



STAFF REPORT CITY COUNCIL

DATE: November 15, 2016

TO: Honorable Mayor and City Councilmembers

FROM: Christopher L. Foss, City Manager

SUBJECT: Community Benefit Agreement with Avesta Development Group
Prepared by: Linda Smith, Assistant City Manager

EXECUTIVE SUMMARY:

The City Council will consider approval of a Community Benefit Agreement with Avesta Development Group for the development of a senior care facility in Downtown Dublin, consisting of 35 senior apartments, 13 high-acuity assisted living units, 32 memory care units and related supporting space. A Community Benefit Agreement is required in order to allocate units and/or additional square footage from the Downtown Dublin Specific Plan's Development Pool. All entitlements relating to the approval of the project were approved by the Planning Commission on March 22, 2016.

STAFF RECOMMENDATION:

Adopt the **Resolution** Approving the Community Benefit Agreement between the City of Dublin and Avesta Development Group.

FINANCIAL IMPACT:

Upon issuance of the building permit, the City will receive payment of \$400,000 for the Affordable Unit Credits. These funds will be deposited into the City's Affordable Housing Fund. Prior to occupancy of the building, the City will receive payment of \$490,000 as the community benefit. These funds will be deposited into a separate account for future improvements in the Downtown.

DESCRIPTION:

Avesta Development Group, a privately-held real estate company, has proposed the construction of a senior care facility in Downtown Dublin at 7601 Amador Valley Blvd. (the northwest corner of Donohue Drive and Amador Valley Blvd). The project is 66,787 square feet and consists of 35 senior apartments, 13 high-acuity assisted living units, 32 memory care units and supporting common spaces, such as a kitchen, dining spaces, activity room, den, theater, salon and other gathering spots.

Avesta applied for and received approval for the project by the Planning Commission on March 22, 2016 (Attachment 1), pending approval of the Community Benefit Agreement by the City Council. Community Benefit Agreements are required under the terms of the Downtown Dublin Specific Plan to allocate units and/or additional square footage from the Development Pool.

In this case, Avesta is seeking 35 units from the residential development pool and 10,329 square feet from the commercial development pool. In exchange for this allocation, Avesta will pay a community benefit payment of \$490,000 prior to the occupancy of the building. These monies will be deposited into a separate account for future improvements in the Downtown.

To satisfy the requirements of Chapter 8.68 (Inclusionary Zoning Regulations), Avesta will purchase Affordable Unit Credits through the City for \$100,000 per Affordable Unit Credit. The inclusionary requirement for the 35 senior apartments is four units, and therefore the Applicant will deposit \$400,000 with the City to purchase the Affordable Unit Credits to fully satisfy the requirements of Chapter 8.68. This payment will be due at the time of building permit issuance.

If Avesta fails to obtain the building permit for the Project within two years after the Effective Date of this Agreement, the Excess Capacity reserved for Avesta shall revert to the Pool maintained by the City.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

A copy of this staff report has been sent to the Avesta Development Group.

ATTACHMENTS:

1. Planning Commission Staff Report and Minutes - Avesta
2. Resolution Approving the Community Benefit Agreement between the City of Dublin and Avesta Development Group
3. City of Dublin Community Benefit Agreement



Chris Foss, City Manager

11/7/2016



STAFF REPORT CITY COUNCIL

CITY CLERK
File #410-60

DATE: September 1, 2015

TO: Honorable Mayor and City Councilmembers

FROM: Christopher L. Foss, City Manager

SUBJECT: Authorization of Residential Units and Commercial Square Footage from the Downtown Dublin Development Pool and Related Community Benefit Agreement Deal Points with Avesta Development Group
Prepared by Kristi Bascom, Principal Planner

EXECUTIVE SUMMARY:

Avesta Development Group is proposing the construction of a Senior Care Facility at 7601 Amador Valley Boulevard. The project includes 40 Senior Apartments, eight High-Acuity Senior Assisted Living suites, and 32 Memory Care suites. The Applicant is seeking the reservation of 40 residential units and 9,614 commercial square feet from the Downtown Dublin Specific Plan Development Pool. The Applicant will enter into a Community Benefit Agreement with negotiated deal points as described in this Staff Report. The City Council will consider reserving the allocation from the development pool and authorizing the preparation of a Community Benefit Agreement.

FINANCIAL IMPACT:

None. All costs associated with processing the future development application will be borne by the Applicant.

RECOMMENDATION:

Staff recommends that the City Council authorize the preparation of a Community Benefit Agreement with Avesta Development Group that includes the negotiated deal points summarized in this report and direct Staff to begin processing the development applications associated with the proposed project.

Submitted By
Community Development Director

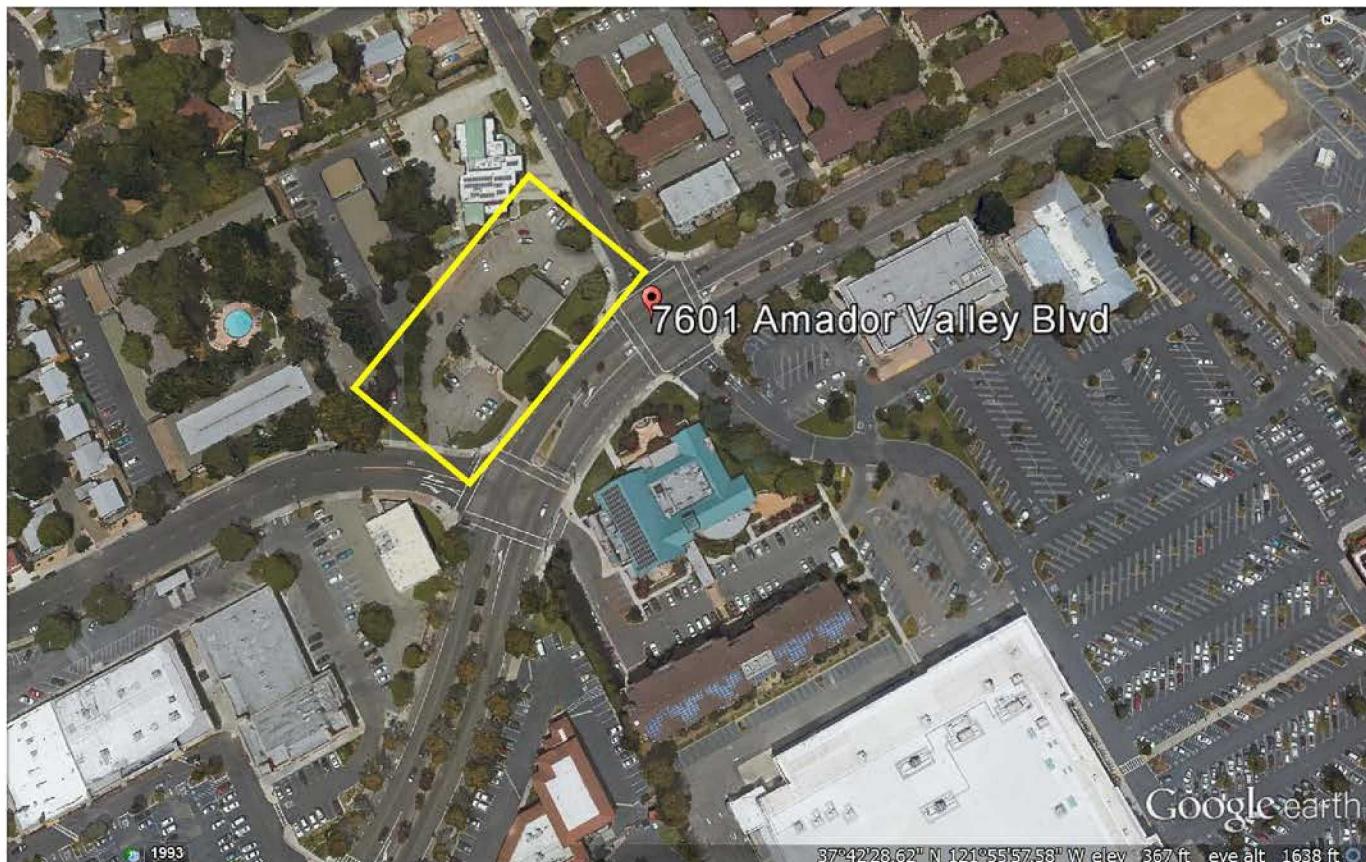
Reviewed By
Administrative Services Director

DESCRIPTION:

Avesta Development Group is seeking to develop a Senior Care Facility project at 7601 Amador Valley Boulevard, a nearly one-acre site with a vacant commercial building (formerly occupied

by a deli, a nail salon, and a legal office). This site is located in the Retail District within the Downtown Dublin Specific Plan, as shown the figure below:

Figure 1: Vicinity Map



The Downtown Dublin Specific Plan (DDSP) identifies the number of residential units that may be constructed in the Plan area and establishes a “Development Pool” that contains these units. The DDSP also allows commercial development on each parcel at a Base and a Maximum Floor Area Ratio (FAR). In the Retail District of the DDSP, the Base FAR for each parcel is .35 and the Maximum FAR is .60. The difference between the Base and Maximum FAR is also kept in the Development Pool. For instance, on a parcel of land that is 100,000 square feet in size, the Base development potential is 35,000 square feet (Base FAR .35) and up to a Maximum of 60,000 square feet (Maximum FAR .60). The parcel could be developed with 35,000 square feet of building by right, but to develop up to 60,000 square feet would require square footage to be reserved from the Development Pool.

As background, the total unit allocation for all districts in the Downtown Dublin Specific Plan is as noted in the Table 1 (below). Wicklow Square (54 units at the Senior Center) is not included in these numbers since it was built and occupied before the DDSP was approved.

