parking on both sides.
- 6) Storm Drainage: This lot steeply slopes from its North side to its South side facing Home Ave. The Home Ave. residents across from the site have repeatedly suffered from flooding water in their homes. To address this the home directly across from the construction (2562 Home Ave) has constructed an extensive storm drainage system for that residence, and neighbors, protection. Key to this protection system is the ability of this hillside to absorb considerable amounts of water which will otherwise over-run the

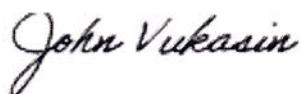
defenses installed by the homeowners. We are not convinced that a traditional downslope containment system would adequately address the storm drainage issue for the homeowners on Home Ave.

- 7) Accessory Dwelling Units (ADU): ADUs are a subterfuge for unilaterally changing neighborhood zoning by permitting anyone with enough space and money to build a second house on a lot zoned as a single family, low density project. It is obvious that the City Council responded to Senator Wieckowski pleas when they adopted the ADU ordinance. But this is not his community and we are unfamiliar with any public hearing held on this issue prior to a unilateral action to halve the zoning and density laws currently in effect in Hayward. It is also a concern that while a street light installation requires agreement from every owner within 175 feet and while speed bumps require agreement from 60% of the block residents, a person can build an ADU without any consultation with their neighbors. ADUs target the very neighborhoods that value traditional spacing and development because of their larger lot sizes. This needs to change. However, even the ADU ordinance specifies that: "Accessory Dwelling Units proposed to be attached from the primary residence shall comply with the development standards set forth by the underlying zoning, for the primary structure including . . . architectural compatibility."

OHHA and the City have had long and on-going discussions about zoning, roads, storm drainage and the like. OHHA hoped that once these issues were settled and memorialized in agreements such as the 1998 Hayward Highlands Neighborhood Plan there would be no reason to rehash them or challenge the City's decisions effecting OHHA. But, unfortunately, here we go once again as decisions relating to OHHA's rural character and the zoning that sustains it returns to the forefront. Let's stop the madness and show respect to the OHHA residents by adhering to the City's commitments to preserve this unique neighborhood in the Hayward community.

If this proposal is approved administratively, even with changes, please advise when the Planning Commission or City Council will hear it. We will want to appeal.

Sincerely;



John Vukasin, President
Old Highlands Homeowners Association (OHHA) Board

CC:

Kelly McAdoo, Hayward City Manager
Sara Buizer, Hayward Planning Manager
Laura Simpson, Hayward Dir. of Devl. Serv.
Robert Carlson, OHHA Board Vice President
Grant Anderson, OHHA Board Treasurer

Ruth Ritter, OHHA Board Secretary
Charles Dalmon, OHHA Board Member
Margaret Warhurst, OHHA Board Member
Bijan Mashaw, OHHA Board Member

March 9, 2020

Kelly McAdoo, City Manager
 Laura Simpson, Director of Development Services
 Sara Buizer, Planning Manager
 Edgar Maravilla, Associate Planner
 777 B Street
 Hayward, CA 94541

