



TOWN OF FAIRFAX

STAFF REPORT

May 3, 2017

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager *GT*

SUBJECT: Consideration of the proposed 54 unit Victory Village Affordable Senior Housing Project located at 2626 Sir Francis Drake Boulevard through the proposed adoption of three (3) resolutions approving : a Mitigated Negative Declaration and Mitigation Monitoring Program, General Plan Amendment, a Parcel Map, Density Bonus, Design Review Permit, Traffic Impact Permit, and Excavation Permit;

and

Introduction, waiver of first reading, and reading by title only an Ordinance of the Town Council of the Town of Fairfax Amending Fairfax Town Code Chapter 17.012, Adding a New Chapter 17.090 (RM-S Multi-Family Residential – Senior), and Amending the Town Zoning Map

and

Authorization to enter into agreements governing Project approvals

RECOMMENDATION

- A. Conduct a public hearing
- B. Adopt Resolution 17-09 Approving a Mitigated Negative Declaration and Adopting a Mitigation Monitoring and Reporting Program
- C. Adopt Resolution 17-10 Approving a General Plan Amendment for the Victory Village Senior Housing Project (2626 Sir Francis Drake Boulevard)
- D. Introduce, waive first reading, and read by title only an Ordinance of the Town Council of the Town of Fairfax Amending Fairfax Town Code Chapter 17.012, Adding a New Chapter 17.090 (RM-S Multi-Family Residential – Senior), and Amending the Town Zoning Map
- E. Adopt Resolution 17-11 Approving a Parcel Map, Density Bonus, Design Review Permit, Traffic Impact Permit, and Excavation Permit for the Victory Village Senior Housing Project (2626 Sir Francis Drake Boulevard)
- F. Authorize the execution of Project agreements

PURPOSE OF TONIGHT'S MEETING

The Town Council will be considering all the approvals for the development of the proposed Victory Village senior housing project (the "Project"). This staff report is intended to be an Executive Summary of the actions requested of the Council. For more project details, we have attached a copy of the Planning Commission staff report including public comments received and a FAQ sheet prepared for the project.

PROJECT DESCRIPTION- REQUESTED APPROVALS

The Applicant (Resources for Community Development) is requesting approval for a rent-restricted senior housing community (known as Victory Village) at the former Christ Lutheran Church site located at 2626 Sir Francis Drake Boulevard (Site). The project proposes 53 units of affordable rental housing and a single manager's unit on a 2-acre portion of the Site. Applicant also proposes to provide 43 uncovered parking spaces to serve the Senior Housing Site.

Specifically, the project requires the following approvals, which are consolidated in the three resolutions recommended for adoption by the Council:

- **CEQA.** Approval of the Initial Study/Mitigated Negative Declaration prepared for and circulated for the Project
- **General Plan.** Approval of a General Plan amendment to change the land use designation of the two 9-acre parcels from PDD to UR-7-10, as well as to establish a new General Plan land use designation (Multiple-Family Residential – Senior) and re-designate the 2-acre Project site to that new land use designation.
- **Zoning.** Introduction of zoning ordinance text and map amendments to add a new Multiple-Family Residential - Senior (RM-S) Zone District to the Town Code (Town Code Chapter 17.090), as well as to rezone the 2-acre parcel from UR-7 to RM-S.
- **Subdivision Map.** Approval of parcel map to subdivide the existing 20-acre site into three parcels, one 2-acres in size and two others that will each be 9-acres.
- **Density Bonus.** Granting of a density bonus to allow RCD to construct 54 units at a density of 27 dwelling units per acre, where 20 dwelling units per acre would otherwise be permitted, and three density bonus concessions with respect to the project's proposed height (38' 7"), uncovered parking, and relief from undergrounding of the existing above ground utility lines on Sir Francis Drake Boulevard.
- **Other Approvals.** Approval of Traffic Impact Permit, Excavation Permit, and Design Review for the Project.
- **Agreement Authority.** Authorizing the Town Manager to execute the required agreements such as the Density Bonus and Subdivision Improvement Agreements.

Please note the project approvals are contingent on the effectiveness of the zoning ordinance.

The "Discussion" section below provides more detail on the above listed actions.

