

HAYWARD CITY COUNCIL

RESOLUTION NO. 19-

Introduced by Councilmember _____

RESOLUTION ADOPTING THE MITIGATED NEGATIVE DECLARATION AND THE MITIGATION MONITORING AND REPORTING PROGRAM AND APPROVING THE SITE PLAN REVIEW WITH GRADING PERMIT APPLICATION NO. 201804632 PERTAINING TO CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE AT 2366 RAINBOW COURT

WHEREAS, on Joyce and Robert Steinfeld (Applicant/Property Owners) submitted Site Plan Review No. 201804632, requesting a Site Plan Review with Grading Permit approval to construct a new single-family residence on a 0.32-acre sloped, vacant lot located at 2366 Rainbow Court, Assessor Parcel Number 425-0410-0.27-00; and

WHEREAS, an Initial Study and Mitigated Negative Declaration were prepared to assess the potential environmental impacts of the Project; and

WHEREAS, the Planning Commission considered the Project at a public hearing held on March 14, 2019, and recommended that the City Council adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; and approve the Site Plan Review with Grading Permit application; and

WHEREAS, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on April 2, 2019.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15220, an Initial Study ("IS") was prepared for this project with the finding that a Mitigated Negative Declaration ("MND") was appropriate because all potential impacts could be mitigated to a level of less than significant with the implementation of Mitigation Measures that were incorporated as Conditions of Approval for the Project.
2. That the proposed MND was prepared by the City of Hayward, acting as the Lead Agency, and that the MND was circulated with a minimum twenty (20) day public review period between February 22, 2019 and March 14, 2019.

3. That the proposed MND was independently reviewed, considered and analyzed by the City Council and reflects the independent judgment of the City Council; that such independent judgment is based on substantial evidence in the record (even though there may be differences between or among the different sources of information and opinions offered in the documents, testimony, public comments and such responses that make up the proposed MND and the administrative record as a whole); that the City Council adopts the proposed MND and its findings and conclusions as its source of environmental information; and that the proposed MND is legally adequate and was completed in compliance with CEQA.
4. That the proposed MND identified all potential adverse impacts and based on the MND and the whole record before the City Council, there is no substantial evidence that the project will have a significant effect on the environment.
5. That the project complies with CEQA, and that the proposed MND was presented to the City Council, which reviewed and considered the information contained therein prior to approving the project. The custodian of the record of proceedings upon which this decision is based in the Development Services Department of the City of Hayward located at 777 B Street, Hayward, CA 94544.

SITE PLAN REVIEW

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

The proposed development will be compatible with on-site and surrounding structures and uses in that the project site is located in the Rainbow Court cul-de-sac, where all properties are in the Single-Family Residential (RS) zoning district subject to the same development standards (i.e. setbacks, height, and lot coverage), design guidelines, and performance standards. Currently, three of the ten parcels along Rainbow Court are developed with existing single-family residences which include two- to three- story existing single-family dwellings that range between 2,700 square-feet to 4,100 square-feet of living area.

Further, the proposed development of the single-family residence at the project site will be an attractive addition to the City as it will be designed with traditional design elements. The proposed two-story, 2,700 square-foot residence will incorporate 5:12 and 11:12 pitched roofs toward the street which will provide relief and incorporate visual interest along each elevation. The residence will be constructed using wood-framing and finished in a combination of cement fiber lap siding and composition shingles.

B. The development takes into consideration physical and environmental constraints

The proposed single-family residence takes into consideration the physical and environmental constraints in that it is designed to be constructed along the existing slope

and natural topography. The proposed architectural design of the single-family residence is consistent with the City's Hillside Design and Urban/Wildlife Interface Guidelines. The Hillside and Urban/ Wildlife Interface Guidelines requires that new buildings within the development exhibit varied elevations, floor plans, setbacks, and a quality architecture to enhance the hillside setting. Most notably, the Hillside Design Guidelines requires that developments exhibit a stepped architecture along the slope to minimize excessive grading and unnecessary cuts into hillside. The proposed residence has incorporated well-articulated front and street side elevations with well- proportioned windows, a pitched roof and a variety of textures.

A Geotechnical Report (Milstone, 2018) was prepared for the proposed project at the property that included an analysis of the physical and environmental constraints on the property with respect to slope stability, drainage, landslide potential, foundation, and retaining walls that determined the property was adequate to be built upon with the incorporation of specific design-level measures recommended by the Geotechnical Engineer. These specific design-level geotechnical recommendations have been incorporated as Conditions of Approval and Mitigation Measures for the proposed development (see Mitigation Monitoring and Reporting Program).