Table 1: Residential Development in Downtown

DDSP District	Total Number of Units in District per the DDSP	Number of Units Constructed	Number of Units Allocated/Reserved, but not yet constructed	Units Remaining
Retail	400	0	70 (Trumark on Regional)	330
Transit Oriented	1,900	309 (Connolly Stn.)	379 313 (Bay West) 66 (Eden Veteran's)	1,212
Village Parkway	200	0	0	200
TOTAL	2,500	309	449	1,742

A developer must request City Council authorization to pull both residential units and any commercial square footage above the Base FAR from the Development Pool and must provide a benefit to the community to do so. A Community Benefit Agreement is used to ensure that a benefit is provided and establishes a timeframe in which the developer must construct the project. Any residential units or commercial square footage is returned to the pool at the end of the established timeframe if not constructed.

The developer, Avesta Development Group, has prepared a concept site plan and conceptual elevations for the development of a Senior Care Facility on the project site. The project includes 40 Senior Apartments, eight High-Acuity Senior Assisted Living suites, and 32 Memory Care suites. The 40 Senior Apartments will be independent living units that are age-restricted. Residents of these apartments have the opportunity to live independently or to utilize assisted living services in an “a la carte” fashion.

The eight High-Acuity suites will be designed for seniors who need regular assistance with daily living. However, the residences will have full kitchen and bathroom facilities for independent living as well. These suites will be located on the first floor of the building in close proximity to the common areas and services in the facility.

The Memory Care suites will be designed for seniors who have been diagnosed with Alzheimer’s or other forms of memory impairment which make it impractical to live independently. The Memory Care suites offer privacy but all meals, housekeeping, activities, etc. are provided for the resident.

The proposed building is four stories with the High-Acuity suites on the first floor along with the interior common spaces such as the kitchen and dining facilities, activity room, and gathering spaces. The Memory Care suites are on the second floor along with another dining area, common living space, and exterior balcony. The independent Senior Residences are on the third and fourth floors with an exterior patio and common spaces for these units. The concept plans are included as Attachment 1 to this staff report.

ANALYSIS:

In accordance with the Dublin Zoning Ordinance, the independent Senior Apartments are considered residential uses while the High-Acuity and Memory Care suites are considered a

Community Care Facility, which is a commercial use. The proposed building size (encompassing all uses) is 69,217 square feet. Of this, 44,627 square feet is devoted to the 40 Senior Apartments (residential uses) and 24,590 square feet is devoted to the High-Acuity and Memory Care suites (commercial uses). Based on the size of the parcel, the amount of commercial development allowed by right (Base FAR) is 14,976 square feet. Therefore, the Developer is requesting the reservation of 40 residential units from the DDSP Development Pool as well as 9,614 commercial square feet (the difference between the Base FAR (.35 or 14,976 square feet) and the proposed commercial space FAR (.60 or 24,590 square feet)).

In order to construct the project, the applicant will need approval of a Community Benefit Agreement, Site Development Review, and a Conditional Use Permit for both the Community Care Facility and a Conditional Use Permit for a proposed Parking Reduction for this specialized use.

Avesta Development Group and City Staff have discussed the terms of the proposed Community Benefit Agreement, as follows:

- Avesta Development Group would receive an allocation of up to 40 units from the Downtown Dublin Specific Plan Development Pool for the Senior Apartments. In exchange for the allocation of development capacity, Avesta will pay a Community Benefit payment of \$10,000 per unit, for a total of \$400,000, or will construct physical improvements in the Downtown area of an equivalent value. Potential improvements include the construction of streetscape improvements along Amador Valley Boulevard (including bike lanes), installation of a Storm Drain Trash Capture Device to treat the larger watershed area, improvements to Fire Station 16 on Donohue, or a combination of the above.
- This is the first project to utilize commercial square footage from the DDSP Development Pool. The City is in the process of determining the value of the 9,614 square feet requested from the Pool. This amount, once determined, will be reflected in the Community Benefit Agreement that will be considered by the City Council at a later date.
- The applicant will have two years from approval of project entitlements, which in this case will be Site Development Review and Conditional Use Permits, to utilize the reserved units and commercial square footage.

Under the City's Inclusionary Zoning Regulations, the proposed project would require the construction of five units of affordable housing (12.5% x 40 units). However, Staff and the Applicant are still in discussions regarding the most appropriate means in which the Inclusionary Zoning Regulations should be addressed given the unique nature of the proposed residential units (age-restricted in a full care setting). The determination on whether the units will be provided on-site or whether compliance will be addressed by paying an in-lieu fee per unit will be reflected in the Community Benefit Agreement.

City Council authorization to prepare the Community Benefit Agreement does not imply any endorsement of the development project. The applicant will need to submit a Site Development Review and Conditional Use Permit application for complete review. If the City Council authorizes the reservation of the units and square footage from the Development Pool and directs Staff to proceed with processing the above applications, Staff will work with the Applicant on the following items:

1. Design and architectural review, including a complete review of the building elevations, site plan, and driveway location;
2. Review of a parking analysis to ensure that the reduced parking standard proposed for the project will meet the demands of the users and ensure no spill-over parking into the adjacent neighborhoods;
3. Finalizing the value of the commercial square footage reserved from the Development Pool, the means of complying with the Inclusionary Zoning Regulations, and finalizing the terms of the Community Benefit Agreement.

Staff recommends that the City Council authorize Staff to prepare a Community Benefit Agreement that contains the deal points as described in this Staff Report. The Community Benefit Agreement will be brought to the City Council for consideration after the Planning Commission approves the Site Development Review and Conditional Use Permit for the project. If the application does not move forward, or the project is not approved, the 40 units and 9,614 commercial square feet will not be reserved from the Development Pool and the Community Benefit Agreement will not be approved.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

Not applicable.

ATTACHMENTS: 1. Conceptual Project Plans



PROPOSED
SENIOR CARE
BUILDING FOR:

AVESTA DEVELOPMENT GROUP

AMADOR VALLEY BLVD.
DUBLIN, CA

AUGUST 24, 2015

CB|Two
ARCHITECTS

CONCEPTUAL RENDERING 1
VIEW OF AMADOR VALLEY BLVD. ENTRY

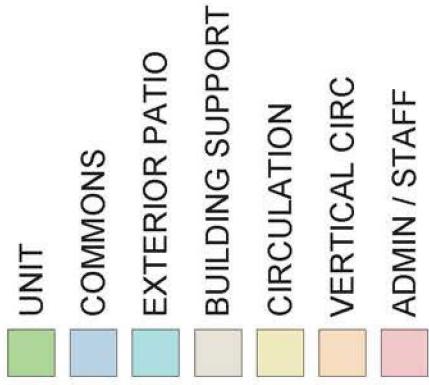
SITE PLAN



AVESTA DEVELOPMENT GROUP
DUBLIN, CA
AUGUST 24, 2015

APT./ALZ. FACILITY
MC: 32 BEDS
APT.: 48 UNITS

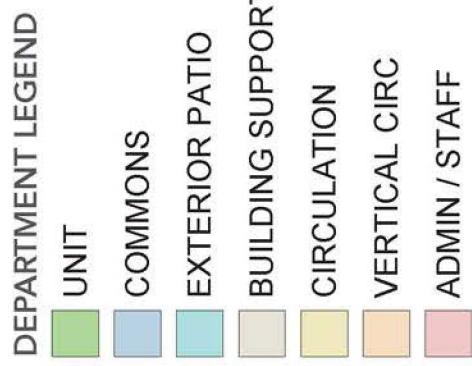
DEPARTMENT LEGEND



SCALE: 1" = 30'



APT./ALZ. FACILITY
MC: 32 BEDS
APT.: 48 UNITS



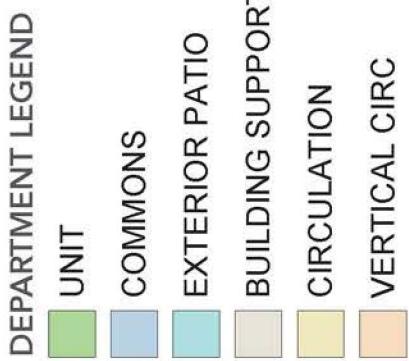
SCALE: 1" = 30'


SECOND FLOOR
18,698 SF

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ARCHITECTS

AVESTA DEVELOPMENT GROUP
DUBLIN, CA
AUGUST 24, 2015

APT./ALZ. FACILITY
MC: 32 BEDS
APT.: 48 UNITS



SCALE: 1" = 30'

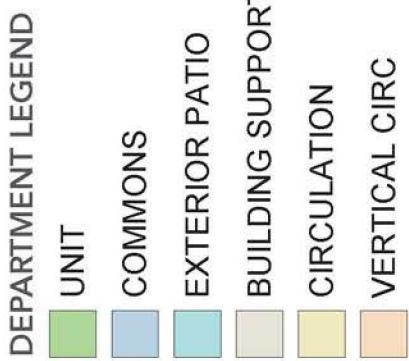


THIRD FLOOR
16,452 SF

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ARCHITECTS

AVESTA DEVELOPMENT GROUP
DUBLIN, CA
AUGUST 24, 2015

APT./ALZ. FACILITY
MC: 32 BEDS
APT.: 48 UNITS



SCALE: 1" = 30'

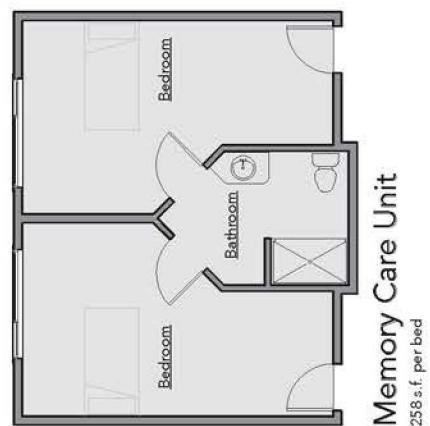
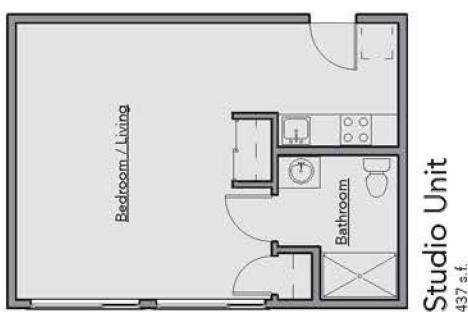


