



DATE: April 3, 2018

TO: Mayor and City Council

FROM: Interim Development Services Director

SUBJECT Adoption of a Resolution Associated with a Proposed Single-Family Residence on a Vacant 0.13-Acre Hillside Lot Located at 2398 Rainbow Court, Requiring Site Plan Review with Grading Permit and Variance Application No. PL 201705626; and the Adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. Siddiq Miakhail (Applicant).

RECOMMENDATION

That the City Council adopts the attached Resolution (Attachment II), approving the Site Plan Review with Grading Permit and Variance Application for the proposed single-family residence, and adopting the related Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP) for the proposed development.

SUMMARY

The applicant is requesting approval of a Site Plan Review (SPR) with Grading Permit, and a Variance (VA) of the required rear yard setback to allow the construction of a 2,672 square-foot, single-family residence with related on- and off-site improvements on a 0.13-acre (5,651 square-feet) vacant hillside parcel located at 2398 Rainbow Court (APN 425-0410-031-00).

Normally, SPR 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 10-8.23](#) of the Hayward Municipal Code (HMC). Since the HMC does not allow staff to refer a SPR application to City Council without Planning Commission review, staff determined that both applications require Planning Commission review and City Council consideration. The Planning Commission reviewed this project application on March 22, 2018 and recommended approval of the proposed project.

An Initial Study was prepared and concluded that the project could be built with mitigation measures that would reduce potential impacts to a level of less-than-significant. A copy of the Initial Study and Mitigated Negative Declaration with Mitigation and Monitoring Report are included as Attachment VI and VII.

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 5,651 square-foot lot that slopes upward from Rainbow Court.

In 1978, a Final Map for Tract 3992 was recorded on the subdivision thereby limiting the height of development for lots 7 to 10 at the contour elevation of 606 feet. This height limitation protects the views of existing homes located at the northern portion of the lot.

Planning Commission. On March 22, 2018, the Planning Commission held a [public hearing](#) and voted unanimously to recommend approval of the project to the City Council (Attachment III). One member of the public expressed concerns with the amount of utility fees imposed for the project but had no objection to the project, as proposed. After reviewing the project, the Commission expressed concern with lack of roadway maintenance leading to the site on Parkside Drive, but expressed support for the proposed house design, the hillside grading, and the setback variance requested by the applicant.

DISCUSSION

Existing Conditions. The 0.13-acre sloped (approximately 5,651 sq. ft.) project site is currently vacant. The property is surrounded by other residential uses to the west, east, north, and south. The property is in a Single Family Residential (RS) zoning district and is designated Suburban Density Residential (SDR) in the *Hayward 2040 General Plan*.

Proposed Project. The applicant is proposing to construct a new 2,672 square foot, two-story single-family residence containing three bedrooms, two bathrooms, and a two-car garage. Two bedrooms, including the master and play area, have direct access to two separate balconies, which provides private open space for the house. The project also includes a 1,148-square foot roof terrace that provides additional private and usable open space. The site will have vehicular access from Rainbow Court.

The proposed two-story, “Eichler-type” contemporary home will incorporate a flat roof and be constructed using metal-framing and finished in a combination of stucco and aluminum panels (light and dark gray colors) with decorative stone veneer elements on the side and front façades. The trim elements and the garage door will be painted in a dark gray color to match the façade color. The proposed home will be built to a maximum height of 28 feet, 3 inches and will comply with the height restriction of the previously approved Tentative Map. A copy of the project plans with architectural elevations are included as Attachment V.

Site Improvements. The proposed single-family residence will require both on- and off-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, storm drains, utility undergrounding, 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, play and outdoor kitchen areas, SPA, 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 V) along with an Arborist Report that identified one protected tree (a 6" Coast Live Oak) that will require the issuance of a Tree Removal Permit to allow construction of the new single-family home.

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 trees to be removed shall require replacement with like-size, like-kind trees of an equal value tree(s) as determined by the City's Landscape Architect. To mitigate the removal of the Coast Live Oak tree, the applicant is proposing to plant ten new replacement trees on the project site, including 24-inch box Strawberry Trees, 24-inch Crape Myrtles, and 15-inch Tristanias. The City's Landscape Architect has reviewed the proposed replacement trees and supports the mitigation proposed by the applicant.

Site Plan Review. The construction of a new home on a vacant parcel is subject to the Site Plan Review findings contained in [Section 10-1.3025](#) of the HMC to demonstrate that the proposed home, along with any site improvements, are consistent with the development standards of the RS, Single-Family District. Per the Municipal Code, the approving authority may approve or conditionally approve an application for Site Plan Review when all the required findings are made. In this case, the City Council is the highest approving body and is required to make the following findings:

- 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 included a more detailed analysis for the Site Plan Review findings in 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, and utility) for the project that was reviewed by the City's Engineering Division. The applicant has submitted a Geotechnical Report by Wayne Ting & Associates (Attachment IX) 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.