C. The development complies with the intent of City development policies and regulations

The proposed single-family residence complies with applicable City development policies, including but not limited to the *Hayward 2040 General Plan*, the Hayward Municipal Code, and the City's Hillside Design and Urban/Wildlife Interface Guidelines. In addition, the development consistent with the following *Hayward 2040 General Plan* goals related to Land Use and Community Character:

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.

The project also incorporates new drought-tolerant landscaping in compliance with the Bay Area-Friendly Water Efficient Landscape Ordinance and will enhance the visual quality and character of the existing vacant site. Although no trees are proposed to be removed, the project shall conform to the City's Tree Preservation Ordinance which requires preservation of existing protected trees to the greatest extent feasible and mitigation for any protected trees removed.

D. The development will be operated in a manner determined to be acceptable and compatible with surrounding development.

The proposed single-family residence, as conditioned, will be compatible with the surrounding residential development as the project will be subject to all applicable provisions of the Hayward Municipal Code including construction, maintenance, landscaping, etc. In addition, the proposed development of one single-family residence 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.

The project will incorporate both on- and off-site improvements. On-site improvements will include the installation of drought- tolerant landscaping, erosion control measures, stormwater management features, and shall incorporate Best Management Practices (BMPs) for construction noise, grading and construction activities to prevent adverse negative impacts onto adjacent properties. Other site improvements would include a new driveway, concrete step pads for walkways, stairs, landscaped planters, and retaining walls.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program, acknowledges review of the proposed grading plans and approves Site Plan Review with Grading Permit Application No. 201804682, subject to the attached conditions of approval.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2019

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

**CITY OF HAYWARD PLANNING DIVISION
SITE PLAN REVIEW APPLICATION NO. 201804682
CONDITIONS OF APPROVAL
2366 RAINBOW COURT**

GENERAL CONDITIONS OF APPROVAL:

1. The approval of Site Plan Review No. 201804382 shall allow the construction of a two-story, 2,700 square-foot single-family residence with an attached two-car garage on a vacant hillside parcel located at 2366 Rainbow Court, Assessor Parcel No. 425-0410-027-00.
2. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
3. All outstanding fees owed to the City, including staff time spent processing this application, shall be paid in full prior to issuance of a building permit
4. The proposed single-family residence shall conform to these conditions of approval and the narrative/plans on file with the Planning Division stamped "Exhibit A".
5. Any proposal for alterations to the proposed site plan and/or design, which does not require a variance to any zoning code, must be approved by the Planning Director prior to implementation.
6. A copy of these conditions of approval shall be scanned and included on a separate full-sized sheet(s) within the building permit plan set.
7. Prior to final inspection all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director.
8. This approval shall be void three years after the effective date of approval unless a building permit application with plans matching the approved plans have been submitted and accepted for processing by the Building Official.
9. If determined to be necessary for the protection of the public peace, safety and general welfare, the City of Hayward may impose additional conditions or restrictions on this permit. Violations of any approved land use conditions or requirements will result in further enforcement action by the Code Enforcement Division. Enforcement includes, but is not limited to, fines, fees/penalties, special assessment, liens, or any other legal remedy required to achieve compliance including the City of Hayward instituting a revocation hearing before the Planning Commission.

MITIGATION MEASURES

10. The applicant shall be responsible for adhering the Mitigation Monitoring and Reporting Program (MMRP) for the adopted Mitigated Negative Declaration in compliance with the California Environmental Quality Act (CEQA) Guidelines.

- a. The applicant shall be responsible for scanning a copy of the adopted MMRP into the Building Division plan check submittal.
- b. The applicant shall be responsible for implementing the recommendations and mitigations measures identified in the Geotechnical Engineering Report prepared by Milstone Geotechnical (August 2018) in regard to seismic design, site preparations, foundations, retaining walls, concrete slab-on grade, and drainage in accordance with the MMRP.
- c. The recommendations and mitigation measures shall be incorporated into the grading permit application and final construction level drawings (civil, drainage, landscape, site plans) and shall be submitted to the Building Division, Public Works Department – Engineering Division, Landscape Division, and Planning Division for review and approval.