FOURTH FLOOR
16,452 SF

CB|Two
ARCHITECTS

AVESTA DEVELOPMENT GROUP
DUBLIN, CA
AUGUST 24, 2015

UNIT PLANS



0' 5' 10' 20'

Unit Count	
Studio Units:	11
1-Bed Units:	33
2-Bed Units:	4
Memory Care:	32
Total Units:	80

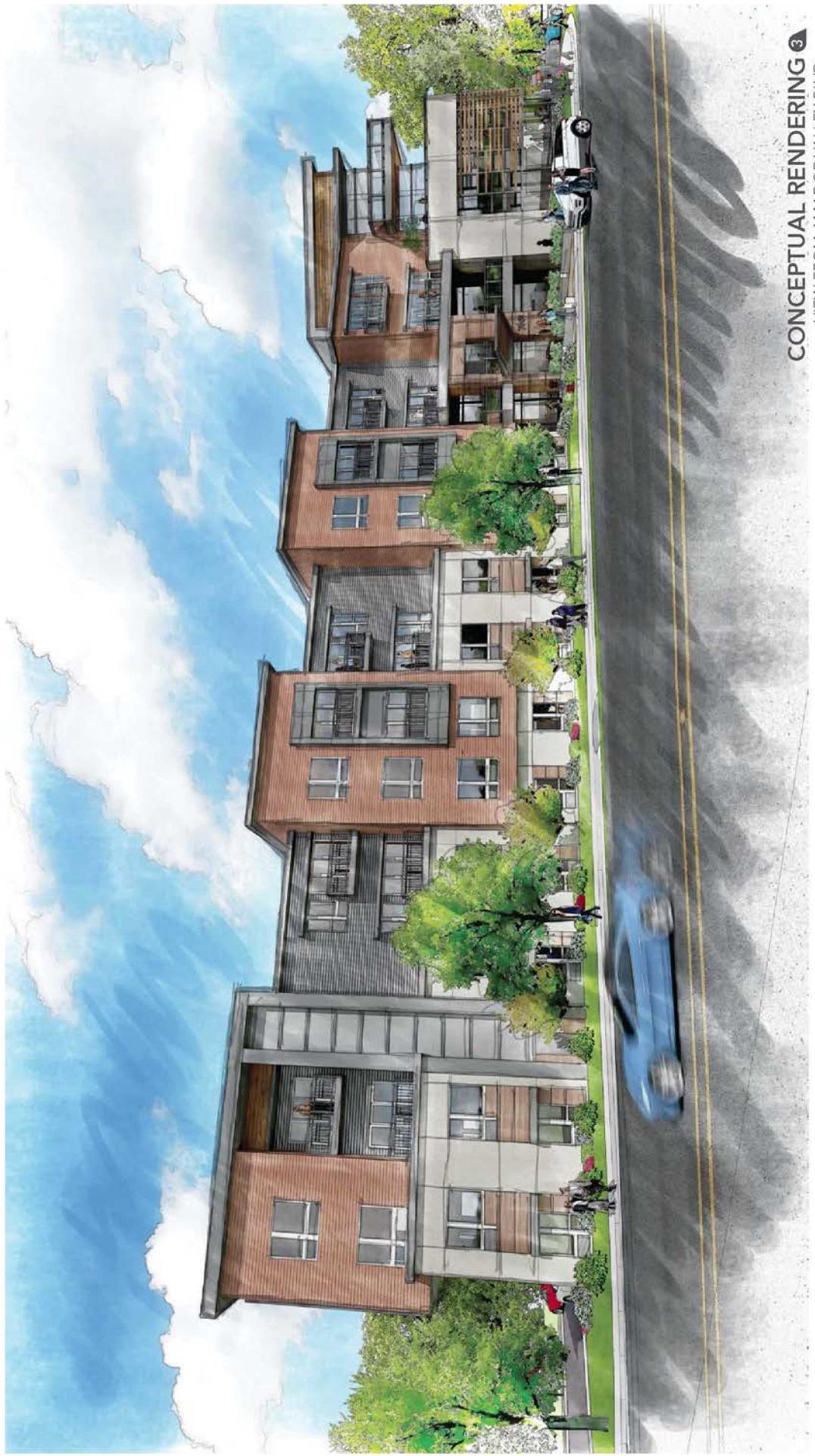


CONCEPTUAL RENDERING 2

VIEW FROM AMADOR VALLEY BLVD. AND DONOHUE DR.

AVESTA DEVELOPMENT GROUP
DUBLIN, CA
AUGUST 24, 2015

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ARCHITECTS

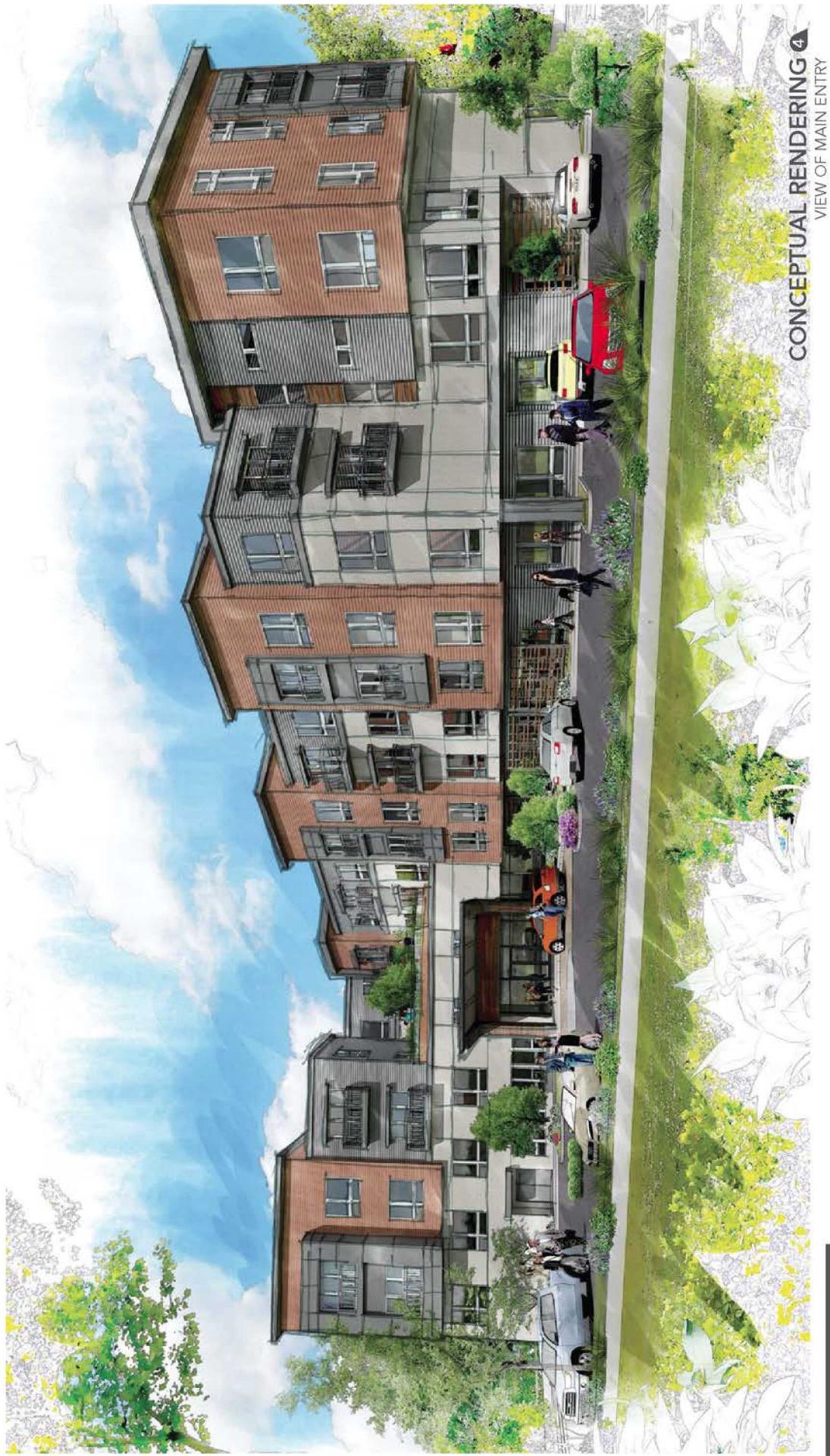


CONCEPTUAL RENDERING ③

VIEW FROM AMADOR VALLEY BLVD.

AVESTA DEVELOPMENT GROUP
DUBLIN, CA
AUGUST 24, 2015

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CONCEPTUAL RENDERING 4
VIEW OF MAIN ENTRY

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AUGUST 24, 2015

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CONCEPTUAL RENDERING
AERIAL VIEW LOOKING NORTH-EAST

AVESTA DEVELOPMENT GROUP
DUBLIN, CA
AUGUST 24, 2015

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CONCEPTUAL RENDERING
AERIAL VIEW LOOKING NORTH-WEST

AVESTA DEVELOPMENT GROUP
DUBLIN, CA
AUGUST 24, 2015

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ARCHITECTS
DESIGNERS • BUILDERS



Planning Commission Minutes

Tuesday, March 22, 2016

CALL TO ORDER/ROLL CALL

A regular meeting of the City of Dublin Planning Commission was held on **Tuesday, March 22, 2016**, in the City Council Chambers located at 100 Civic Plaza. Chair Kohli called the meeting to order at 7:00 p.m.

Present: Chair Kohli; Vice Chair Mittan; Commissioners Do, Bhuthimethee and Goel; Jeff Baker, Assistant Community Development Director; Kit Faubion, Assistant City Attorney; Kristi Bascom, Principal Planner; Martha Aja, Associate Planner; and Debra LeClair, Recording Secretary.

Absent: None

ADDITIONS OR REVISIONS TO THE AGENDA – NONE

MINUTES OF PREVIOUS MEETINGS – On a motion by Cm. Mittan and seconded by Cm. Do, on a vote of 4-0-1 (Cm. Kohli abstained) the Planning Commission approved the minutes of the February 9, 2016 meeting.

