

## CITY COUNCIL STAFF REPORT

Agenda Item: H-1  
Date: November 29, 2010  
Department: Planning

**AGENDA TITLE:** General Plan and Zoning Amendments for Eden Housing, LLC Senior Affordable Housing project at 2 Irwin Way (former Orinda Library site)

**STAFF RECOMMENDATION:** (1) Approve Resolution No. 68-10 adopting the Proposed Mitigated Negative Declaration (MND) for the Eden Housing project, (2) Approve Resolution No. 69-10 amending the General Plan Land Use designation of 2 Irwin Way and (3) introduce Ordinance No. 10-11 amending Title 17 - Planning and Zoning of the Orinda Municipal Code establishing a Senior Housing Overlay District and development standards for 2 and 20 Irwin Way by title only, waiving reading of the full text of the Ordinance.

**BACKGROUND:** Staff presented the Planning Commission's recommendations on the proposed MND and General Plan and zoning amendments to the City Council at its November 16, 2010 meeting for the purpose of obtaining Council direction before the proposals are presented for Council action at its November 29, 2010 meeting. At the meeting, the City Council indicated unanimous support for the proposed MND (Resolution No. 68-10), as drafted and for the General Plan Land Use designation amendment (Resolution No. 69-10), with one change to clarify that all of the uses allowed under the existing Public and Semipublic (PS) land use designation of the site will continue to be allowed, subject to a use permit. Orinda Municipal Code section 17.9.2 (Attachment 1) states that: "*Public and semi-public use classifications on sites of less than two acres shall be permitted in all districts.*" Two Irwin Way is 1.45 acres.

The Council also reached consensus on the proposed amendment to the Municipal Code (Ordinance No. 10-11) to create a Senior Housing Overlay District, with the exception of two proposed development standards contained in the proposed overlay district. Councilmembers Glazer and Severson expressed concern with the proposal to increase the number of stories (paragraph H of 17.4.33) and the building height (paragraph I of 17.4.33) allowed in the Senior Housing Overlay District before conclusion of the Downtown workshops. The proposed code amendment is limited to the site of the former library and Orinda Senior Village. The next workshop on downtown is scheduled for December 9, 2010 and the process going forward for considering a long-term plan for downtown has not been determined.

Councilmember Glazer suggested as an alternative that the proposed ordinance be revised so that the standards for number of stories and building height are not changed from the standards allowed under current zoning on the site.

The item was continued to the November 29, 2010 hearing. The Ordinance is presented in its original form, along with alternate language which includes the existing standards for number of stories and building height, for Council consideration.

**SUMMARY:** Development standards of the PS district are flexible. The code states in section 17.9.3 that:

*“Property development standards shall be as required by the closest adjoining residential or downtown district base regulations or as established by the Planning Commission by conditions imposed at the time of review for approvals required by this title, including but not limited to minimum lot size, setback, height and design review. In addition, all development shall be subject to Chapter 17.15, Development Standards for All Uses, and Chapter 17.16, Off-street Parking and Loading, of this title.”*

Two Irwin Way is surrounded by property in the Downtown Commercial (DC), Residential Medium-Density (RM) and Public, Semipublic and Utility (PS) Districts. Therefore, if the City Council chooses to incorporate the existing standards for number of stories and building height into the new Senior Housing Overlay District, the Planning Commission would have the flexibility to apply the DC or RM district standards or to establish the standards it deems to be most appropriate, through the design review process. Table One provides a comparison of the options for development standards for setback, height and number of stories available for 2 Irwin Way under the existing PS District regulations that apply to the site.

**Table One**

**Existing Development Standard Options for 2 Irwin Way**

Development Standard	Zoning District		
	Downtown Commercial	Residential Medium-Density	Public, Semipublic and Utility
Setbacks	10 feet from all property lines	Determined by Planning Commission (PC)	Determined by PC
Building Height	35 feet	25 feet	Determined by PC
Number of Stories	2 ½ stories	None specified	Determined by PC

Staff prepared the following alternative language for the story limit and building height limit of the new Senior Housing Overlay District:

**H. Story Limit.** The maximum number of stories shall be as required by the closest adjoining residential or downtown district base regulations or as established by the Planning Commission by conditions imposed at the time of review for approvals required by this title.

**I. Building Height Limit.** The maximum building height shall be as required by the closest adjoining residential or downtown district base regulations or as established by the Planning Commission by conditions imposed at the time of review for approvals required by this title.