RECEIVED

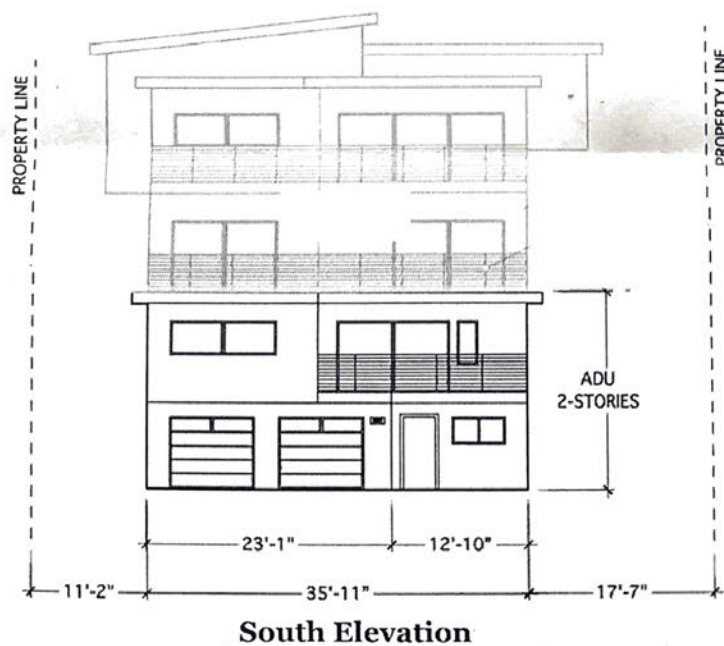
MAR 11 2020

PLANNING DIVISION

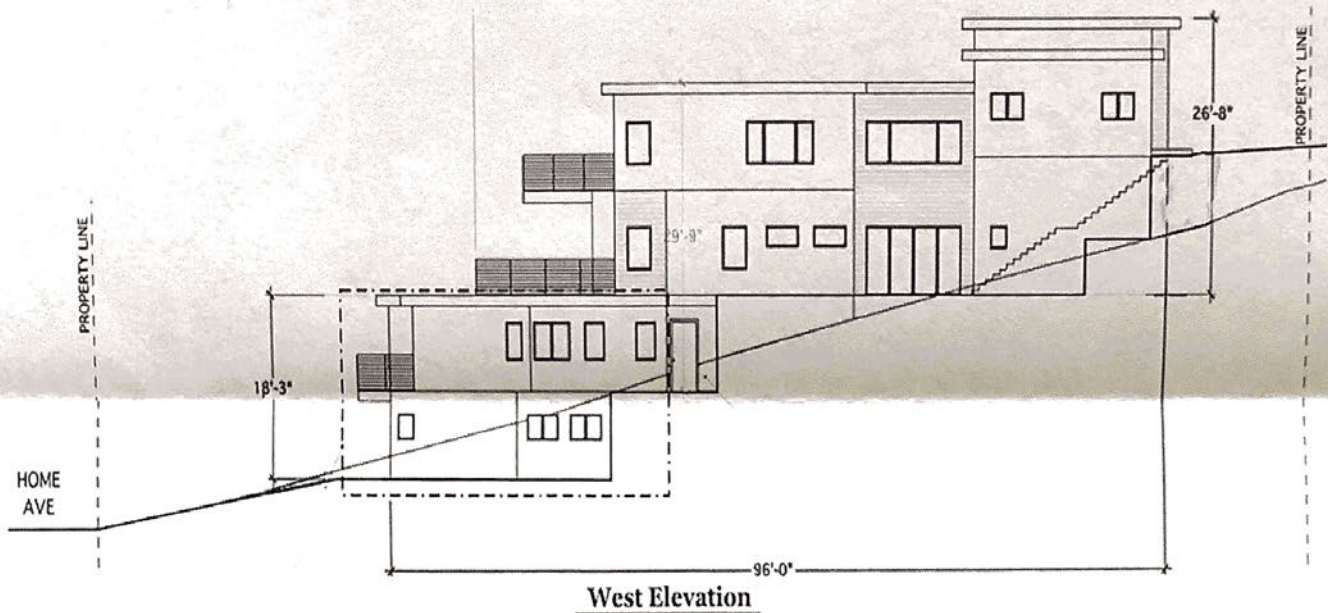


Dear City Officials;

Attached to this letter is a copy of a "Notice of Receipt of Application" which we received on February 18, 2020. There are several issues of concern with this notice including the lack of transparency in the description of this construction project. The notice seems perfunctory and while purporting to be soliciting community comment on this project it seems to be, in fact, a part of a review process which is focused on finishing as easily and with as little community interference as possible. The Notice further leaves the impression that the City values the goals of the developer more than the views of the community in which the development will be placed. Ultimately the notice appears to hide controversial factfinding in order to dampen response and creates a short timeline of five working days in which the community must research the regulations, examine the project, have the project assessed by its own experts, meet its Board, and respond with its concerns. This action appears to put the developer's interest before the community's which the City, and its staff, is hired to protect. The City appears to be siding with the developer to move this project forward as soon as possible to approval and completion.



Let's look at the issues imbedded in the notice. First examine the north elevation as placed on the notice. In all appearances it is a simple one-story house which could easily pass through the community comment process without much opposition. However, included here you will find views from the West (side) and the South elevations which paint a dramatically different picture of this residence and which would obviously raise community concern. Viewed from Home Ave this residence is FOUR stories high plus additional structure.