BUILDING DIVISION:

11. Applicant shall apply for all necessary building permits and/or all other related permits from the Building Division. All structures shall be constructed and installed in accordance with the California Building Code, Uniform Mechanical and Plumbing Code, National Electrical Code, and the California Fire Code as adopted by the City of Hayward.
12. Given the property is located within a Wildland-Urban Interface Fire Area, the materials and construction method for exterior wildfire exposure shall comply with Section R327 of the California Residential Code.
13. The plans submitted for plan check shall provide capability for electric vehicle charging in new single-family dwelling.
14. The proposed single-family residence shall be subject to the payment of school fees as set forth by the Hayward Unified School District (HUSD).

ENGINEERING:

15. Prior to building permit issuance, developer must pay all applicable development fees, as determined by the City Engineer in accordance with the most current approved fee schedule adopted by the City Council, including but not limited to, utility connection fees.
16. All existing public utilities shall be protected in place and if necessary, relocated as approved by the City Engineer. No permanent structure is permitted within City easements and no trees or deep-rooted shrubs are permitted within City utility easements, where the easement is located within landscape areas.
17. Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit from the City.
18. Grading and clearing activities shall be in compliance with Chapter 10, Article 8 of the Hayward Municipal Code, including, but not limited to the submittal of a Work Schedule to the Public Works Department – Engineering Division, for the proposed grading schedule, schedule for the installation of interim erosion and sediment control measures, and the construction of public improvements.

19. Improvements for storm drain systems shall incorporate the following:
 - a. The locations and design of storm drains shall meet the City's standard design and be approved by the City Engineer and if necessary, the Alameda County Flood Control and Water Conservation District (ACFC&WCD). Any alternative design shall be approved by the City Engineer prior to installation.
 - b. The project shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the project hydrology design shall clearly indicate all areas tributary to the project area. The developer is required to mitigate unavoidable augmented runoffs with offsite and/or on-site improvements.
 - c. No surface runoff is allowed to flow over the sidewalks and/or driveways. Area drains shall be installed behind the sidewalks to collect all runoff from the project site.
 - d. Post-development flows should not exceed the existing flows. If the proposed development warrants a higher runoff coefficient or will generate greater flow, mitigation measures shall be implemented.
20. To avoid or reduce the potential impact related to the site-specific geotechnical hazards related to seismic hazards, the project developer shall implement the following mitigation measures:
 - a. The applicant shall submit a final grading plan subject to review by the City Engineer prior to issuance of grading permits.
 - b. For each building constructed in the development plan area, the required site-specific geotechnical investigation shall address expansive soils and provide appropriate engineering and construction techniques to reduce potential damage to buildings.
 - c. To reduce the potential impacts related to the presence of low to moderately expansive clays in the subsurface soils of the project site, mitigation measures to avoid the effects of expansive soils outlined in the Geotechnical Investigation shall be followed.
21. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the City:
 - a. Grading and site construction activities shall be limited to the hours 7:00 a.m. to 7 p.m. Monday through Saturday, and 10 a.m. to 6 p.m. on Sunday and holidays.
 - b. Grading and construction equipment shall be properly muffled.
 - c. Unnecessary idling of grading and construction equipment is prohibited.
 - d. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential housing units.
 - e. Daily clean-up of trash and debris shall occur on Rainbow Court, and other neighborhood streets utilized by construction equipment or vehicles making deliveries.

- f. Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution.
 - g. Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work.
 - h. The site shall be watered twice daily during site grading and earth removal work, or at other times as may be needed to control dust emissions.
 - i. All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site.
 - j. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
 - k. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
 - l. Sweep public streets daily if visible soil material is carried onto adjacent public streets;
 - m. Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping;
 - n. Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season; 2) site dewatering activities; or 3) street washing activities; and 4) saw cutting asphalt or concrete, or in order to retain any debris or dirt flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash;
 - o. The developer shall immediately report any soil or water contamination noticed during construction to the City Fire Department Hazardous Materials Division, the Alameda County Department of Health and the Regional Water Quality Control Board.
22. In the event that human remains, archaeological resources, prehistoric or historic artifacts are discovered during construction of excavation, the following procedures shall be followed: Construction and/or excavation activities shall cease immediately, and the Planning Division shall be notified. A qualified archaeologist shall be retained to determine whether any such materials are significant prior to resuming groundbreaking construction activities. Standardized procedure for evaluation accidental finds and discovery of human remains shall be followed as prescribed in Sections 15064.f and 151236.4 of the California Environmental Quality Act.
23. All public improvements, including the complete installation of all improvements relative to streets, fencing, sanitary sewer, storm drainage, water system,

underground utilities, etc., shall be completed and attested to by the City Engineer before approval of occupancy of any unit. Where facilities of other agencies are involved, such installation shall be verified as having been completed and accepted by those agencies.