DISCUSSION

The Applicant (RCD) is requesting the Town approve a rent-restricted senior housing community at the former Christ Lutheran Church site located at 2626 Sir Francis Drake

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Boulevard (the “Site”). The project, which would fulfill substantial general plan policies, proposes 53 units of affordable rental housing and a single manager’s unit on a 2-acre portion of the Site. If approved and constructed, it would be the first affordable senior housing to be built in Fairfax in over 30 years.

The Applicant proposes to subdivide the 20-acre Site into three parcels: one 2-acre parcel and two 9-acre parcels. Only the 2-acre parcel is being proposed for development at this time, with the 9-acre parcels remaining unimproved.

Town Council Proposed Actions

On April 20, 2017, the Planning Commission on a vote of 5-0 (two Commissioners absent) passed two resolutions recommending that the Town Council grant all discretionary approvals required for the project.

In order to approve the application, the Town would need to grant the following discretionary approvals:

General Plan Amendment. A new General Plan land use designation, Multiple-Family Residential – Senior (RM-S), is proposed for adoption. The General Plan land use designation for the 2-acre parcel would be changed to this new designation, while the two 9-acre parcels will require a General Plan amendment in order to re-designate those parcels Upland Residential UR-7-10, which allows one dwelling unit per 7 to 10-acre parcel. Changing the General Plan land use designation for the 9-acre parcels will bring their land use designation into line with their existing zoning (UR-7). References to the Site being rezoned to ‘Planned Development District’ would be updated to reflect the new zoning, which would likewise be called Multiple-Family Residential – Senior (RM-S). The General Plan definition for seniors will be updated, and the zoning text amendments will clarify that senior housing must comply with the requirements of applicable state and federal housing laws.

Zone Change and Text Amendment. Similar to the General Plan Amendment described above, the subject property will require rezoning of the 2-acre Senior Housing Site to a new zoning district, also called Multiple-Family Residential (RM-S). This will implement the intent of Housing Element Program H-2.1.1.1, which calls for this 2-acre site to be rezoned. The two 9-acre parcels will remain zoned UR-7, and will retain their existing development rights.

The new zoning district, Multiple-Family Residential – Senior (RM-S), is proposed to establish the land uses and development standards applicable to the new zoning district as follows:

- Eligibility. In order to be eligible to rezone to this new district, the proposed use would have to comply with the relevant state and federal laws governing senior housing, which establish minimum ages for residents, as well as provisions for

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health care providers and others whose residency may be required under applicable law.

- Density. The maximum density permitted for any site zoned Multiple-Family Residential – Senior ('RM-S') shall no greater than 10 dwelling units per acre, unless otherwise set forth in the General Plan for any given parcel. The General Plan maximum density for a given site may be less than 10 dwelling units per acre, depending on the site; the density for each site zoned RM-S shall be established for the particular site at the time of project approval by the Town.
- Principal permitted uses. The General Plan provides that the Senior Housing Site shall be used for senior residential purposes only. Senior housing projects must comply with applicable state and federal fair housing laws.
- Building site requirements. The building site requirements are very similar to the requirements for the RM district, with some exceptions. For example, in order to qualify for rezoning to Multiple-Family Residential – Senior, a site will need to be at least two acres and not more than three acres in size.
- Height. Height regulations for the Multiple-Family Residential – Senior district will follow the RM district requirements, generally permitting a maximum of 28.5 feet and 2 stories on lots with slopes of ten percent or less. On lots having a slope in excess of ten percent, no building or structure occupied by a principal use and situated on the downhill side of the street upon which it has its primary frontage shall not exceed 35 feet in height nor be more than stories, and if situated on the uphill side of the street shall not exceed 28.5 feet in height nor contain more than three stories.
- Off-street parking. Off-street parking for the new Multiple-Family Residential – Senior district will follow the requirements of the Town Code, as found in Chapter 17.052.