From the side this residence stretches a full block with a two-door garage and entrance on Home Ave and a second two-car garage and entrance on Hillcrest Ave.

Having seen this, look back on the illustration provided by the City and ask yourself if it properly represents the scope of this construction project and fairly informs the community concerning the project's size and scope for a reflective and considered response.

A similar problem exists regarding statements about the size of the residence. The information from the City states the TWO residences are 3,522 sqft and 1,198 sqft for a total of 4,720 sqft. This is not the actual size of the building. This is habitable square feet and does not count garages and storage, for example. As such it understates the actual square footage needed by the community to accurately judge the residence's fit into the neighborhood. In this case the gross square feet under roof is 6,153. Again, this understatement by the City seems an effort to minimize the impact of the residence and soften community response based on its size.

These three issues: (1) shortness of response time, (2) selection of the image to represent the project, and (3) significant understatement of the gross square feet can collectively and easily lead to the conclusion that community response was not of any primary concern to the Hayward Planning Department but moving the project through the system was.

In our view the City Planning Department needs to be directed to provide transparent and full information regarding pending construction in any neighborhood. The Planning Department should be putting the neighborhood responses foremost as they review and approve construction projects.

We requested an extension of time for review of this project. It was extended 30 days but frankly the neighborhood response to this project has been so overwhelmingly negative that the OHHA is holding a community meeting on March 23 to discuss OHHA's response. In summary, to react to the meeting comments and form a coherent response may take slightly more than the time given.

One key element that has been overlooked in this approval process is that in 1979 there was a zoning dispute between OHHA and the City, with legal suits being filed, as speculators tried to rezone the Old Highlands for student housing and other University services. The outcome of that settlement was a commitment by the City to forever maintain low-density single-family residential development in the OHHA neighborhood. This project is two houses setting on 9,300 sqft lot in a neighborhood which has a 6,000 lot size minimum. It is the OHHA Board's position that this project, and the ADU policy generally, reneges on the promise reached as the dispute was settled. Further this construction ignores a jointly developed 1998 plan, which is currently posted on the Hayward website as the plan in effect at this time, which states that Hayward will *"retain the single family character of the Hayward Highlands area, by allowing only appropriate residential infill development which is consistent in size, scale and appearance with existing residential structures, and encourage owner-occupied housing."* This structure is not consistent in size, scale and appearance with existing residential structures and one of the two houses will not be owner occupied.

We request a new mailing of the "Notice of Receipt of Application" which with maximum transparency identifies the key characteristics of this residence for proper and fully informed review by the residents of Old Highlands. Further, the deadline for response should provide sufficient time for the afore mentioned public meeting to be held and sufficient time for OHHA Board response.

Sincerely;

Old Highlands Homeowners Association Board

John Vukasin, Chairman, Tribune Ave

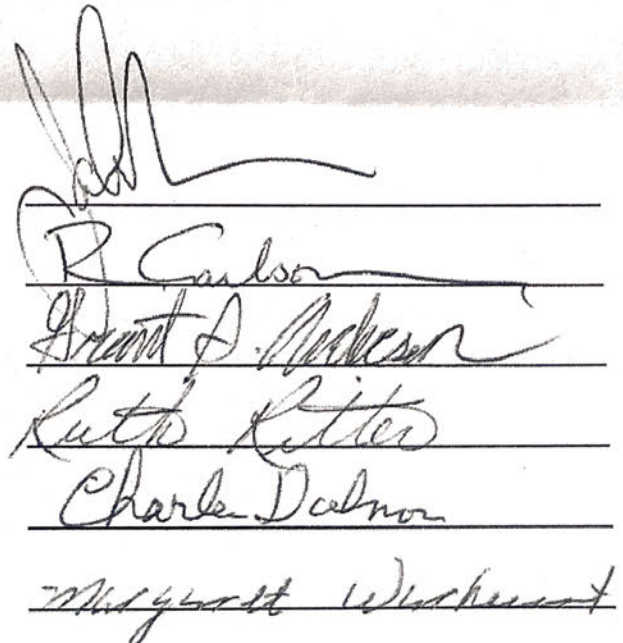
Robert Carlson, Vice Chair, Home Ave

Grant Anderson, Treasurer, Hillcrest Ave

Ruth Ritter, Secretary, Parkside Ave

Charles Dalmon, Board Member, Grandview Ave

Margaret Warhurst, Board Member, Home Ave



Handwritten signatures of the board members, each on a horizontal line:

- Robert Carlson
- Grant Anderson
- Ruth Ritter
- Charles Dalmon
- Margaret Warhurst

**PLANNING COMMISSION MEETING
THURSDAY, JANUARY 28, 2021**

**DOCUMENTS RECEIVED AFTER
PUBLISHED AGENDA**

ITEM #1 PH 21-003

**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**

PUBLIC COMMENTS

&

STAFF RESPONSE

Marcus Martinez, Associate planner
City of Hayward
777 B St.
Hayward, CA 94541
Also sent by Email

1/26/2021



RE: **ADDENDUM** - Response to Notice of Planning Commission Public Hearing regarding construction of a residence at 2579 Home Avenue

Dear Mr. Martinez and members of the Hayward Planning Commission:

1 | This correspondence is regarding the City approval being sought for a new construction at 2579
Home Avenue. Having just recently come into possession of the supporting documents and
staff findings for approval we respectfully request that this item be tabled to provide time for
adequate review of these extensive and complex documents. A quick review finds errors of fact
2 | as well as significant omissions of information (for instance the bearing of the Highlands
Neighborhood Plan) on this project. The letter provided earlier today needs to be expanded to
adequately respond to the documents now available. We understand that state law has made
demands in this area of municipal authority however having read the law it appears not all
3 | areas still reserved for municipalities has been considered in this plan (for example storm
drainage and public safety).

4 | Thank you for the opportunity to represent our community clearly and fairly on a decision
which has deeply affected it and created a high level of concern among affected residents.

Sincerely,

A handwritten signature in blue ink, appearing to read 'John Vukasin', is written over the word 'Sincerely,'.

John Vukasin, President
Old Highlands Homeowners Association Board

CC: Kelly McAdoo, Hayward City Manager
Laura Simpson, Hayward Director of Development Services
Sara Buizer, Hayward Planning Manager
Robert Carlson, OHHA Board Vice President
Grant Anderson, OHHA Board Treasurer
Ruth Ritter, OHHA Board Secretary
Charles Dalmon, OHHA Board Member
Margaret Warhurst, OHHA Board Member
Bijan Mashaw, OHHA Board Member

Marcus Martinez, Associate planner
City of Hayward
777 B St.
Hayward, CA 94541
Also sent by Email

1/27/2021



RE: Response to Notice of Planning Commission Public Hearing regarding construction of a residence at 2579 Home Avenue

Dear Mr. Martinez:

1 This correspondence is regarding the City approval being sought for new construction at 2579 Home Avenue. To start, with absolute clarity, the Old Highlands Homeowners Association (OHHA) Board, and residents it represents, are vehemently opposed to this project. This monstrous sized home has no place in our neighborhood. Further, this is an attempt to build a multi-family development in an area zoned for low-density single-family homes and is not in compliance with the February 1998 Hayward Highlands Neighborhood Plan. The neighborhood zoning is RS with a requirement of 5,000 square feet minimum per home. The two residences in question are being constructed on an 8,700 square foot parcel. 2

3 The following issues are of concern:

- 4 1) Max Unit Size -- The Accessory Dwelling Unit (ADU) exceeds the maximum size which, as stated in the Hayward Guidelines, is 1,000 square feet for two or more bedrooms. The ADU is 1,198 square feet.
- 5 2) Height – Hayward Guidelines limits ADU structures to 16 feet in height. This ADU structure is 18’3” and exceeds the maximum of one story in the Hayward Ordinances. Overall building height is limited to 30 feet. From the ground floor facing Home Avenue to the top of the upper floor facing Hillcrest Avenue, the structure rises 44’ 11”.
- 3) Parking – State ADU regulations state that parking may be required by the City but is limited to one space per bedroom. This house and ADU have 7 bedrooms but only 4 parking spaces are evident. It must be noted that this is not a trivial matter in the OHHA neighborhood. Both Home and Hillcrest Avenues are one-way with limited parking and that is only allowed on one side. The parking requirement is deemed necessary to provide passage for emergency vehicles on a narrow roadway.