24. The project shall implement the provision of C.3.i Required Site Design Measures for Small Projects and Detached Single-Family Home Projects such as:
 - a. Direct roof runoff into cisterns or rain barrels for reuse.
 - b. Direct roof runoff onto vegetated areas.
 - c. Direct runoff from walkway, and/or patio onto vegetated areas.
 - d. Direct runoff from driveway and/or uncovered parking areas onto vegetated areas.
25. Submit 3 copies of Soils and Geotechnical Report prior to the issuance of a Building Permit for review and approval by the City Engineer shall be wet stamped, signed by the engineer and in bound form.
26. The following items shall be completed and submitted with the improvement and/or grading plans:
 - a. C.3 and C.6 Data Collection Form

LANDSCAPING:

27. Park Dedication In-Lieu Fees are required for all new dwelling units. Fees shall be those in effect at the time of the Building Permit Approval. All Park dedication in-lieu fees shall be paid prior to issuance of a Certificate of Occupancy for a residential unit.
28. A tree preservation bond will be required for all trees that are to remain, and the bond will be in effect throughout the construction period and until completion of the entire project improvements. If any trees that are designated as saved are removed or damaged during construction shall be replaced with trees of equal size and equal value.
29. Trees shall be preserved in accordance with the Tree Preservation Ordinance and shall be protected in accordance with the project arborist's recommendations. Prior to the commencement of clearing and grading operations, all trees to be preserved or removed shall be indicated on the grading, site and landscape plans, and trees to remain in place shall be noted and provided with tree protection measures in compliance with City codes.
30. The landscape plan shall indicate the proposed spacing for all shrubs and ground covers, provide tree and shrub planting detail in sloping ground condition, and include a note for erosion control: Slopes equal or exceeding 3:1 shall receive erosion control fabric such as jute netting; and slopes equal or exceeding 2:1 shall receive erosion control fabric and compost sock at the interval specified by the Landscape Architect.
31. All tree work shall comply with the Migratory Bird Treaty Act as well as California Fish and Wildlife Code Section 3503-3513 to not disturb nesting birds. To the extend feasible tree pruning and removal shall be scheduled outside of the

breeding season. Breeding surveys shall be conducted prior to tree work. Qualified biologists shall be involved prior to grading and construction activities to establish work buffers for active nests.

32. A tree removal permit shall be obtained prior to the removal of any tree in addition to grading permit. Tree mitigation summary chart provided on the landscape plan shall list the value of trees to be removed, total value of mitigation, and proposed tree sizes and their value equaling the mitigation value. Mitigation shall be in addition to the one 15-gallon Required Tree for this property.
33. The detail of the laundry to landscape shall be included in the plumbing plan and shall be plan checked by the Building Division during the building permit process. Landscape plan shall refer to plumbing plan to provide California Plumbing Code compliant "laundry to landscape" plumb-ready system.
34. Prior to the issuance of Certificate of Occupancy, all landscape and irrigation shall be completed in accordance to the approved plan and accepted by the City Landscape Architect. Before requesting an inspection from the City Landscape Architect, the project landscape architect shall inspect and accept landscape improvements and shall complete Appendix C. Certificate of Completion in the City's Bay-Friendly Water Efficient Landscape Ordinance. The completed Certificate of Completion Part 1 through Part 7 or applicable parts shall be faxed/e-mailed/turn in prior to requesting an inspection from the City Landscape Architect.