The standards for building height, unit density, parking standards, building setbacks and building plane line cause the limit on the number of stories to be meaningless. Therefore, similar to the existing RM district standards, the Council may wish to consider omitting the story limit standard from the proposed Senior Housing Overlay District.

The draft Ordinance contains both the Planning Commission's recommendation (as presented at the November 16, 2010 City Council meeting) and the alternatives presented above. A selection between these options or other options the Council may consider at the hearing will be necessary when the Ordinance is introduced.

Application of the existing PS District development standards was considered by the Planning Commission during its deliberations on the proposed code amendments and therefore, the Council may proceed without referring the matter back to the Planning Commission. In addition, if the Council adopts the alternative language regarding the number of stories and building height, no changes are necessary to the Mitigated Negative Declaration as there would be no new impacts as a result of the alternate Ordinance language.

**NEXT STEPS:** Ordinance No. 10-11 will be included on the December 7, 2010 Consent Calendar for adoption, if it is introduced by the City Council on November 29, 2010.

**FISCAL IMPACT:** None.

**ATTACHMENTS:**

- Attachment 1: OMC Chapter 17.9 – Public, Semipublic and Utility District
- Attachment 2: Draft Resolution No. 68-10 adopting a Mitigated Negative Declaration
- Attachment 3: Draft Resolution No. 69 - 10 amending the General Plan Land Use Designation of 2 Irwin Way from Public and Semipublic to Residential: Multifamily
- Attachment 4: Draft Ordinance No. 10 – 11 Establishing a Senior Housing Overlay District and development standards for 2 and 20 Irwin Way.

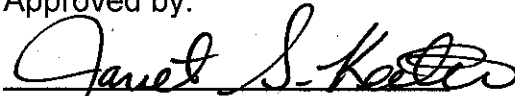
Respectfully submitted by,



Emmanuel Ursu, Director of Planning

---

Approved by:



Janet S. Keeter, City Manager

**Orinda, California, Code of Ordinances >> Title 17 - ZONING >> Chapter 17.9 - PUBLIC, SEMI-PUBLIC AND UTILITY DISTRICT >>**

**Chapter 17.9 - PUBLIC, SEMI-PUBLIC AND UTILITY DISTRICT**

**Sections:**

- [17.9.1 - Specific purposes.](#)
- [17.9.2 - Applicability.](#)
- [17.9.3 - Development regulations.](#)

**| 17.9.1 - Specific purposes.**

The specific purpose of the PS public, semi-public and utility district is to preserve established patterns of diverse uses such as the high-intensity community center and the East Bay Municipal Utility District ("EBMUD") filter plant and the undeveloped lands of the EBMUD watershed and to subject any changes in existing uses to a heightened level of scrutiny to assure consistency with the general plan.

*(Ord. 99-5 § 2 (Exh. A (part))*

**| 17.9.2 - Applicability.**

- A. The PS district shall be the base district for the used listed in Schedule 17.9.2 entitled "PS District—Land Use Regulations." Public and semi-public use classifications on sites of less than two acres shall be permitted in all districts.
- B. A use in the PS district is permitted as provided in Schedule 17.9.2 entitled "PS District—Land Use Regulations." A use classification followed by the letter "U" is a use authorized in the PS district on approval of a use permit. Definitions of uses appear in Chapter 17.2 of this title.

**Schedule 17.9.2**

<b>PS DISTRICT—LAND USE REGULATIONS</b>	<b>U Use Permit Required</b>
<b>Public and Semi-Public Uses</b>	
Cemetery	U
Club or Lodge	U
College, Public or Private	U
Congregate Care Facility	U
Cultural Institution	U Only along arterial or collector streets
Day Care, General	U Only within a public building
Emergency Medical Care	U Only within a public building
Government Office	U
Hospital	U
Maintenance or Service Facility	U
Park or Recreation Facility	U
Public Parking Facility	U
Public Safety Facility	U
Public Transit Facility	U
Religious Assembly	U
School, Public or Private	U
Utilities, Major	U
Utilities, Minor	U
<b>Accessory Uses and Structures</b>	
Permitted on the site of a permitted use, but requires a use permit if added on the site of a	

conditional use.	
Temporary Uses	
(Temporary events permitted under Chapter 17.37)	
Agricultural Uses	
Animal Husbandry	U
Crop Production	U

*(Ord. 99-5 § 2 (Exh. A (part))*

**17.9.3 - Development regulations.**

Property development standards shall be as required by the closest adjoining residential or downtown district base regulations or as established by the Planning Commission by conditions imposed at the time of review for approvals required by this title, including but not limited to minimum lot size, setback, height and design review. In addition, all development shall be subject to Chapter 17.15, Development Standards for All Uses, and Chapter 17.16, Off-street Parking and Loading, of this title.

