



AGENDA STAFF REPORT

ASR Control 11-000250
40A2

MEETING DATE: 03/15/11
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): 3
SUBMITTING AGENCY/DEPARTMENT: OC Public Works (Approved)
DEPARTMENT CONTACT PERSON(S): Jess Carbajal (714) 667-3217
Michael Balsamo (714) 667-8854

2011 MAR 10 PM 1:19
CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS
PUBLIC HEARING

SUBJECT: The Springs at Bethsaida: Kisco Senior Living

CEO CONCUR Concur COUNTY COUNSEL REVIEW Approved Resolution(s) and Ordinance(s) CLERK OF THE BOARD Public Hearing 3 Votes Board Majority

Budgeted: N/A Current Year Cost: N/A Annual Cost: N/A
Staffing Impact: No # of Positions: Sole Source: N/A
Current Fiscal Year Revenue: N/A
Funding Source: N/A

Prior Board Action: N/A

RECOMMENDED ACTION(S):

- 1. Receive staff report.
- 2. Conduct public hearing.
- 3. Adopt Findings and Facts in Support of Findings and Statement of Overriding Considerations for EIR PA090004 for The Springs at Bethsaida Senior Living Project (Specific Plan Amendment, Use Permit, Site Development Permit).
- 4. Adopt Mitigation Monitoring and Reporting Program for EIR PA090004 for The Springs at Bethsaida Senior Living Project (Specific Plan Amendment, Land Use Permit, Site Development).
- 5. Adopt Resolution certifying EIR PA090004 for The Springs at Bethsaida Senior Living Project (Specific Plan Amendment, Use Permit, Site Development Permit).
- 6. Read the title of the ordinance amending the North Tustin Specific Plan to add a new Senior Residential Housing Land Use District and to change the Land Use District for 11901 Newport Avenue from Residential Single Family to Senior Residential Housing.
- 7. Waive further reading of the ordinance.

8. Consider the matter and adopt the ordinance.
9. Adopt Resolution approving the Use Permit and Site Development Permit for Planning Application PA090004, The Springs at Bethsaida Senior Living.

SUMMARY:

Adoption of Findings and Facts in Support of Findings and Statement of Overriding Considerations for EIR PA090004; the Mitigation Monitoring and Reporting Program; the Resolution certifying EIR PA090004; the Ordinance amending the North Tustin Specific Plan to add a new Senior Residential Housing Land Use District and to change the Land Use District for 11901 Newport Avenue from Residential Single Family to Senior Residential Housing; and the Resolution approving the Use Permit and Site Development Permit for Planning Application PA090004, The Springs at Bethsaida Senior Living will support development of a California Craftsmen architectural design senior living community on a 7.25 acre site in the North Tustin unincorporated area of Orange County with 153 dwelling units; one two-story main building with a central courtyard and basement common area and parking level; 19 perimeter single story bungalows; and a main interior courtyard that includes recreational facilities, including but not limited to a pool, spa, water features, and seating areas.

BACKGROUND INFORMATION:

The project site is comprised of six (6) parcels, one of which is an approximate 7-inch wide strip adjacent to an easement for pipe lines. The site is an undeveloped site in North Tustin. It has one (1) residential structure that is located off Ervin Lane, is currently designated "Residential Single Family" (100-RSF), and is within the North Tustin Specific Plan area. The project site is approximately 7.25 acres in size and is vacant, with the exception of one residential structure located at the far western boundary of the project site that is currently occupied. Proposed access to the project site is off Newport Avenue. The project includes a California Craftsmen architectural design senior living community in the North Tustin unincorporated area of Orange County with 153 dwelling units; one two-story main building with a central courtyard and basement common area and parking level; 19 perimeter single story bungalows; and a main interior courtyard that includes recreational facilities, including but not limited to a pool, spa, water features, and seating areas. For further details regarding the existing conditions and for more background information related to the project site, please see Exhibit A, Planning Commission Staff Report dated January 12, 2011.