ORAL COMMUNICATIONS – NONE

CONSENT CALENDAR – NONE

WRITTEN COMMUNICATIONS – NONE

PUBLIC HEARINGS –

- 8.1 **PLPA-2015-00058 Avesta Senior Care Facility Project** - Site Development Review and Conditional Use Permits for a new assisted living/senior residential care facility in Downtown Dublin

Kristi Bascom, Principal Planner, presented the project as outlined in the Staff Report.

Cm. Bhuthimethee asked if the project proposed 36 parking spaces.

Ms. Bascom answered that the Applicant has revised the plans and there are now 40 parking spaces proposed.

Cm. Goel asked to compare the height of this project to the Trumark Regional Street project.

Ms. Bascom responded that the height of the Trumark Regional Street project is approximately 45 feet and the proposed senior care facility is proposed to be approximately 56 feet in height.

Cm. Goel asked the height of the adjacent buildings.

Ms. Bascom answered that the adjacent condominiums are two stories and the apartments on Donohue Drive are also two stories.

Cm. Goel felt that a two story building would be approximately 25-28 feet.

Ms. Bascom agreed.

Cm. Goel felt that the proposed building would be approximately twice the height of the surrounding buildings.

Ms. Bascom stated that the proposed building is four stories and the surrounding buildings are two stories.

Cm. Goel asked for a comparison of the FAR for the proposed project and the Trumark Regional Street project.

Ms. Bascom answered that the product type is very different because the Trumark project is for ownership townhomes at 60 units on 2.6 acres. She stated that the proposed project is a 1 acre site which is much more intensely developed with a variety of residential and commercial uses.

Cm. Goel felt that the proposed project is 30% more dense on the 1 acre site.

Ms. Bascom stated that the unit density is not viewed in the same way because residential density would be approximately 35 units and commercial is based on a per square foot basis.

Cm. Goel was concerned about the parking reduction and asked if the assumption is that 2 out of 3 employees would be taking public transportation.

Ms. Bascom stated that the parking study was based on the assessment of a similar facility that operates in a similar manner. She stated that the study did not assume the number of employees or visitors, but only reviewed how many cars were at the facility at a certain point and what percentage of the parking field was being occupied at any given time and is that parking sufficient.

Cm. Goel asked what the proximity is to alternative transportation at the facility that was used in the study.

Ms. Bascom stated that the study facility is located in Pleasanton and is further from transit opportunities than the proposed project. The proposed facility is within the downtown area, within a reasonable walking distance to shopping, etc., as well as bus routes along Amador Valley Blvd.

Cm. Goel asked about the methodology used for the parking analysis.

Ms. Bascom responded that the methodology for the parking analysis was to look at a facility that was currently operating and its parking supply and demand. She stated that they also looked at the industry standards. She stated that the study concluded that, based on a "real life" scenario, this facility would be sufficiently parked with 40 spaces. She stated that, if the project were considered only as an assisted living facility, they would only be required to provide 40 spaces, which is what is proposed. However, because of the 35 senior apartments, it is hard to know to what degree those residents would take advantage of the assisted living amenities,

therefore, the conservative approach would be to apply the senior parking ratio to this portion of the facility.

Cm. Goel mentioned Condition of Approval #10 regarding a Transportation Demand Management Plan and asked, if parking becomes an issue, what would be the options the Applicant could take to alleviate the issue.

Ms. Bascom answered that the project Applicant/Operator will provide shuttle service for employees to and from the BART station, transit subsidies, and staggered shift changes to reduce the peak parking demand for the project.

Cm. Goel asked if these shuttle and transit subsidies are meant for the employees only.

Cm. Bascom answered yes; the shuttle would be for the employees and suggested that the Applicant can answer whether he will offer the service to the residents. She stated that, the Condition of Approval reads: "*after six months the facility will provide a follow-up parking study to the City with the assessment of the parking conditions...*" If there is spill over that is impacting adjacent properties then the Applicant will need to submit additional transportation demand strategies for the facility. The Applicant/Operator will institute additional transportation programs that will lessen those demands. She felt that typically the parking demand mostly comes from the employees not the residents, who tend to not be car owners and visitors who come on a sporadic basis.

Cm. Goel asked if the community care facility has 24/7 care.

Ms. Bascom answered yes.

Cm. Mittan asked which trees on the project site will remain and which will be removed.

Ms. Bascom answered that, on Amador Valley Blvd., the tree wells will be enlarged, tree grates placed over them, missing trees will be replaced, and two additional street trees will be planted. Per the tree survey, the on-site trees are proposed to be removed. The Applicant will determine if any of the trees can be retained or relocated on-site and will do so if possible.

Cm. Mittan asked what type of fencing or wall will be installed at the back of the project and at what height.

Ms. Bascom stated that the Applicant provided three options for the fence/wall in the package, but the intent was to have a discussion with the neighboring condo HOA to see what would be preferable. She felt that the height would be 6 feet in height, which is typical, but it could go to 8 feet which is not unusual for a commercial project.

Cm. Mittan asked if the wall/fence would be consistent along the entire back border, including the fire station area.

Ms. Bascom answered the wall would be consistent against the condos and the Applicant will replace the wall that separates the site from the fire station.

Cm. Mittan was concerned about noise from the fire station as well as noises from the project and asked if the City has a recommendation regarding the height of the wall to lessen any noise pollution.

Ms. Bascom felt that that the City would not have a concern regarding the height of the fence.

Cm. Mittan asked about the public art component of the project and if it has been worked out with the Applicant.

Cm. Bascom answered that, at the SDR stage, the Applicant is asked to identify whether they intend to satisfy the public art requirement on-site or pay in-lieu fees. She stated that, per the City Ordinance, either option is up to the Applicant. The Applicant has stated that they would like to have public art component on the corner because of the way the plaza is designed.

Cm. Mittan was concerned about pedestrian access to the senior center and asked if any additional measures would be taken for the safety of the seniors crossing the street.

Ms. Bascom stated that there is an existing crosswalk at the intersection which functions and does not feel that any changes need to be proposed.

Cm. Mittan was concerned with the noise component because of ambulance and fire trucks, etc. entering the project from time to time.

Ms. Bascom suggested that the Applicant can speak to the frequency of noise at the site but she did not have the impression that it would be a problem for nearby residents.

Cm. Mittan asked if there was any outreach to the neighborhoods regarding the proposed project.

Cm. Bascom stated that the City mailed the typical public hearing notice and the Applicant has done outreach and held a community meeting with limited attendance.

Cm. Bhuthimethee asked what the concerns were of the one attendee at the meeting.

Ms. Bascom noted that the Applicant can answer that question.

Cm. Bhuthimethee asked about the fence, the wall and the screen at the back of the property and when the wall stops and the screening starts.

Ms. Bascom answered that the privacy screen walls will provide a buffer to the windows at the ground floor residential units along Amador Valley Blvd. There will be a 40 inch screen wall and another on the interior of the project which is 6 feet high. She stated that the walls are the perimeter boundaries on the project separating the project from fire station and the condos.

Cm. Bhuthimethee asked if the wall will be stepped down as it gets closer to Donohue Drive.

Ms. Bascom answered that the level of detail has not been discussed but agreed that at the driveway exit it would be important to be able to see around the corner.

Cm. Bhuthimethee asked if they will they be removing the row of mature olive and almond trees that are on-site.

Ms. Bascom answered that the trees are proposed to be removed. She stated that the Applicant is determining if any of the trees can be retained, but the parking area is close to the property line which would make it difficult.

Cm. Bhuthimethee felt it would be sad to lose those trees because they create a nice buffer.

Chair Kohli opened the public hearing.

Mohammad Javanbakht, Applicant, Avesta Development Group LLC, spoke in favor of the project. He introduced his team members and gave an overview of the project.

Patrick Morris, Fehr & Peers, spoke in favor of the project and presented an overview of the parking study.

Mr. Javanbakht responded to the question regarding comparing this type of community with strict residential uses, such as the Trumark Regional street project. He stated that the average size of the unit is 432 square feet compared with the average townhome unit which would have approximately 1,800 square feet. He stated that the proposed units would be occupied by one person who does not drive compared to residential units that are occupied by two to four residents who usually have two cars.

Chris Morris, architect, spoke in favor of the project and addressed the design of the project and conceptual landscape plan.

Cm. Do asked for a breakdown of the units

Mr. Javanbakht answered that there are 32 memory care beds, 13 high acuity assisted living units and 35 senior apartments. He stated that, of the total 35 apartments, there are four 2 bed units, of which 11 are studios, and the rest are 1 bedroom units.

Ms. Do asked why there are 2 bedrooms units.

Mr. Javanbakht answered that some residents move in with a partner or move from a larger home and are not ready to move to a 1 bedroom or studio, they feel more comfortable in a two bedroom until they are ready for a smaller unit.

Cm. Do was concerned about the 2nd floor memory care units having balconies.

Mr. Javanbakht answered that there are no balconies on the 2nd floor units for security issues.

Cm. Do was concerned about the outdoor patio on the 2nd floor for the memory care unit.

Mr. Javanbakht answered that there is a large outdoor screen on the balcony.

Cm. Mittan asked if they have other similar facilities near the proposed project.

Mr. Javanbakht responded that they have communities under development currently and their focus is to make these communities look more like condominiums and hotels, and not the typical senior housing. He stated that he could reference other facilities that look similar.

Cm. Mittan was concerned with the balconies facing west and the Dublin wind and if there will be wind screens on those balconies.

Mr. Morris responded that they are not that far into the design to address environmental issues, like wind screening, but it is something they could add to the balconies in the future.

Cm. Mittan asked where the delivery area would be located.

Mr. Javanbakht answered that deliveries will be made at the back of house.

Cm. Mittan asked if there would be delivery of medical gases and oxygen.

Mr. Javanbakht answered that there would not usually be these types of deliveries and that residents would bring their own.

Cm. Mittan asked if the rooms would be wired or plumbed for oxygen.

Mr. Javanbakht answered no.

Cm. Mittan asked if there will be room for the growth of the new street trees that will be planted at the front of the project.

Mr. Javanbakht answered yes.