6 The primary concern is the ADU which adds parking, traffic, zoning, road service, sewage, police, and fire protection issues among many others. Zoning is a local process which considers these issues. It is clear that the State has usurped the local housing management process and has in fact declared zoning regulations and CC&Rs rules null and void as it relates to ADUs. Any remaining rules or ordinances must be limited to objective standards for which ministerial review is possible. More subjective zoning requirements such as fit into the community are unenforceable. However, sewage, storm drainage, safety, and traffic are all legal mitigations which can be imposed on a planned ADU.

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Regarding storm drainage, this lot steeply slopes from its North side to its South side facing Home Avenue. The Home Avenue residents across from the site have repeatedly suffered from flooding water in their homes. To address this, the homeowners have built an extensive private storm drainage system for their properties' protection. Key to this protection system is the ability of this hillside to absorb considerable amounts of water which will otherwise over-run the defenses installed by the homeowners. We are not convinced that a traditional downslope containment system would adequately address the storm drainage issue for the homeowners on Home Avenue.

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Beyond these issues there remains other considerations in that OHHA's zoning is not a result of the City of Hayward's sole action but the result of a contractual agreement between the City of Hayward and OHHA. Soon after the annexation of OHHA to the city of Hayward in the mid-60s, the City proposed plans for rezoning the area. This was in response to speculators who hoped to profit from the construction of the Cal State Hayward campus across from the OHHA area. This process lasted over ten years and prompted several courses of legal action between OHHA and the City. Finally, in 1992, a community wide committee was formed to draft guidelines defining the relationship between the OHHA community and the City. Ultimately this resulted in an agreement known as the Hayward Highlands Neighborhood Plan. This agreement; this contract; was codified in the City's planning documents and is still in place today. This document is clear about the agreement regarding zoning. What is not clear is the question of the State having the power to unilaterally declare a contracted agreement that a public entity made with a Community Corporation null and void in the same manner that it nullifies zoning established by the City alone, all without compensation to the Corporation for its loss.

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For the above reasons, OHHA opposes the construction of this home and ADU. The size of this multi-family development is overwhelming and does not conform with the neighborhood nor is it in compliance with the Hayward Highlands Neighborhood Plan.

Sincerely,



John Vukasin
Chair, Old Highlands Homeowners Association Board

- CC: Kelly McAdoo, Hayward City Manager
- Laura Simpson, Hayward Director of Development Services
- Sara Buizer, Hayward Planning Manager
- Robert Carlson, OHHA Board Vice President
- Grant Anderson, OHHA Board Treasurer
- Ruth Ritter, OHHA Board Secretary
- Charles Dalmon, OHHA Board Member
- Margaret Warhurst, OHHA Board Member
- Bijan Mashaw, OHHA Board Member

TO: Planning Commission
FROM: City of Hayward Planning Division
DATE: January 28, 2021
SUBJECT: Response to Letter Received from OHHA

Letter from Old Highlands Homeowners Associations (OHHA), dated January 26, 2021

1. A legal ad was published in the Daily Review newspaper, and a public hearing notice via postcard was distributed to all properties and interested parties within 300-feet of the project site on Friday, January 15, 2021. Both forms of public notification indicated that the Planning Commission agenda would be available online at hayward.legistar.com/Calendar.aspx the Friday before the Planning Commission hearing. The Planning Commission agenda was published online for public review on Thursday, January 21, 2021.

The Planning Commission is being requested to review the proposed project and provide a recommendation to the City Council. The City Council will review the project and the recommendation from the Planning Commission at a virtual public hearing tentatively scheduled for Tuesday, February 16, 2021.

2. The Hayward Highlands Neighborhood Plan was incorporated into the goals and policies of the Hayward 2040 General Plan that was adopted in 2014 by the City Council. The proposed project is deemed compliant with the property's land use designation of Low Density Residential (LDR) as it includes a detached single-family home and second unit (also known as an Accessory Dwelling Unit).
3. Noted. Please see response #1 above.
4. Noted.