The project's compliance with the applicable standards of the proposed new Multiple-Family Residential – Senior Zoning District is as follows:

| | Senior Housing District Required/ Permitted | Proposed by Victory Village |
|--------------------------------|--|--|
| Front Setback | 10' | 40' |
| Rear Setback | 10' | 142' |
| Combined Front/Rear | 40' | 182' |

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| | Senior Housing District Required/ Permitted | Proposed by Victory Village |
|---|--|---|
| Setback | | |
| Side Setback | 10' & 10' | 18' & 28' |
| Combined Side Setbacks | 25' | 46' |
| Lot Coverage | 35% | 24% |
| Height | 28'6"/>2 stories (level parcels), 28'6"/>3 stories upslope parcels, 35'3"/>3 stories (downslope parcels) | 27'6" and 2 stories to 38' 7" and 3 stories* |
| * Due to the project's qualification for a density bonus concession under the California state density bonus law (Government Code § 65915), Applicant is requesting that the project receive an exception to the Town's height restriction. | | |

The proposed rezoning of the 2-acre site to RM-S would be consistent with the Town's General Plan and Housing Element, as they are proposed to be modified, which specifically target the subject property for development of affordable senior housing. The rezoning of the 2-acre project site would also allow the Town to comply with provisions of the State Housing Law requirement for providing sites zoned to accommodate affordable housing. Furthermore, because the two 9-acre parcels will remain zoned UR-7, there is no change in the potential development intensity of that portion of the Site.

It should be noted that the Town initially proposed a PDD zoning for Victory Village because it was the only existing zoning district that would allow for the minimum 20 units/acre required for the project. The California State Housing and Community Development Department (HCD), who certifies the Town's Housing Element, indicated that was acceptable, but the Town needed to revise the PDD code to ensure that the project would only require design review approval. In other words, HCD found the existing PDD code had too many discretionary approvals based on subjective standards which would make it easy to deny the project. Hence, the proposed "streamlining" of the PDD zone for the senior housing project.

At its March 1, 2017 meeting, the Town Council considered an alternate zoning approach. In lieu of streamlining the PDD process, a zoning district would be created for senior housing, which could apply to projects such as the proposed Victory Village senior affordable housing project. This approach would address the concerns raised at Planning Commission (PC) and Town Council (TC) meetings that streamlining the PDD zone would enable other projects not actually under consideration at this time to use the streamlined

approach.

Density Bonus. With the exception of a single manager's unit, the Applicant proposes to build 100% affordable housing units and thus qualifies for a density bonus of 35%, as well as three concessions, under the state Density Bonus Law (Government Code § 65915). This density bonus would allow the project to develop at a density of 27 dwelling units per acre, or 7 units per acre in excess of what is permitted by the General Plan. It also allows the Applicant to request three concessions from the Town's otherwise applicable zoning provisions. The Applicant has selected covered parking, height and preserving the current overhead utility wires on Sir Francis Drake Boulevard for its three concessions. In order to document the terms of the density bonus and secure the affordability of the units for the next 55 years, the Applicant will be required to enter into a Density Bonus Agreement with the Town, which will be recorded against the property.

Parcel Map. A parcel map will be necessary to subdivide the existing 20-acre site into three parcels, one consisting of 2-acres and two parcels of 9-acres each. Division of the property into 3 parcels constitutes a minor subdivision per the Town's definition of a minor subdivision, which is a subdivision of a piece of property into 4 or fewer parcels [Town Code §§ 16.04.030, Definition of a Minor Subdivision, and 16.08.060(A), Planning Commission Action]. Prior to taking action on a tentative parcel map, the Town Engineer must review and make recommendations in relation to the requirements of the Tentative Parcel Map Chapter, the Subdivision Map Act and applicable ordinances and regulations and changes that are necessary for property consideration of the Map [Town Code § 16.08.040(D)].

The Town Engineer has reviewed the proposed tentative parcel map and has indicated the map complies with the Town Subdivision Ordinance and the State Subdivision Map Act and recommends that the Town Council approve the parcel map subject to the conditions included in the resolution approving the map.

Traffic Impact Permit. Town Code Chapter 17.056 requires a traffic impact permit as a prerequisite to any building permit, site improvement, occupancy permit or any discretionary approval from the Town for projects that have a floor area of more than 5,000 square feet. The proposed project is 50,755 square feet and therefore requires the approval of a Traffic Impact Permit [Town Code § 17.056.050(A)(1)(b)]. Consistent with the traffic study for the 54-unit project, there would be no adverse impacts. Staff notes that the Applicant will provide a dedicated left-turn lane off of Sir Francis Drake Boulevard to ease that turning movement.