Mr. Morris stated that they had a tree study done, but there was no arborist involved. He pointed out that the trees are located against the curb and there was no damage to the sidewalk from root growth. He added that they would determine how best to replace the sidewalk if damaged and not upset the existing root growth.

Cm. Mittan stated that he was more concerned with the canopy of the tree than the roots.

Mr. Morris stated that the building is set back enough to accommodate the canopy of the trees.

Cm. Mittan asked how what the setback is for the resident's building.

Ms. Bascom asked which residence he was referring to.

Cm. Mittan stated he was referring to the existing condos.

Ms. Bascom stated that she did not know the distance from the property line to the first condo building.

Mr. Javanbakht pointed out the closest unit within the project to the condos.

Cm. Mittan asked how staffing will affect the parking issue. He asked how the parking allotment was estimated and if it was based on facilities that the Applicant owns or a neighboring facility.

Mr. Javanbakht answered that the number of employees that were considered for the parking study was based on the assumption that the entire building will run as a true assisted living facility with high acuity residents.

Cm. Mittan asked if there will be more than one shuttle provided for the employees.

Mr. Javanbakht stated that there will be at least one shuttle and they will evaluate the demand to determine if there is a need for two shuttles.

Cm. Mittan asked if the parking space for the shuttle will take away from the 40 proposed parking spaces.

Mr. Javanbakht stated that the shuttle driver will remain on-site and will park the shuttle in the loading zone area and the driver can move the shuttle if needed.

Cm. Mittan asked for an explanation of the function and use of the roof top courtyards.

Mr. Javanbakht stated that the second floor courtyard dedicated to the memory care floor is for indoor/outdoor dining. There is also a state requirement for an accessible outdoor space for memory care units.

Cm. Bhuthimethee was concerned about the public view and how this project fits into the community. She stated that she likes the materials for the project, but felt that the grey balcony at the front of the project is large and imposing and asked if there was a way to soften the portion that wraps around the front corner.

Mr. Morris agreed and stated that there are a lot of ways to soften the appearance of the balcony which may mean that they step back the darker band at the bottom.

Cm. Bhuthimethee felt that they may be able to use some of the other textural materials to soften the look.

Mr. Morris agreed to work with the Applicant to soften the balcony.

Cm. Bhuthimethee asked if their landscape architect was present.

Mr. Morris stated that no landscape architect has been assigned to the project as yet.

There was a discussion regarding the materials for the landscaping and the conceptual landscape plan and making the project more pleasing.

Cm. Bhuthimethee asked about the proposed wall along the back of the property where there are almond and olive trees.

Mr. Morris stated that the wall would be part of the project and they provided three examples of the wall and plan to have a discussion with the condo HOA regarding what they would prefer.

Cm. Bhuthimethee asked if the wall would eliminate the trees or the parking.

Mr. Morris stated that the trees will be part of the discussion with the landscape architect and the HOA.

Cm. Bhuthimethee was concerned about the large olive tree on the corner of Amador Valley Blvd and Donohue Drive and asked if it would be retained.

Mr. Morris stated that the tree would not be retained with the current plan unless it could be relocated.

Cm. Bhuthimethee asked about the health of the tree.

Mr. Morris stated that they did not know the health of the tree.

Cm. Bhuthimethee asked if the trees along Amador Valley Blvd will be saved.

Mr. Morris answered yes.

Cm. Bhuthimethee felt that it would be helpful in mitigating the size and stature of the building to retain those trees.

Mr. Morris felt that the trees would help step down that approach and soften the look.

Cm. Bhuthimethee was concerned that the bio retention area in front of the building is a lined structure and no trees will be able to be planted between the building and the sidewalk, which is already very narrow.

Mr. Morris stated that the area will be predominantly grasses and succulents.

Cm. Bhuthimethee was concerned with the screened fencing along the back of the sidewalk, and felt that it seemed unfriendly, like the project is turning their back on the community. She felt that the only people who will be able to enjoy the landscaping are the people in the building. She was thinking about the community and the thousands of people who pass by the building and have to look at the fence.

Mr. Morris felt that is a question for the operator but felt that the screen is very transparent.

Cm. Bhuthimethee asked if the screened fencing could be eliminated so that the community can enjoy the landscaping as well as the residents.

Mr. Morris answered yes; but the operator will make that decision based on their desire to maintain privacy for the residents on the ground floor.

Cm. Bhuthimethee felt that the residents' privacy can be maintained within their unit with blinds and shades.

Ms. Bascom commented that the public works engineers were concerned and want a barrier because of the nature of the bioswales and making sure that between the sidewalk and the drop off that there is a buffer for safety.

Cm. Bhuthimethee asked if, instead of having a solid screen wall, there could be a metal railing that is transparent allowing the public to see the landscaping as well.

Mr. Morris stated that it is a possibility.

Cm. Bhuthimethee asked if the Applicant would be willing to screen the parking from the Starward Drive side.

Mr. Morris stated that there are trees and shrubs in the area to screen that area.

Cm. Bhuthimethee felt that the area was only grass.

Mr. Morris stated that there needs to be a more developed landscape plan to address these issues.

Mr. Javanbakht stated that they want to maintain the trees, especially the mature trees, to the greatest degree possible.

Cm. Bhuthimethee felt that, if the olive tree is to be move it should be somewhere that the public can see it.

Mr. Javanbakht agreed and felt that the trees soften the look of the building. He stated that they may be able to move it towards Amador Valley Blvd. He stated that he would consult with an arborist to make sure it can survive in that location but would want to maintain as many trees as possible.

Cm. Goel pointed out the wall at the west side of the building that is solid grey and agreed with Cm. Bhuthimethee regarding the starkness of that area as well. He did not like the shade of green on the color and materials board. He asked for an explanation of the parking study and the number of employees because he is concerned about the parking ordinance and the methodology used for the parking study.

Cm. Goel discussed the parking study and the number of employees included in the study and asked the Applicant to explain.

Mr. Javanbakht gave an overview of the parking study and the employee ratio within the study.

Cm. Goel was concerned that there is no street parking.

Ms. Bascom pointed out the street parking on Starward Drive, along the condominiums and the shopping center which is public parking and not metered. She stated that the parking analysis was done to show that all of the needed parking for the site could be accommodated on the site.

Cm. Goel asked why the fire access circulation is from Amador Valley Blvd. through the site to Donohue Drive where the fire station is located and not the other way around.

Ms. Bascom answered that the driveway will remain in the existing location as the entrance to the site.

Cm. Goel was concerned with the shuttle parked in the loading zone if there were an emergency with a fire truck and an ambulance blocking the facility.

Ms. Bascom stated that the fire lane is 20 feet wide through the site which is what the fire department requires. She stated that any parking on site would not encroach into the fire access lane.

Cm. Goel felt that having both a fire truck and an ambulance would stop circulation on the site.

Ms. Bascom stated that the fire department reviewed the site plans and were satisfied with the way the site circulates.

Cm. Goel asked if the fire department reviews the site plan for their purposes only or do they include other vehicles.

Ms. Bascom answered that the fire department reviews for any emergency vehicle that would need to get on the site and serve the building. She stated that the fire department makes sure that there is a clear fire access circulation on site, and there would be room to park a fire truck that is close enough to the building to get all their equipment where it needed to be.

Chair Kohli asked the average age of the residents in assisted living.

Mr. Javanbakht answered the average age is 82.

Chair Kohli asked what the average length of stay would be.

Mr. Javanbakht answered the average stay is 2-3 years.

Marlene Masetti, resident spoke in opposition to the project. She was concerned with the size of the building and felt it was too large for the small lot. She was also concerned about the parking, losing retail in the downtown area and no low income housing included in the project.

Marie Marshall, resident, spoke in opposition to the project. She stated that she does not object to the concept, but felt that it is in the wrong location. She was concerned with the size of the project, the landscaping, views, parking, height of the building, architecture, taxes, school overcrowding, and taking away retail in the downtown area.

Steven Litzsinger, resident, spoke in support of the project. He stated that he is representing his aunt and uncle, Art and Monica Silva, long time Dublin residents. He felt that this is a great project and that senior care is needed in the area. He felt that this project is an important addition to the community and urged the Planning Commission to approve the project.

Mr. Javanbakht thanked the Planning Commission for the opportunity for rebuttal. He stated that the parking analysis was performed by a specialist comparing similar facilities and actual uses. He stated that they are including more than the number of parking spaces needed for this type of facility based on his experience of running 200 other facilities. He added that the parking is important to him because he wants to provide the best residential experience as possible. He stated that it would not serve him as an owner of the building to have a facility that is under-parked. He felt that this project is very different from a strictly residential project and most of the residents don't drive and the care providers and most staff will use public

transportation. He also spoke regarding the conceptual landscaping plan and stated that it doesn't show the actual size of the trees. He stated that the renderings are to showcase the building, but in reality there will be large trees, and they will try to maintain the large trees or try to relocate them. He stated that they will be planting more trees and felt that there will be more trees than there are today.

Cm. Mittan was concerned with light pollution and asked if there was a lighting analysis completed and what the lighting plan will be for the building and the parking lot.

Mr. Javanbakht responded that they will follow the lighting code. He stated that there will be enough light to provide safety to the building but would be respectful of the residents.

Mr. Morris stated that the lighting plan is not planned out as yet but a photometric study will be conducted as required through the permit process.

Cm. Mittan asked about the proposed driveway materials.

Mr. Morris responded that the material will be concrete or asphalt.

Cm. Mittan asked if there were any areas where upgraded materials would be used.

Mr. Morris responded that they have not discussed that yet, but felt it was a good point, and suggested that they could use a stained concrete or paver in the drop-off area and the driveway on Starward Drive and Donohue Drive.

Mr. Javanbakht stated that there is a Condition of Approval regarding lighting and that they will adhere to that condition.

Cm. Do asked the plan for affordable housing in this project.

Mr. Javanbakht responded that there have been discussions with City Staff but it has not been finalized as yet but he stated that he would follow the requirements.

Cm. Bhuthimethee agreed with Cm. Mittan regarding installing decorative pavement at the Starward Drive and Donohue Drive entrances and felt it would soften the look.