Letter from Old Highlands Homeowners Associations (OHHA), dated January 27, 2021

1. OHHA's opposition to the proposed project is noted. Previous correspondence from OHHA and the surrounding neighborhood has been included as Attachment V to the staff report.
2. Pursuant to Section 65852.2 of the Government Code (State law), properties with proposed single-family residences and Accessory Dwelling Units (ADUs) are not considered multi-family properties. ADUs are considered ancillary or "accessory" to the primary single-family dwelling on the property. In addition, per State law, local agencies may not impose a minimum lot area requirement on ADUs; thus, the subject parcel is eligible to develop an ADU although the site does not have 10,000 square-feet of lot area.
3. Size - ADUs are allowed to be no more than 50% of the habitable floor area of the primary dwelling with a cap of 1,200 square-feet. As the proposed single-family home is greater than

2,400 square-feet, the maximum size for the proposed ADU is 1,200 and thus is deemed in compliance.

4. Height – For ADUs that are attached to the primary single-family dwelling, ADUs are allowed to defer to the height limitations of the primary structure which is 30-feet. In addition, per the Hayward Municipal Code, the building height is defined as the following:
 - **BUILDING HEIGHT**. The vertical distance at any point from the finished grade or existing grade, whichever is lower, to the highest point of the coping of a flat roof, to the top roof line of a mansard roof, or to the midpoint of the highest gable of a pitched or hip roof. Where unusual deviations occur on the existing grade, such as a small swale, the Planning Director may make minor adjustments in the building height envelope to permit reasonable building design consistent with the intent and purpose of the building height standard. Graded area entirely under a building and not visible from the exterior of the building, such as underground garages and basements, shall not be included for purposes of calculating height.

Further, for hillside properties, height measurements are measured along the hillside versus the lowest point of the parcel against the highest part of the proposed structure; thus, the proposed structure is in compliance with the established height limitations.

5. Parking – State law states that “[p]arking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway”. The proposed ADU includes a two-car garage and a driveway which can accommodate up to 4 standard vehicles; thus, the ADU complies with the parking requirements per State law.
6. The ADU will include a driveway and enclosed garage which provides up to 4 dedicated parking spaces separate from the main home which will be accessible from Home Avenue. There will be a sanitary sewer connection along Home Avenue that will service the ADU.
7. The project was required to include stormwater detention facilities of adequate capacity to mitigate any increase drainage run-off. The project has included two drainage detention and infiltration basins to capture roof runoff just below the structure and above Home Avenue. In addition, the project will incorporate pervious pavers or concrete for the lower driveway. Additional requirements included in conditions of approval numbers 37 and 39 require the dissipation of drainage and an agreement to maintain these facilities.
8. The Hayward Highlands Neighborhood Plan was incorporated into the goals and policies of the Hayward 2040 General Plan that was adopted in 2014 by the City Council. The proposed project is deemed compliant with the property’s land use designation of Low Density Residential (LDR) as it includes a detached single-family home and second unit (also known as an Accessory Dwelling Unit).
9. Noted. OHHA’s opposition to the proposed project is noted. Previous correspondence from OHHA and the surrounding neighborhood has been included as Attachment V to the staff report.

Marcus Martinez

From:
Sent: Thursday, February 18, 2021 4:16 PM
To: Kelly McAdoo; Marcus Martinez; Barbara Halliday
Cc: 'Robert Carlson'; 'Bijan Mashaw'; 'Charles Dalmon'; 'Grant Anderson'; 'Margaret Warhurst'; 'Ruth Ritter'; 'Joy Rowan'; 'Valerie Caveglia'
Subject: RE: Proposed Development at 2579 Home Avenue

Follow Up Flag: Follow up
Flag Status: Completed

CAUTION:This is an external email. Do not click on links or open attachments unless you know the content is safe.

The following is the Old Highlands Homeowners Association - OHHA, response to the proposed residential construction at 2579 Home Avenue. Having represented our community for over 50 years gives us an unique insight into this project's fit into our neighborhood.

There is clearly a dilemma here. On one hand is the right of a property owner to use his/her residential lot to build a home in our community. However, such construction must be built within community established rules which are designed to maintain the community's choice of the type of environment in which they wish to live. Most often these rules are established by elected bodies as construction guidelines. But this is not the case for this community.