On January 12, 2011, the project was presented to the Orange County Planning Commission, at which time the Planning Commission made a recommendation to the Board of Supervisors that the Board approve and certify EIR No. PA090004 and approve planning application PA090004 filed by Kisco Senior Living on behalf of the Roman Catholic Diocese of Orange (c/o the Prescott Family Trust). The Planning Commission recommended revisions and additions to the Findings and Conditions of Approval that were presented to the Commission. Staff has incorporated the Planning Commission's recommendations in the order discussed and has made the following revisions to the recommended Findings and Conditions of Approval:

- Finding No. 1 – Revised to specifically address the project's development and how it relates to the County's growing senior population and the project's consistency with the General Plan Housing Element.

- Finding No. 2 – Revised to specifically relate to the North Tustin Specific Plan.
- Finding No. 10 – Revised to add more specificity related to the proposed senior residential housing type.
- Finding No. 11 – Revised to add more specificity about the Suburban Residential General Plan Land Use Designation.
- Condition of Approval No. 47 – New Condition that requires the applicant to submit a valet system parking management plan prior to the issuance of any building permits.
- Condition of Approval No. 7 – Revised to indicate the need to record a covenant that runs with the land, such as Conditions, Covenants, and Restrictions (CC&R), to ensure that use of the site shall be restricted to senior residential housing, single-family residential use or residential open space use. Additionally, the language of the covenant shall indicate that the units shall be rental and not condominium units.
- Condition of Approval No. 29 – Revised truck delivery hours so that deliveries Mondays through Fridays are between the hours of 7:00 a.m. and 5:00 p.m. and deliveries on Saturdays are between 9:00 a.m. and 5:00 p.m.
- Condition of Approval No. 14 – Revised to indicate that peripheral landscaping shall be installed prior to any vertical construction.
- Condition of Approval No. 48 – New Condition that requires applicant to submit revised plan that reduces the number of surface parking spaces in order accommodate additional landscaping.
- Condition of Approval No. 30 – New Project Design Feature 8-5 to prohibit flags and pennants for advertising purposes.
- Condition of Approval No. 30 – Revised PDF 8-1 to indicate that the one-story bungalow structures that are allowed along Newport Avenue, Ervin Lane, and along the west property line shall not exceed 20 feet.

The Findings and Conditions of Approval associated with this project are included as Attachment A to this staff report. Below are additional recommendations made by the Planning Commission and how staff addressed each of them. Please note that revisions were not made to the recommended Findings or Conditions of Approval to address the two comments listed below.

- Publish a public hearing notice in the newspaper – an ad was published in the OC Register's March 1, 2011 edition and notices were mailed to residents within a 300-foot radius of the project site.
- Ensure that landscape be designed in a consistent theme and planted and maintained to be consistent with the form approved on the conceptual landscape plans. This was not added as a separate condition as it was addressed in Condition 14 and approved Permit applications are required to file and obtain approval of a detailed construction level landscape plan that is consistent with the conceptual landscape plan. When inspections are conducted through the permit application process, County staff will ensure that landscaping is consistent with the approved landscape plans

Staff revised the Planning Commission Staff Report for clarification purposes, text was revised on pages 3 and 12. The Planning Commission Staff Report is included as Exhibit A.

Some key issues discussed at the January 12, 2011 Planning Commission hearing were the community's concerns about this proposal potentially being illegal spot zoning. Staff indicated to the Commission that it is staff's view that the proposed project does not represent an arbitrary, capricious, or unreasonable use of the project site, thus it is not considered illegal spot zoning. The discussion of spot zoning was included in the Draft EIR on pages 5.1-5 and 5.1-6, as well as the Planning Commission staff report on pages 16 through 18.

After receiving public testimony from a representative for Foothill Communities Association, the opponents to this project, the Planning Commission inquired about whether a General Plan Amendment would be required for this proposed project. Staff clarified to the Commission that a General Plan Amendment is not required because the site's current designation is "Suburban Residential", which allows up to a density of 18 dwelling units per acre for various residential use types. The overall density of the project is approximately 21 dwelling units per acre; however, Government Code Section 65915(f)(3) allows a density bonus of up to 20% for senior housing projects. The proposed project is consistent with its current General Plan Land Use Designation.