Mr. Javanbakht agreed.

Cm. Bhuthimethee asked Ms. Masetti to return to the podium. She stated that Ms. Masetti was concerned that the building was too tall and under parked and asked what she would think if the building were three stories tall.

Ms. Masetti stated that she would be in favor of a three story building which would be more in line with the surrounding buildings. She was concerned with landscaping and felt there was not enough room for it at the front of the building and with the parking.

Cm. Bhuthimethee felt that a three-story building could alleviate the parking issue.

Ms. Masetti agreed.

Mr. Javanbakht felt that the project is well suited for the location and the proximity to the senior center, it is within the downtown area and within walking distance to shopping, transportation and easier for visiting family. He stated that the number of units and the height of the building were studied very carefully and felt that it would not be financially feasible to build the facility at three stories because of the high cost of operation. He stated that the building is sited appropriately for downtown. He mentioned that the Eden housing facility that is located behind the Senior Center is a four story building and higher than this project.

Cm. Goel asked to view the aerial photo and asked how many stories the Eden housing building is.

Ms. Bascom answered that Wicklow Square by Eden housing is three stories over parking which is the equivalent of four stories.

Chair Kohli closed the public hearing.

Cm. Do asked if the 35 residential units are part of the residential pool for the DDSP.

Ms. Bascom answered yes and stated that there are 400 available units in the DDSP, 60 of those were allocated to the Trumark Regional Street project and 35 would be allocated to this project, if approved.

Cm. Mittan felt that this site was an appropriate place for the facility with a central location to the senior center, shopping and fire station next door, etc. He was concerned with the parking and felt there could be an issue. He stated that he likes the style of the building and that it is different but not too different as to be out of place and fits well with the senior center and the nearby retail. He was concerned with closeness of the building to the sidewalk and the existing large trees and their growth. He suggested that the Applicant consult an arborist and mitigate to the best of their ability. He was also concerned with light and noise pollution, and felt that they should mitigate noise and light pollution to the adjacent condos.

Cm. Goel felt that the project has good amenities; he liked the garden area and the rooftop courtyards. He felt that the project is something that Dublin has been looking for. He liked the connection to the senior center. He felt that the Applicant is being a good neighbor by meeting with the condo HOA. He was concerned with traffic. He was not sure that the community wants a building with "*an urban model for senior care with a commercial look.*" CM Goel is concerned with the height of building but noted that the Eden housing building is four stories in height and asked what the actual height of that building is. He was concerned with the building's proximity to the edge of the roadway, the height of the building and the fact that it is on a curve which could cause an issue if a vehicle lost control. He was concerned about the parking conditions and spoke about the Trumark Regional project and that parking issue. He agreed with Cm. Bhuthimethee regarding the fencing on the front of the building and stated that there is the need to soften the look of the balcony also. He felt that there are nice elements to the project and that it is something that Dublin needs; he understands the importance of the proximity to the senior center but felt the facility could be located somewhere else.

Cm. Bhuthimethee asked if there is an age category for low income housing.

Ms. Bascom responded that the Inclusionary Zoning Requirements do not specify an age category.

Jeff Baker, Assistant Community Development Director, stated that the City has an affordable housing program which allows for either building the units, paying an in-lieu fee for a portion of units or, at the direction of the City Council, pay an in-lieu fee that goes towards other affordable housing programs. He stated that the City contributed \$6 million to the Eden veteran's housing project which came from the affordable housing fund. He stated that the City Council has directed staff to look for opportunities to partner with an affordable housing developer on another affordable project that might be geared towards a specific segment of the community that is in need. He stated that there is a need to increase that fund in order to meet the City Council's goals. He stated that the Applicant has had discussions with the housing staff regarding what would make the most sense; no decision has been reached as yet and it would be the City Council's decision. He added that some of the direction from the housing staff may be a preference for funds rather than building at the site.

Cm. Bhuthimethee stated that the Applicant will pay in-lieu fees rather than having the units on-site.

Mr. Baker answered that the decision has not been made as yet.

Cm. Bhuthimethee understood but preferred to have on-site affordable units for the seniors. She was concerned with the height of the building and felt the building is massive for the site and the landscaping area is limited. She felt that if this project were to go down to three stories it would alleviate a few concerns that the community and the Planning Commission have regarding parking and the height of the building. She suggested that, if a three story building would not work for the Applicant, perhaps a stepping down or step back. She asked if the Planning Commissioners would support that change.

Cm. Bhuthimethee asked if the City Council gave direction regarding allowing the units from the housing pool to be used for this project or if they were aware of how many units were required for this project.

Ms. Bascom stated that the project, at the time the City Council reviewed it for the unit allocation, was proposed at the same size, scale and location.

Mr. Baker mentioned that the City Council did not approve the project but they reserved the units so that the project could move forward through the entitlement phase. He stated that, while they reviewed the conceptual drawings and did not raise any red flags regarding the size of the building, the City Council did not review the SDR and they were not asked for feedback. But the DDSP allows a building up to 75 feet in height in this district; the Planning Commission is reviewing the design of the building etc.

Cm. Bhuthimethee asked the Planning Commissioners what their thoughts are on the three story versus a four story building.

Cm. Goel felt that the issue is not just the height but the closeness of the building to the street; he would support a stepped approach but the Applicant stated that it would not be economically feasible. He was not sure if that would give Cm. Bhuthimethee what she wants unless she was looking for a total mass height with a setback.

There was a discussion regarding a four story building versus a three story building and how that would change the project. Cm. Goel mentioned the possibility to reduce the height of the floor plates.

Cm. Goel made a motion, to reopen the public hearing; seconded by Cm. Bhuthimethee, on a vote of 4-1, Cm. Mittan voting no; Chair Kohli reopened the public hearing.

Chair Kohli asked the Applicant to return to the podium. He felt that the Planning Commission has concerns regarding the height of the building and understanding what feasible options are available to reduce the height.

Mr. Morris responded that the primary consideration for the height of the building is the structural system and the infrastructure for the building; i.e. the mechanical, electrical and plumbing systems. He stated that if they reduce the floor to floor height there would not be enough room for those systems. He stated that first floor needs additional height for services (14-16 feet), if they switched to a different structural system, which has not been determined, whether steel beams or post tension slab without beams, it's a very complex question.

Cm. Bhuthimethee asked if there was a way to reduce the height of the building.

Mr. Morris responded that it is a possibility once they have determined the most efficient and economical structural system, but it would be reduced by inches. He was reluctant to agree to a Condition of Approval because they don't know if they would be able to meet that reduction but stated that they could try to reduce the size of the building as much as possible.

Mr. Javanbakht stated that a typical wood frame building would be approximately 45 feet in height. He stated that the reason this building is taller is because, per code, a four story senior housing building must be built out of noncombustible materials which is either metal or concrete. He stated that he cannot answer the question specifically, but once the structural design is complete he will work to make the building shorter.

Cm. Goel asked if the Applicant would like more time to come back to the Planning Commission.

Mr. Javanbakht stated that they have gone through many design schemes and did not feel that additional time would change the design, based on the number of units, for the project to be feasible. He stated that he is not in a position financially to go through another redesign.

Cm. Mittan asked if one of the designs included flipping the parking and the building so that the parking was located in the front of the building.

Mr. Javanbakht yes; however, the DDSP requires that the building be closer to the street, also did not want to locate the building close to the adjacent buildings.

Cm. Mittan asked if part of the reasoning for the site layout was the DDSP requirement.

Mr. Javanbakht answered yes; and part was for consideration of the neighbors.

Chair Kohli closed the public hearing.

Cm. Bhuthimethee felt that the height can only be reduced by a few feet and asked Staff how to word a Condition of Approval.

Mr. Baker responded that the Applicant has indicated that there are design considerations that would drive their ability to meet that condition. He suggested that the Planning Commission can direct Staff to work with the Applicant to explore those opportunities to reduce the height of the building, but he felt that the Applicant could not commit to that today. He stated that Staff can work with the Applicant during the plan check stage.

Cm. Bhuthimethee stated that senior housing is needed in this community and felt that is good project; the location is perfect being near the senior center and near other senior housing, it is located within the DDSP area and will add this community to the downtown that could bring in vibrancy. She felt that it is a good project with a good location but felt there should be some conditions:

1. Prior to approval of plans the Applicant shall improve the appearance of the outer façade of the third story balcony with the use of composite wood panels or other complementary materials in order to soften the appearance of the large balcony; and
2. Prior to approval of the landscape plans the Applicant shall specify a cut stone pavement material or concrete unit paver or decorate colored concrete paving at the corner plaza as illustrated on the plans; and
3. Provide a rich veneer material or complementary materials at the raised planters in the plaza; and
4. Addressing the screen at the back of sidewalk using a decorative metal railing for transparency so public can share landscaping and enjoy public realm view; and
5. Show the wall or the fence between the proposed building and fire house to step down as it approaches Donohue Drive; and
6. Pier footing to be employed to promote the preservation of existing trees along the proposed wall; and
7. Screen the parking along Starward Drive from the public view; and
8. Protect and preserve or transplant the olive tree on the corner of Amador Valley Blvd and Donohue Drive and to preserve the street trees along Amador Valley Blvd. Removal of those trees only on certified arborist examination that they cannot be preserved; and
9. Decorative vehicular paving at the drop-off and entry and exit points along Starward Drive and Donohue Drive with colored or stamped concrete or pavers; and
10. To work with staff to reduce the building height where possible.

Cm. Mittan added that the area on the west side of building should be enhanced as well.

Cm. Goel stated that his request was to soften the west side of the building in a similar fashion as the third floor balcony on the front of the building. He felt that the architect agreed to make a connection between two sides.

Cm. Do was concerned with the number of additional conditions being proposed and was not sure that was the best way to handle changes. She felt that the Applicant will take the Planning Commission's thoughts into consideration.

Cm. Bhuthimethee felt that, if these are not a condition, the Applicant is not required to do it. She asked Staff if it was necessary to include conditions.

Cm. Do asked if the landscaping plan would be brought to the Planning Commission.