Annexed in the early 60's, the community and City almost immediately were at odds as the City expansion plans ran into the established rural culture of OHHA. The issues started with assessment for sewers and water, and later zoning and streets became the primary points of contention. Speculators wanted to take OHHA properties to develop commercial enterprises in support of the new university under construction. What followed was 15 or so years of disagreement, which included several lawsuits, about the future fit of OHHA into the developing City of Hayward. OHHA drafted its own master plans first in 1978 and again in 1992. To resolve these contentious issues the Hayward Highlands Neighborhood Task Force was established between the City and OHHA residents to draft a neighborhood plan. The plan developed was codified by the City in 1998. This plan is viewed by OHHA as the operative plan currently and it is still on Hayward's books as the applicable plan for the OHHA neighborhood. This plan fully describes the agreed rules which we believe appropriately protect the immediate and future environment in which we live.

Regarding the proposed subject construction, the Planning Department staff claim the 1998 plan is not applicable because of being rolled into in the 2040 plan. This fails on two aspects:

1. The specific and pointed language regarding development limits embodied in the 1998 Plan is missing from the 2040 plan and so it lacks a useful description of all construction provisions, and
2. The 1998 Plan was a direct and comprehensive agreement between all the interested parties regarding OHHA. Once a contract is formed between organizations such as OHHA (a State recognized corporation), and the City, it cannot be unilaterally changed because one or the other wants something different. We can state that the OHHA leadership at the time knew nothing of the development of the 2040 plan and OHHA was not represented as it was formed.

Building this house on this lot is contrary to these long-established agreements and the zoning uniquely agreed between the City and OHHA. The Hayward Highlands Neighborhood Plan states: "Allow only new

development and improvements which respects the existing semi-rural character, especially in the Old Highlands . . . neighborhoods.” And further states: “Allow only infill development which is respectful of natural features including steeply sloped hillsides, creeks, and riparian corridors.” Policy Number One of the Hayward Highlands Neighborhood Plan states the goal of “Retain(ing) the single-family character of the Hayward Highlands area by allowing only appropriate residential infill development which is consistent in size, scale, and appearance with existing residential structures and encourage owner occupied buildings.” This construction does none of this.

The staff report from the permit office of the City states “. . .the proposed development of one single family residence and ancillary ADU will be located within an already established single-family residential neighborhood consistent with the land use pattern and character of the surrounding homes in the vicinity.” Wrong, Wrong, Wrong. This structure is much larger than surrounding homes and is of a different design. From Home Ave it presents as a four-story house. From its lowest point to its highest it rises over 40 feet. One resident likened it to building a hotel in the town square. There are large homes in OHHA, but they are mitigated, for the most part, by much of their size being out of view.

In addition to its size there is concern that by building on that lot, significant water runoff will occur. The lot currently protects Home Ave through absorption of runoff, but this will be reduced by the construction. Residences on Home Ave have been significantly flooded in the past. The property owners have constructed their own storm drainage system for protection but without the lot adequately reducing runoff, this system may be overwhelmed.

With the above stated, OHHA offers the following suggested resolutions:

- 1) Basically, while OHHA does do not appreciate this residence’s style or size, OHHA has no legal recourse to prevent it from being built. However, the City permit staff clearly had no sense of the will of the neighborhood or its basic feeling regarding the value of open space, rural atmosphere, or appreciation for home style and size. Perhaps this staff should embark on a tour of this neighborhood to understand these factors so future builders can be made aware and coached to *voluntarily* build more compatible homes in this unique neighborhood.
- 2) After discussions between OHHA and the builder it is apparent that the builder is willing to work on the design to affect a higher level of control of the water runoff. These designs are likely to affect the streets somewhat since the water is currently channeled under Home Ave into the private stormwater system. OHHA requests that City engineering staff be made available to work with both parties to design a water control system which the builder can incorporate as part of his residence construction.
- 3) OHHA asks that the builder and City landscaper work with OHHA to create a landscape plan in a style consistent with the neighborhood and which will also reduce the size impression of the home and assist in its integration into the neighborhood.

We appreciate the opportunity to express our concerns and offer input regarding this construction. Please contact Robert Carlson at your earliest convenience regarding the City’s views on OHHA’s suggested resolutions.

Thank you,
John Vukasin
Chair, OHHA Board