*(Ord. 99-5 § 2 (Exh. A (part))*

BEFORE THE CITY COUNCIL OF THE CITY OF ORINDA

In the Matter of:

Adopting a Mitigated Negative )  
Declaration and Approving a Mitigation )  
Monitoring and Reporting Program ) Resolution No. 68-10  
(MMRP) Pursuant to the California )  
Environmental Quality Act (CEQA) for the )  
Eden Housing, LLC Development )  
Proposal for an Affordable Senior )  
Housing project with up to 71 units and )  
associated General Plan amendment on )  
property located at 2 Irwin Way and )  
associated Zoning Code Amendments on )  
property located at 2 and 20 Irwin Way )

WHEREAS, on December 10, 2009, Eden Housing, LLC ("Eden") submitted conceptual plans for development of a 71-unit affordable senior housing project on property located at 2 Irwin Way, conceptual plans for a 10-space community parking lot on property located at 10 Irwin Way and associated applications for design review and amendments of the General Plan Map, Zoning Map and Zoning Code ("Project"); and

WHEREAS, City of Orinda provided notification on June 30, 2010 to Native American individuals/organizations that may have knowledge of cultural resources in the Project area per the requirements of Government Code section 65352.3, but no additional cultural resources were identified through this process; and

WHEREAS, the City prepared an Initial Study and proposed Mitigated Negative Declaration ("IS/MND") for the Project, which was available for public comment from October 9, 2010 to November 29, 2010; and

WHEREAS, while the design review application is incomplete and only conceptual plans were submitted for the project, the IS/MND evaluates the development proposal to the extent feasible, based on currently available information; and

WHEREAS, the IS/MND also evaluates the potential environmental impacts of the proposed General Plan and Zoning Code amendments associated with the Project; and

WHEREAS, the IS/MND concludes that, with the implementation of mitigation measures to reduce the Project's air quality impacts, the Project will not have a significant effect on the environment; and

WHEREAS, the general public was advised of the availability of the IS/MND through direct mailing pursuant to CEQA Guidelines section 15072(B)(3) and copies of

the IS/MND were made available at the City of Orinda Planning Department, on the City's website at [www.cityoforinda.org](http://www.cityoforinda.org) and were provided to interested parties; and

WHEREAS, public comments were received on the IS/MND from East Bay Municipal Utility District (EBMUD) wherein EBMUD confirmed availability of water service for the Project; and

WHEREAS, the City also prepared a Mitigation Monitoring and Reporting Program ("MMRP") for the Project, which sets forth the measures required to mitigate or avoid the Project's potentially significant impacts on the environment; and

WHEREAS, on November 9, 2010, the Planning Commission approved Statement of Official Action 2010-026 recommending that the City Council adopt the IS/MND, approve the MMRP, and consider the Planning Commission's recommendation prior to acting on the General Plan and Zoning amendments for the Project; and

WHEREAS, the IS/MND, MMRP, and recommendation of the Planning Commission were considered at a regular, duly noticed meeting of the City Council on November 16 and a special meeting on November 29, 2010; and

WHEREAS, the IS/MND is complete, correct, and adequate, and satisfies the requirements of the California Environmental Quality Act ("CEQA"); and

WHEREAS, the City Clerk of the City of Orinda located at 22 Orinda Way, Orinda, CA is the custodian of the documents or other material which constitute the record of proceedings upon which the City Council's decision is based; and

WHEREAS, the IS/MND reflects the independent judgment of the City Council of the City of Orinda; and

WHEREAS, based on the evidence before the City Council, including the IS/MND and MMRP, the City Council finds that the Project as proposed, mitigated, and conditioned will not have a significant effect on the environment.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Orinda does hereby adopt the IS/MND and approve the MMRP for the Project pursuant to and in accordance with CEQA.

Adopted by the City Council of the City of Orinda at a special meeting on November 29, 2010 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:



---

Thomas T. McCormick, Mayor

ATTEST:

---

Michele Olsen, City Clerk

Exhibit A – Mitigation Monitoring and Reporting Program

**Mitigation Monitoring and Reporting Program  
Eden Housing, LLC Affordable Senior Housing Project at 2 Irwin Way**

This Mitigation Monitoring and Reporting Program (MMRP) reflects the development application submitted by Eden Housing, LLC in December 2009 which includes:

1. conceptual development plans for 71 residences (70 one bedroom senior affordable units and one two bedroom manager's unit) on property at 2 Irwin Way;
2. conceptual development plans for a 10-space community parking lot on property at 10 Irwin Way;
3. amendment of the General Plan land use designation of the 2 Irwin Way site from Public and Semipublic to Residential: Multifamily;
4. amendment of the zoning of the 2 Irwin Way site from Public, Semipublic and Utility District to the Residential Medium-Density District; and
5. establishment of a Senior Housing Overlay District and development standards and application of this overlay district to 2 and 20 Irwin Way.