Mr. Baker answered that the final landscape plans would not come back to the Planning Commission but the formal landscape plan would be based on the conceptual landscape plan. He stated that if there is something that the Planning Commission specifically wants to see they can make it a Condition of Approval. He stated that Staff hears the comments that the Planning Commission is making and felt that, though not a Condition of Approval, Staff would explore with these concerns with the Applicant. He stated that if there is something specific that the Planning Commission wants they can add a Condition of Approval.

Cm. Bhuthimethee felt that if the Applicant supports the additional Conditions of Approval that the Planning Commission should also support them.

Cm. Mittan felt that there is no formal landscaping plan therefore, it is the Planning Commission's only chance for input.

Chair Kohli felt that Cm. Bhuthimethee feels strongly about the Conditions of Approval that she has suggested, but there was some hesitancy by the other Planning Commissioners about the number. He suggested either voting on each condition individually, bundle them together and vote or continue to deliberate to decide which should ones should be included.

Cm. Mittan felt that they should quickly go through the additional Conditions of Approval and then vote on them as a bundle.

Cm. Do agreed with Cm. Mittan.

Cm. Goel stated he would vote no and that Cm. Bhuthimethee felt that her Conditions of Approval were driving his choice.

There was a discussion regarding Cm. Bhuthimethee's suggested Conditions of Approval.

After the discussion, Chair Kohli stated that four Planning Commissioner's support voting on the additional Conditions of Approval as a bundle.

Kit Faubion, Assistant City Attorney, suggested that there are three options;

1. Make a motion as recommended by Staff;
2. Make a motion to accept Staff recommendation with the additional items as direction to Staff;
3. Make a motion as recommended by Staff, with the 10 items as additional Conditions of Approval.

Chair Kohli asked the Planning Commission which they would prefer.

Cm. Do choose option #2 making the conditions as a direction to Staff.

Cm. Mittan choose option #3 making the items Conditions of Approval.

Cm. Bhuthimethee choose option #3 making the items Conditions of Approval.

Cm. Goel stated that his choice would be none of the above.

Chair Kohli suggested having Staff read the additional Conditions of Approval and asked if the Planning Commission should give the Applicant an opportunity to respond.

Ms. Faubion felt that it was time for the Planning Commission to take action.

Chair Kohli agreed.

On a motion by Cm. Bhuthimethee and seconded by Cm. Mittan, on a vote of 3-2, the Planning Commission adopted: Staff's recommendations with conditions as stated by Cm. Bhuthimethee:

Ayes: Kohli, Bhuthimethee, Mittan

Noes: Do, Goel

Added Conditions of Approval:

1. The Applicant shall work with Staff to identify opportunities to reduce the overall height of the building where feasible.
2. The Applicant shall work with Staff to soften the visual appearance of the third floor balcony at the corner of Donohue Drive and Amador Valley Blvd.
3. Incorporate enhanced paving material in art plaza.
4. Incorporate a visually open barrier along the back of walk on Amador Valley Blvd.
5. Step down the wall on the north property line at the Donohue Drive exit.
6. Consider opportunities to preserve the trees along the north property line.
7. Transplant the large Olive tree on the corner of Donohue Drive and Amador Valley Blvd. unless determined to not be feasible by a certified arborist.
8. Incorporate enhanced paving material at the driveways and the drop-off area.
9. Provide a hedge screen at the driveway on Starward Drive.
10. Incorporate enhanced veneer materials on the seat wall at the art plaza.

RESOLUTION NO. 16-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DUBLIN

**APPROVING A CONDITIONAL USE PERMIT FOR A COMMUNITY CARE FACILITY/
RESIDENTIAL CARE FACILITY FOR THE MORRISLY AS PART OF THE AVESTA SENIOR
CARE FACILITY PROJECT
7601 AMADOR VALLEY BOULEVARD**



RESOLUTION NO. 16-03

A RESOLUTION OF THE PLANNING COMMISSION

OF THE CITY OF DUBLIN

APPROVING A CONDITIONAL USE PERMIT FOR A PARKING REDUCTION FOR AN
INDIVIDUAL USE FOR THE AVESTA SENIOR CARE FACILITY PROJECT
7601 AMADOR VALLEY BOULEVARD

RESOLUTION NO. 16-04

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF DUBLIN

APPROVING SITE DEVELOPMENT REVIEW FOR THE
AVESTA SENIOR CARE FACILITY PROJECT
7601 AMADOR VALLEY BOULEVARD

- 8.2 **PLPA-2016-00012 Dublin Infiniti Dealership** Site Development Review to allow construction of a 2,745 SF addition, façade modifications and site improvements

Martha Aja, Associate Planner, presented the project as outlined in the Staff Report.

Cm. Mittan asked if there are any changes to landscaping plan.

Ms. Aja answered no.

Cm. Mittan asked about round-about, at the end of the court and if that was meant to be a decorative area.

Ms. Aja answered that nothing ever been approved for that area but the Applicant has expressed interest in doing something more decorative.

Cm. Bhuthimethee felt that there was supposed to have been an art piece in that area.

Ms. Aja answered that the Applicant, through the development of the Kia Dealership, made a monetary contribution in-lieu of providing public art.

Chair Kohli opened the public hearing.

Inder Dosanjh, Applicant, had no comments.

Chair Kohli closed the public hearing.

Cm. Bhuthimethee disclosed that, early in her career she worked for Applicant but is not currently working for the Applicant.

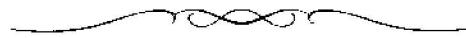
Ms. Faubion stated that as long as there is no current source of income, she is not required to recuse herself from the discussion and vote.

On a motion by Cm. Goel and seconded by Cm. Do, on a vote of 5-0, the Planning Commission unanimously adopted:

RESOLUTION NO. 16- 05

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF DUBLIN**

**APPROVING A SITE DEVELOPMENT REVIEW PERMIT FOR A 2,754 SQUARE FOOT
ADDITION, FAÇADE MODIFICATIONS AND RELATED SITE IMPROVEMENTS TO THE
DUBLIN INFINITI DEALERSHIP LOCATED AT 4300 JOHN MONEGO COURT**



NEW OR UNFINISHED BUSINESS – NONE

OTHER BUSINESS - NONE

- 10.1 Brief **INFORMATION ONLY** reports from the Planning Commission and/or Staff, including Committee Reports and Reports by the Planning Commission related to meetings attended at City Expense (AB 1234).
- 10.2 Cm. Mittan asked Mr. Baker about training for Social Media guidelines. Mr. Baker stated that there is no date set as yet for training.

ADJOURNMENT – The meeting was adjourned at 10:17:50 PM

Respectfully submitted,


Planning Commission Chair

ATTEST:



Jeff Baker

Assistant Community Development Director

RESOLUTION NO. XX - 16

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF DUBLIN**

**APPROVING A COMMUNITY BENEFIT AGREEMENT BETWEEN THE CITY OF
DUBLIN AND AVESTA DEVELOPMENT GROUP**

WHEREAS, Avesta Development Group has proposed the construction of a senior care facility in Downtown Dublin at 7601 Amador Valley Blvd. (the northwest corner of Donohue Drive and Amador Valley Blvd); and

WHEREAS, the facility is 66,787 square feet and consists of 35 senior apartments, 13 high-acuity assisted living units, 32 memory care units and supporting common spaces; and

WHEREAS, Avesta applied for and received approval for the project by the Planning Commission on March 22, 2016, pending approval of the Community Benefit Agreement by the City Council; and

WHEREAS, Avesta is seeking 35 units from the residential development pool and 10,329 square feet from the commercial development pool. In exchange for this allocation, Avesta will pay a community benefit payment of \$490,000 prior to the occupancy of the building; and

WHEREAS, Avesta has agreed to satisfy the requirements of Chapter 8.68 (Inclusionary Zoning Regulations) through the purchase of four Affordable Unit Credits through the City for \$100,000 per Affordable Unit Credit; and

WHEREAS, if Avesta fails to obtain the building permit for the Project within two years after the Effective Date of this Agreement, the Excess Capacity reserved for Avesta shall revert to the Pool maintained by the City.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Dublin hereby approve the Community Benefit Agreement between the City of Dublin and Avesta Development Group, as attached as Exhibit A to this Resolution.

BE IT FURTHER RESOLVED that the City Council authorizes the City Manager to execute the Agreement and gives the City Manager authority to execute any minor amendments to the Agreement, as needed, to carry out the intent of this Resolution.

PASSED, APPROVED AND ADOPTED this 1st day of November, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

City Clerk

CITY OF DUBLIN COMMUNITY BENEFIT PROGRAM AGREEMENT

This Community Benefit Program Agreement (“Agreement”) is entered into on this day _____ of _____, 2016, by and between the City of Dublin, a municipal corporation (“City”) and Avesta Development Group LLC, a California limited liability company (“Developer”). City and Developer are, from time-to-time, individually referred to in this Agreement as a “Party,” and are collectively referred to as “Parties.”

RECITALS

- A. On February 1, 2011, the City adopted Resolution No. 9-11 establishing a “Downtown Dublin Specific Plan” (the “Specific Plan”), which sets forth a comprehensive set of guiding principles, standards, and design guidelines for the implementation of future development in Downtown Dublin (“the Specific Plan Area”).
- B. The Specific Plan regulates the density of development allowed in the Specific Plan Area by establishing a “Base Floor Area Ratio (FAR)” for development in each of the three districts within the Specific Plan Area.
- C. The Specific Plan also establishes a pool of additional development potential, in the form of 1,320,220 square feet of non-residential development, 150 hotel rooms, and 2,500 residential dwelling units (collectively “the Excess Capacity”) apportioned between the three districts in the Specific Plan Area. The pool can be used by developers that wish to develop a project that exceeds the Base FAR up to a defined “Maximum FAR” and by developers that wish to develop residential dwelling units. Developers wishing to utilize said Excess Capacity must participate in the Community Development Program and enter into a Community Benefit Program Agreement with the City.
- D. Developer proposes to develop certain property at 7601 Amador Valley Boulevard (“the Property”), which is within the Retail District of the Specific Plan Area, and as part of its proposal desires to develop a project consisting of 35 senior apartments within a larger Community Care Facility that includes an additional 13 high acuity assisted living units and 32 memory care suites. The project also includes the related parking, landscape, hardscape, and on-site amenities (“the Project”). In exchange for the use of excess development capacity in the form of 35 residential units and 10,329 square feet of commercial square footage to enable development of the Project, Developer proposes to provide \$490,000 (“the Community Benefit”).
- E. Developer proposes to satisfy the requirements of Chapter 8.68 (Inclusionary Zoning Regulations) by applying Affordable Unit Credits that this agreement obligates it to purchase through the City for \$100,000 per Affordable Unit Credit. The inclusionary requirement for the 35 senior apartments is four units, and therefore the Applicant will deposit \$400,000 with the City to purchase the Affordable Unit Credits to fully satisfy the requirements of Chapter 8.68. This payment will be due at the time of building permit issuance.