FIRE DEPARTMENT:

35. Fire Sprinkler Protection Required – An automatic fire sprinkler system shall be designed and installed conforming to NFPA 13D (modified). Standards. Automatic fire sprinkler protection shall be within all living areas as dictated by NFPA 13D Standards. Additional fire sprinkler protection is required in attics, garages, under decks, crawl spaces, patios, porches and foyers. A separate fire permit is required for the fire sprinkler system installation. A State Licensed C-16 Fire Sprinkler Contractor shall be responsible for the fire sprinkler system installation.
36. The applicant shall provide the water/fire flow test data information on the plan, including static pressure, residual pressure, pitot pressure, test flow, calculated available water flow at 20 PSI and test date. This information may be requested from the Hayward Public Works Department.
37. Maximum Sprinkler System Design Pressure - A maximum static pressure of 80 PSI should be used when test data indicates higher pressures. Residual pressures used in the calculation should also be adjusted accordingly.
38. Underground Fire Service Line – Underground fire service line connection to the city main shall be installed in accordance with the Hayward Public Work Department SD-216. Water meter shall be minimum one-inch in diameter.
39. Materials and Construction Method for Exterior Wildfire Exposure – The building is located within the City of Hayward Wildland/Urban Interface Area, and shall meet the construction requirements (as reflected on the approved plans) as stated in the City of Hayward Hillside Design and Urban/Wildland Interface Guidelines, which includes Class A roofing materials and exterior non-

combustible siding materials (stucco), double-pane windows. Do not use wood shake or treated wood shake roofs. The building construction shall comply with the requirements contained in the 2016 California Residential Code Section R327.

Spark Arrestor Required - Provide spark arrestors with 1/4" metal mesh screens on all chimneys. Homeowners should inspect spark arrestors every year to ensure mesh screen integrity.

Outdoor Storage - Restrict outdoor storage of firewood, kindling, or compost material within 30 feet of any structure, unless the material is stored in an approved bin or enclosure.

Chimney - Locate chimney at least ten feet away from existing tree canopies.

Roof eaves - Enclose all roof eaves with minimum required attic vents covered with metal mesh in accordance with Chapter 7A of California Building Code. The dimensions of mesh openings shall be a minimum 1/16-inch and shall not exceed 1/8-inch.

UTILITIES:

40. Water and Sewer Service are available and subject to standard conditions and fees in effect at time of application and payment of fees:

- a. Water Services – Based on the water fixtures shown on the plans, it is estimated the finished structures will have a potential domestic water demand which requires a minimum 1" domestic water meter. Note that this estimate does not include any allowance for residential fire sprinklers or irrigation.
- b. A separate fire permit is required for the fire sprinkler system installation. The water meter size will be determined by the Fire Department's requirements for that permit; however, the minimum size water meter for residential fire sprinklers is 1". Residential combined domestic and fire services are allowed, per City Standard SD-216.

Per SD-216, flow-through fire sprinkler systems do not require the installation of an above ground backflow prevention assembly. They do require the installation of a N36 meter box or a B16 and a B9 meter box. The Improvement Plans for Rainbow Court (Tract 3992) show that the property has an existing 3/4" water service line and meter box with no meter. If this service line cannot be reused, it must be abandoned at the owner's/applicant's expense

- c. The applicant/developer shall install a Reduced Pressure Backflow Prevention Assembly on the irrigation water meter, per City Standard SD-202. Backflow Prevention Assemblies shall be at least the size of the water meter or the water line on the property side of the meter, whichever is bigger.

- d. Sewer Services – The owner/developer is responsible for payment of sewer connection fees at the current rates that the time the application for water and sewer service is submitted. The sewer connection fee for a single-family residential connection is \$7,700.
41. Water meters must be located a minimum of two feet from top of the driveway flares as per City Standard Detail 213 thru 218. Department of Utilities & Environmental Services 777 B Street, Hayward, CA 94541-5007 TEL (510) 583-4727 FAX (510) 583-3610

Water mains and services, including the meters, must be located “at least 10 feet horizontally from and one foot vertically above, any parallel pipeline conveying untreated sewage, ...” (such as a sanitary sewer lateral) per the current California Waterworks Standards, Title 22, Chapter 16, Section 64572. Note that the Waterworks Standards allow for horizontal separation of water and sewer lines to be less than 10-feet by “utilizing upgraded piping material” and is approved by the “Department”. “Upgraded piping material” generally means to use piping material with a pressure rating at least 1 grade above the minimum pressure rating that is required for the application.

The sanitary sewer lateral shall be installed per City Standard Detail SD-312. Cleanouts shall be installed at the house connection and changes in alignment.

SOLID WASTE & RECYCLING:

42. Please submit the Construction and Demolition Debris Recycling Statement at the time of your building permit. The applicant shall will only need to submit the top “applicant” half of the form during the building permit. The bottom half of the form should be completed upon completion of the project to receive final building inspection approval. The form can be located online at <http://www.hayward-ca.gov/services/city-services/construction-and-demolition-debris-disposal>.