Excavation Permit. Town Code § 12.20.080(A) requires that any project requiring the excavation and/or fill of 100 cubic yards of material or more obtain an excavation permit from the Fairfax Planning Commission. The project requires an excavation permit because it will entail the excavation of approximately 2,110 cubic yards and fill of 440 cubic yards of material (excavation/fill amount is in the process of being updated per new site plan), the majority of which would be required for the undergrounding of utilities.

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The Town Engineer has reviewed the information submitted by Applicant relating to the proposed excavation and performed site inspections of the property on July 8, 2016, and July 23, 2016. Based on his review of all the above-referenced documents and plans and his site inspection, the Town Engineer has determined that the project can be developed as proposed without creating any impacts that cannot be mitigated and that the required findings for the excavation permit could be made.

Design Review. Pursuant to Fairfax Town Code Chapter 17.020.040, the proposed Senior Housing Project will require design review for new construction. The plans for the project are attached as Attachment F. The proposed project is consistent with all requirements for landscaping, screening, usable open space, and the design of parking and off-street loading areas set forth in the Town Code.

Pursuant to Fairfax Town Code § 8.36.050, the Applicant is required to submit a tree removal permit to the Tree Advisory Committee for review and approval of the proposed removals and suggested replanting plan. Although the proposed project will require up to 72 tree removals, only 42 trees were approved for removal within the construction zone by the Tree Committee in January 2017. The removal of the remaining 30 trees will require additional approvals by the Tree Committee. Of the total 72 trees, 26 trees are proposed for removal due to poor health or hazardous conditions. The majority of the remaining 46 trees proposed for removal are California bay laurel. The Applicant had a survey conducted and has had a tree protection plan prepared for of all trees within the development footprint.

Parcels 2 and 3. The Applicant has submitted a grant application to the Marin County Foundation to support the project. If this grant application is successful, the Applicant has indicated that the donation of Parcels 2 and 3 to the Town for open space could be feasible.

Other Agency Review. The Marin Municipal Water District, Ross Valley Fire Department and the Ross Valley Sanitary District reviewed the plans for the project. Comments and conditions of approval for these agencies have been included in the Town Council's proposed approval of this project.

Agreements Necessary to Implement the Project.

The Town Attorney's Office has prepared a number of agreements that will be necessary to approve the Project. These include:

- **Density Bonus Agreement.** This agreement will be recorded against the Property and will ensure that the Applicant operates the Project in accordance with the requirements of the State Density Bonus Law. Under this agreement, resident units will remain affordable for 55 years, during which time they will be offered at rents affordable to specific income levels (very low and low). This

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agreement likewise documents the concessions and parking ratio reduction for which the Project qualifies.

- **Subdivision Improvement Agreement.** This agreement will also be recorded against the Project and memorializes the terms and conditions under which the required subdivision improvements will be completed.
- **Indemnity and Defense Agreement.** This is a standard agreement addressing the indemnity obligations of the Applicant with regard to Project approvals.

Staff requests the Council authorize the Town Manager to negotiate and execute on behalf of the Town the final form of the Density Bonus Agreement and Subdivision Improvement Agreement. The Indemnity and Defense Agreement is executed by the Mayor.

CEQA

An initial study/mitigated negative declaration (IS/MND) was prepared to evaluate the proposed project and circulated for public review and comment in December 2016 and January 2017. Given the proposed changes to the project, including the zoning and the determination that the access to the project will be from Sir Francis Drake Boulevard, a revised IS/MND was re-circulated on March 29, 2017 in accordance with the California Environmental Quality Act ('CEQA'). The new 20+ day public comment period closed on April 19, 2017. Responses to comments received during this comment period are attached as Attachment G. The Council is asked to approve the IS/MND and adopt the Mitigation Monitoring Program prepared for the Project.

FISCAL IMPACT

RCD has been and will continue to pay its fair share of third party costs for the project. RCD will be paying the planning/building/development fees for the project.

ATTACHMENTS

1. Resolution 17-09
2. Resolution 17-10
3. Ordinance No. 808
4. Resolution 17-11
5. Planning Commission staff report dated 4/20/17 (with attachments E, F, and G only)
6. Elevations / Plans of the Proposed Development
7. Revised and Recirculated Initial Study / Mitigated Negative Declaration
8. Frequently Asked Questions
9. Planning Commission Resolutions adopted 4/20/17