Other key issues of concern raised by residents at the public hearing were parking and traffic associated with this proposed project; air pollution; water supply; perception that project is commercial in nature and precedent setting for future commercial projects in North Tustin; and compatibility with the neighborhood. These issues were raised during the public review period for the Draft EIR and formal responses to comments have been prepared and included as Exhibit F of this staff report, under the Final EIR.

There were a total of 53 speakers with 28 supporters for the project and 25 that opposed the project. A copy of the approved summary minutes of the January 12, 2011 Planning Commission hearing is attached to this staff report as Exhibit B.

The Board of Supervisors serves as the final approving authority for this subject Planning Application, and must approve the following as part of the planning application approval process:

- Approval and certification of the project's Environmental Impact Report (EIR) is required prior to action on the proposed project;
- Specific Plan Amendment to change the site's current Residential Single Family Land Use District to a new Senior Residential Housing Land Use District being proposed by the applicant;
- Use Permit to develop the proposed senior residential facility; and
- Site Development Permit for grading activities involving more than 5,000 cubic yards of excavation.

Approval of the aforementioned requires adoption of:

- A Resolution to certify the EIR;
- An Ordinance to approve the proposed Specific Plan Amendment; and

- A Resolution to approve the Planning Application including the requested Use Permit and Site Development Permit.

In order for your Board to adopt the Resolution to certify the EIR, action is also requested on the following documents: Findings and Facts in Support of Findings and Statement of Overriding Considerations for the Final EIR and the Mitigation Monitoring Report Program. These documents are provided as Exhibits C and D respectively and are also included in the Resolutions and Ordinance.

The two Resolutions and Ordinance associated with this project are attached to this ASR as follows:

Exhibit E. Resolution No. _____ to approve the Project EIR for planning application PA090004, "The Springs at Bethsaida" senior living community project.

Exhibit F. Ordinance No. _____ to approve an amendment to the North Tustin Specific Plan and change the project site's Land Use District of Residential Single Family, "100-RSF", to Senior Residential Housing "SRH".

Exhibit G. Resolution No. _____ to approve Planning Application PA090004.

Staff recommends approving the Planning Application with the revised Findings and Conditions of Approval for the project as identified in Appendices A and B of Exhibit A.

Compliance with CEQA:

Environmental Impact Report (EIR) PA090004, SCH No. 2009071081, has been prepared and circulated for public review. The Draft EIR was posted for public review and comment from May 3, 2010 to June 18, 2010. In accordance with Section 15088.5 of the Guidelines for California Environmental Quality Act (CEQA Guidelines), 14 Cal. Code of Regs. § 15100 et seq., a portion of Draft EIR, specifically Section 5.14, Global Climate Change, was subsequently recirculated for public review and comment. The public review period for the Recirculated Draft EIR began Tuesday, July 13, 2010 and ended on Friday, August 27, 2010. The proposed Final EIR was presented to the Planning Commission on January 12, 2011, at which time the Commission recommended that your Board approve and certify the Final EIR. Since the Planning Commission public hearing, the Final EIR has been updated to reflect additional comments received at the hearing, including additional Responses to Comments that have been added to the Final EIR. The updated Final EIR is included as Exhibit F of this Agenda Staff Report. It is attached for your consideration and must be approved prior to project approval by adoption of the Resolution that is provided as Exhibit C which will certify the Project EIR. Findings related specifically to the EIR are included as Exhibit 1 to the Resolution.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

EXHIBIT(S):

Exhibit A - Planning Commission Staff Report dated January 12, 2011 with Revisions
Exhibit B - Planning Commission Draft Minutes from January 12, 2011
Exhibit C - Findings and Facts in Support of Findings and Statment of Overriding Considerations
Exhibit D - Mitigation Monitoring Report Program
Exhibit E - Resolution for Project EIR
Exhibit F - Ordinance for Specific Plan Amendment
Exhibit G - Resolution for approval of Planning Application PA090004
Exhibit H - Project Environmental Impact Report (includes Draft EIR and Final EIR)
Exhibit I - Additional Public Comment Letters Received
Exhibit J - Response to Jackson/DeMarco Letter
Exhibit K - Cross Sections

ATTACHMENT(S):

Attachment A – Findings and Conditions of Approval