This MMRP is in compliance with Section 15097 of the CEQA Guidelines, which requires that the Lead Agency "adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects." The MMRP lists mitigation measures recommended in the Mitigated Negative Declaration and identifies mitigation monitoring requirements.

Mitigation Measures	Mitigation Responsibility	Monitoring/Reporting Agency	Monitoring Schedule
<p>Consistent with guidance from the BAAQMD, the following actions shall be required of demolition and construction contracts and specifications for the project.</p> <ol style="list-style-type: none"> <li>1) Water all active construction areas as needed to control fugitive dust.</li> <li>2) Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.</li> <li>3) Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.</li> <li>4) Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites.</li> <li>5) Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.</li> <li>6) Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).</li> <li>7) Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.)</li> <li>8) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.</li> <li>9) Replant vegetation in disturbed areas as quickly as possible.</li> </ol>	<p>Project applicant shall ensure language on construction documents</p>	<p>City of Orinda</p>	<p>Prior to issuance of first demolition or grading permit</p>

BEFORE THE CITY COUNCIL OF THE CITY OF ORINDA

In the Matter of:

Amending the General Plan land use designation of ) Resolution No. 69-10  
2 Irwin Way (former site of the Orinda Library) from )  
"Public and Semipublic" to "Residential: Multifamily." )

---

WHEREAS, the City of Orinda owns the 1.4 acre parcel located at 2 Irwin Way ("Site"); and

WHEREAS, the only existing structure on the Site is the former Orinda Library; and

WHEREAS, the City of Orinda has developed a new library at a different location and no longer uses the former Orinda Library located at the Site; and

WHEREAS, the City of Orinda has determined that the existing structure on the Site should be demolished and that the Site should be used for affordable housing for seniors; and

WHEREAS, development of affordable housing on the Site would assist the City of Orinda in meeting its "fair share" of the regional housing need, as obligated under state housing element law, and in fulfilling the requirements for eligibility of receipt of Measure J funds, which constitute approximately one-third of the City's annual road maintenance budget; and

WHEREAS, the Site is currently designated "Public and Semi-Public" in the City's General Plan and is zoned "Public, Semipublic and Utility"; and

WHEREAS, all of the uses allowed under the existing Public and Semipublic land use designation of the Site will continue to be allowed, subject to a use permit because the Site is 1.45 acres and Orinda Municipal Code section 17.9.2 states that "*Public and semi-public use classifications on sites of less than two acres shall be permitted in all districts;*" and

WHEREAS, the Site could not be developed with an affordable senior housing project under the current General Plan and Zoning designations; and

WHEREAS, to facilitate development of housing on the Site, Implementation Measure 3-3 of the October 2004 Housing Element update of the Orinda General Plan calls for the City to "*Amend the zoning designation of the 1.4 acre former Orinda Library site to Medium-Density Residential;*" and

WHEREAS, state law requires consistency between the City's General Plan and Zoning Ordinance;

WHEREAS, to maintain consistency between the City's General Plan and Zoning Ordinance while, at the same time, re-designating the Site "Medium-Density Residential," the City must amend the Site's General Plan designation from "Public and Semi-Public" to "Residential: Multifamily";

WHEREAS, in June 2006, the City of Orinda received payment of \$2.5 million from the developers of the Wilder project in Gateway Valley, as stipulated in the March 15, 2005 *Second Amendment and Restatement of the Development and Pre-Annexation Agreement for Gateway Valley Between City of Orinda and Orinda Gateway, LLC*, for the purpose of making the Site available for the construction of an affordable senior housing project; and

WHEREAS, the City of Orinda began the process of selecting an affordable senior housing developer for the Site by issuing a Request for Qualifications in December 2007; and

WHEREAS, after an extensive selection process, on October 21, 2008 the City Council unanimously selected Eden Housing, LLC ("Eden") as the preferred developer for the Site; and

WHEREAS, on December 10, 2009, Eden submitted to the City of Orinda conceptual plans for a 71-unit affordable senior housing project on the Site, conceptual plans for a 10-space community parking lot on property located at 10 Irwin Way and associated applications for design review and amendments of the General Plan Map, Zoning Map, and Zoning Code; and