Variance. The applicant is requesting a variance to allow the construction of the new home to encroach 5 feet, 3 inches into the required rear yard setback¹. The applicant has indicated that the shallow depth of the parcel at the northeast section of the lot (56 feet) combined with a steep slope, create an irregular shaped lot, which is a unique hardship. While a home of similar design could be built, it would present significant design challenges that would result in unsatisfactory interior living spaces, as well as create an extraordinary exterior design, which would be inconsistent with similar two-story homes in the area. Pursuant to [Section 10-1.3325](#) of the HMC, the highest approving body (City Council) has the discretion to approve a Variance application when the following findings are made:

- There are special circumstances applicable to the property including size, shape, topography, location, surroundings, or other physical constraints.
- Strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity under the same zoning classification.
- The variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.

Staff has included a more detailed analysis of the Variance in the Staff Analysis section of the staff report and findings contained in Attachment II.

Hayward 2040 General Plan. The project site is designated as SDR, Suburban Density Residential 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 *Hayward 2040 General Plan* also provides goals and policies that serve as guiding principles and provide a host of strategies intended to implement a high-level visual 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:

¹ Pursuant the HMC [Section 10.1.230](#) the minimum rear yard setback for homes located on Single- Family Residential zoning district is 20 feet.

- 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 in Neighborhoods: The City shall protect the pattern and character of existing neighborhoods by requiring new infill developments to have complimentary building forms and features.
- Land Use Goal LU-7: Preserve the rural and natural character of hillside development areas.

Zoning Ordinance. The project site is zoned Single-Family Residential (RS). Pursuant to HMC [Section 10-1.200](#), the purpose of the RS district is to allow for development of single-family homes and community services. The project, as proposed, would allow the construction of a new single-family dwelling, which meets most of development standards of the RS zoning district. A comparison chart showing the district requirement and the project are shown in the table below.

| CRITERIA | PROPOSED | REQUIRED OR MAX. ALLOWED |
|---------------------------|--|--------------------------|
| Lot Coverage | 28.5% | 40% |
| Front Setback | 20' | 20' |
| Side Yard | 8' 4" | 6'4" |
| Side Street Yard | 10' | 10' |
| Rear Yard | 15' (Northeastern corner of the lot) 20' (Northwestern corner of the lot) | 20' |
| Parking | Two-car garage | Two-car garage |
| Driveway Length | 20' | 20' |
| Height² | 28' 3" | 28' 3" |

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, make it more livable, and promote a safe environment. 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 Analysis

Variance. Staff has reviewed the variance request and believes there are special circumstances applicable to the project site, including size, shape, topography and physical constraints that create a unique hardship. The property is located on an irregularly shaped corner lot with a 26 percent slope. Most of the properties around the area have rectangular lot shapes with a lot depth of 80 feet. The northeast section of the project site contains a substandard lot depth of 56 feet. Staff believes that a strict application of the Zoning

² In 1978, a Final Map for Tract 3992 was recorded for the subdivision thereby limiting the height of development for lots 7 to 10 at the contour elevation of 606 feet (28' 3").

Ordinance would deprive the subject property of the privileges enjoyed by other similar properties in the neighborhood. Additionally, staff believes that granting of this variance is necessary for the preservation and enjoyment of the property owners' right to develop the land and would allow the property owner to build a home that is compatible and comparable in size to other homes in the vicinity.

Hillside Design and Urban Wildlife Interface Guidelines. As previously mentioned, staff believes the project is consistent with the City's *Hillside Design and Urban/Wildlife Interface Guidelines* in that the development will minimize grading and blend into the existing slope. The proposed home has been designed to reduce bulk and mass and will incorporate unique architectural features, such as significant window detailing, a mixture of building materials (stucco and stone veneer) and incorporate a neutral color palette. Additionally, the proposed landscaping placement along the street frontage, coupled with the sloped topography of the site, will soften the building bulk and mass and minimize visual impacts from adjacent properties or the roadway.

ECONOMIC IMPACT

The proposed development would result in development of a currently vacant lot in an existing single-family residential neighborhood. The proposed development would not result in need for expansion of utilities or services and is not expected to have a negative economic impact on the City regarding utilities or services.

FISCAL IMPACT

According to the City of Hayward Fiscal Impact Model (2014) 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 INITIATIVES

This project supports the Council's Complete Communities Strategic Initiative. The purpose of the Complete Communities strategy 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 goals and objectives:

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.

PUBLIC CONTACT

Public Outreach. On October 3, 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. No public comments were received by staff. On March 2, 2018, a Notice of Public Hearing was placed in the newspaper and sent to all property owners and stakeholders within 300 feet of the subject property. On March 5, 2018, staff received one email from an adjoining neighbor, who expressed support for the proposed Variance request (see Attachment VI).

On March 23, 2018, a Notice of Public Hearing was sent to all property owners and tenants located within a 300-foot radius of the project site, published in *The Daily Review*, and was posted on the City’s website.

NEXT STEPS

If Council approves the project, the applicant will finalize the grading permit and submit building permits for the proposed project.

Prepared by: Maria Langbauer, Assistant Planner

Recommended by: Stacey Bristow, Interim Development Services Director

Approved by:



Kelly McAdoo, City Manager