- F. Developer has applied for, and the Planning Commission has approved, contingent upon City Council approval of a Community Benefit Program Agreement, a Site Development Review (Planning Commission Resolution No. 16-04), a Conditional Use Permit for a Community Care Facility/Residential Care Facility for the Elderly (Planning Commission Resolution No. 16-02), and a Conditional Use Permit for a Parking Reduction (Planning Commission Resolution No. 16-03) which approvals, together with any approvals or permits now or hereafter issued with respect to the Project, are referred to as the "Project Approvals."
- G. The City and Developer have reached agreement with respect to the Community Benefit and desire to express herein a Community Benefit Program Agreement clearly setting forth the Community Benefit to be provided by the Developer, the scope and nature of excess development capacity to be granted to Developer in exchange for said Community Benefit, the Developer's obligation to purchase Affordable Unit Credits to satisfy its affordable housing obligation, and the City Council's approval of the use of the Affordable Unit Credits under City Code Section 8.68.040(D).

NOW, THEREFORE, with reference to the foregoing recitals and in consideration of the mutual promises, obligations and covenants herein contained, City and Developer agree as follows:

AGREEMENT

1. Relationship of City and Developer.

It is understood that this Agreement is a contract that has been negotiated and voluntarily entered into by the City and Developer and that the Developer is not an agent of the City. The City and Developer hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making the City and Developer joint venturers or partners.

2. Effective Date and Term.

2.1 Effective Date. The effective date of this Agreement is the first date on which all of the following have occurred: (a) its execution by Developer, and (b) its execution by City.

2.2 Term. The term of this Agreement shall commence on the Effective Date and shall extend until the earlier of the following: 1) the Developer has provided the Community Benefit and deposited funds with the City for the purchase of Affordable Unit Credits as provided in Section 3 of this Agreement, 2) any of the Project Approvals expires, or 3) two years after the Effective Date if no building permit has been issued for the Project.

3. Community Benefit to Be Provided By Developer.

- 3.1 Developer shall provide a \$490,000 Community Benefit to the City, specifically in the amounts of \$350,000 for the 35 units of residential housing capacity and \$140,000 for the 10,329 square feet of commercial allocation. The contribution shall be made prior to issuance of the certificate of occupancy for the Project; provided, however, that the City and Developer may mutually agree that a portion of the \$490,000 Community Benefit shall be supplied by Developer constructing mutually agreed upon physical improvements that benefit a geographic area or individuals or interests beyond the Property and the Project. In no event shall the City be required to allow occupancy of the building unless the \$490,000 Community Benefit contribution has been provided to the City.
- 3.2 Notwithstanding anything to the contrary in Chapter 8.68 of the Dublin Municipal Code (the "Inclusionary Zoning Regulations"), Developer shall satisfy its four-unit affordable housing obligation for the 35 senior apartments and for the Project as a whole through the application of the four Affordable Unit Credits which may, at City's election, be purchased from either the City or Dublin Family, L.P., an affiliate of Eden Housing, Inc. ("Eden") created as a result of Eden's construction of an affordable housing development in Dublin ("Eden Project"). Developer shall purchase such credits by depositing \$400,000 with the City no later than issuance of building permit. The City will use the deposited funds to purchase the Affordable Unit Credits from either the City or Eden on Developer's behalf in accordance with the terms of the Eden Project Regulatory Agreement. Nothing in this Agreement amends the terms of the Eden Project Regulatory Agreement with respect to Eden's rights to the Affordable Unit Credits or funds from the proceeds of the sale of such credits. Deposit of the \$400,000 fully satisfies Developer's obligation under the Inclusionary Zoning Regulations for the 35 senior apartment units.

4. Security Deposit.

Within 14 days of the effective date of this Agreement, Developer shall provide to the City a deposit in the amount of 10% (\$49,000). Said deposit is intended to secure the provision by the Developer of the Community Benefit described in Section 3 of this Agreement. The City will return the full amount of the deposit within 5 days of Developer's provision of said Community Benefit as required by Section 3 of this Agreement.

If Developer fails to provide the Community Benefit during the term of this Agreement, the deposit shall be forfeited, and City shall have no obligation to return it to Developer. However, City shall return the entire deposit if this Agreement expires without any development of the Project by the Developer or if the Developer elects in writing to abandon its rights under the Project Approvals and this Agreement at any time prior to the expiration of this agreement, in which case the Agreement shall automatically terminate.

5. Reservation of Excess Development Capacity.

- 5.1 **Reservation of Excess Capacity.** During the term of the Agreement, and so long as each of the Project Approvals remain in effect, City shall reserve 35 units of residential housing and 10,329 square feet of commercial space allocated to the Retail District of the Specific Plan Area and the Affordable Unit Credits for Developer's use. If Developer fails to obtain the building permit for the Project within two years after the Effective Date of this Agreement (as such time may be extended by any events of force majeure), the Excess Capacity reserved for Developer shall revert to the pool maintained by the City.
- 5.2 **Limitation on City's Obligation.** This Agreement shall not be construed to require the City to issue any Project Approval to the Developer. City is solely required to reserve the Excess Capacity and Affordable Unit Credits identified in Section 5.1 of this Agreement. Other than this obligation, nothing in this Agreement shall prevent the City from denying or conditionally approving any subsequent land use permit or authorization for the Project. Unless otherwise specified by this Agreement or the Project Approvals, all of City's applicable ordinances, resolutions, rules, regulations and official policies shall apply to the Project including, but not limited to, those governing the permitted uses of the Property, design and construction of the Project, density and intensity of use of the Project, and the maximum height, bulk and size of proposed buildings within the Project.

6. Amendment or Cancellation.

- 6.1 **Amendment by Mutual Consent.** This Agreement may be amended in writing from time to time by mutual consent of the parties.

7. Severability.

The unenforceability, invalidity or illegality of any provisions, covenant, condition or term of this Agreement shall not render the other provisions unenforceable, invalid or illegal, unless a Party's consideration materially fails as a result.

8. Attorneys' Fees and Costs.

If the City or Developer initiates any action at law or in equity to enforce or interpret the terms and conditions of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs in addition to any other relief to which it may otherwise be entitled. If any person or entity not a party to this Agreement initiates an action at law or in equity to challenge the validity of any provision of this Agreement, the parties shall cooperate in defending such action. Developer shall bear its own costs of defense as a real party in interest

in any such action, and shall reimburse the City for all reasonable court costs and attorneys' fees expended by the City in defense of any such action or other proceeding.

9. Assignment.

Developer may wish to sell, transfer or assign all or portions of the Property to other developers (each such other developer is referred to as a "Transferee"). In connection with any such sale, transfer or assignment to a Transferee, Developer may sell, transfer or assign to such Transferee its rights and obligations under this Agreement, so long as said transfer would not result in development of the Property in excess of the FAR permitted by the Project Approvals. Affiliates of Developer, including ventures in which Developer is the development partner but not the majority owner, will not be considered Transferees for these purposes. No such transfer, sale or assignment of Developer's rights, interests and obligations hereunder shall occur without prior written approval by the City Manager. The City Manager shall not unreasonably withhold approval of any transfer and the sole criterion shall be that the proposed Transferee possesses the financial ability to satisfy the obligations of Developer pursuant to Sections 3.1 and 3.2 of this Agreement. Developer shall submit to the City Manager any notice of Developer's intent to transfer, sell or assign its interest, which shall include documentation that the Transferee satisfies the criterion. Within five (5) business days after Developer submits its notice, the City Manager may request any commercially reasonable documents, certifications and other information necessary to determine whether the criterion is met, and the City Manager's failure to request such additional information shall constitute a determination that no such further information is needed. The City Manager will make a written determination on any transfer, sale or assignment on or before the later of: 1) five (5) days after Developer's submission of additional information if requested by the City Manager, or ten (10) calendar days after Developer's notice of the proposed transfer, and the City Manager's failure to object in writing to the transfer, sale or assignment within such time period shall constitute approval of the transfer.

10. Notices.

All notices required to be given to City under this Agreement shall be in writing and shall be addressed as follows:

City Manager
City of Dublin
100 Civic Plaza
Dublin, CA 94568
FAX No. (925) 833-6651

All notices required to be given to Developer under this Agreement shall be in writing and shall be addressed as follows:

Avesta Development Group
c/o Mohammad Javanbakht
13922 Quito Rd.
Saratoga, CA 95070
Tel: (925) 899-8981
Email: mjavan@avestadev.com

11. Agreement is Entire Understanding.

This Agreement constitutes the entire understanding and agreement of the parties.

12. Legal Authority.

Each individual executing this Agreement hereby represents and warrants that he or she has full power and authority under the entity's governing documents to execute and deliver this Agreement in the name of and on behalf of the company and to cause the entity to perform its obligations under this Agreement.

13. No Third Party Beneficiaries. This Agreement is made and entered into for the sole benefit of the Parties and their successors and assigns. No other persons shall have any right of action based upon any provision of this Agreement.

[Execution Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date and year first above written.

CITY OF DUBLIN

By: _____

Christopher L. Foss, City Manager

Attest:

Caroline Soto, City Clerk

Approved as to form

DEVELOPER

AVESTA DEVELOPMENT GROUP, LLC

By: m Javanbakht

Mohammad Javanbakht

It's Manager

John Bakker, City Attorney