WHEREAS, on December 14, 2009, the City of Orinda and Eden entered into a two-year Exclusive Right to Negotiate Agreement for the purpose of negotiating a Disposition, Development and Loan Agreement for development of a 65 to 70-unit affordable senior housing facility on the Site; and

WHEREAS, on June 30, 2010 letters were sent in accordance with Government Code section 65352.3 to the required California Native American tribes; and

WHEREAS, the City of Orinda Planning Commission held public meetings on June 29, August 10 and August 31, 2010 and a public hearing on September 14, 2010, which was publicly noticed per the requirements of Government Code section 65353, regarding the proposed General Plan Map, Zoning Map, and Zoning Code amendments; and

WHEREAS, the General Plan Residential-Multifamily land use designation allows non-age restricted housing at a base density of 6 to 10 units per acre and the General Plan states that "*Housing limited to senior occupancy at a base density*

*exceeding 10 units per acre is consistent with the Plan if the impacts do not significantly exceed those common to nonrestricted occupancy units within the prescribed density range;" and*

WHEREAS, the Planning Commission found that traffic and parking impacts of affordable senior housing at 38 units per acre do not significantly exceed the traffic and parking impacts common to non-age restricted residential development at 10 units per acre and, therefore, development of affordable senior housing at 38 units per acre (50 units per acre with the 35% state density bonus) is consistent with the Residential-Multifamily density; and

WHEREAS, on September 14, 2010 the Planning Commission recommended that the City Council consider approving an amendment to the General Plan land use designation of 2 Irwin Way from "Public and Semipublic" to "Residential: Multifamily," as proposed by City Staff and Eden Housing, LLC; and

WHEREAS, amending the General Plan land use designation of the Site from "Public and Semipublic" to "Residential: Multifamily" will not create inconsistencies with other policies in the City's General Plan; and

WHEREAS, Implementation Measure 3-4 of the October 2004 Housing Element update of the Orinda General Plan calls for the City to "offer the City-owned former Orinda Library for sale to a developer of affordable senior housing at up to 30 units per acre;" and

WHEREAS, Implementation Measure 3-10 of the October 2004 Housing Element update of the Orinda General Plan calls for the City to "[c]ontinue to encourage development of affordable senior housing in and near the downtown through increases in density, including up to 30 dwelling units per acre where appropriate;" and

WHEREAS, Implementation Measures 3-4 and 3-10 were not intended to place a cap on the densities at which the Site can be developed, but rather express the City's intention of increasing densities at the Site as much as possible to encourage the development of affordable senior housing at the Site; and

WHEREAS, the City is in the process of updating its Housing Element; and

WHEREAS, the draft of this most recent Housing Element update, which has been approved by the City Council of the City of Orinda, omits Implementation Measure 3-10 and revises Implementation Measure 3-4 to call for the City to amend the land use and zoning designations for the Site to allow a base density of 38 senior affordable housing units per acre (or 50 units per acre with 35% state density bonus) on the Site; and

WHEREAS, amending the General Plan land use designation of the Site from "Public and Semipublic" to "Residential: Multifamily" will not have significant impacts on the environment as defined by the California Environmental Quality Act (CEQA) and as described in the Mitigated Negative Declaration adopted by the City Council by Resolution No. 68-10 at the November 29, 2010 hearing; and

WHEREAS, on November 16 and November 29, 2010, at public hearings noticed consistent with Government Code section 65355, the City Council took testimony, discussed the issues and considered all the written and oral evidence presented at the public hearing in making its decision; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Orinda does hereby approve the General Plan amendment amending the General Plan land use designation of 2 Irwin Way from "Public and Semipublic" to "Residential: Multifamily" and finds that the amendment is in the public's interest as set forth below:

1. There is a need for affordable senior housing near transit and the commercial and institutional services available in downtown Orinda and amending the land use designation of the Site to allow for residential development will help meet this need;
2. The amendment is consistent with, and implements several policies and implementation measures (IM) of the Housing Element of the General Plan, including the following:
  - a. *Continue to work with nonprofit housing agencies to coordinate and encourage affordable housing. (IM 1-3)*
  - b. *Encourage the preservation of affordable housing and encourage the development of more new affordable housing. (Policy 2.1 )*
  - c. *Support the efforts of non-profit organizations and developers to obtain State and/or Federal funds for the construction/preservation of affordable housing for lower income residents. (IM 2-3)*
  - d. *Locate sites for multifamily housing near Downtown. (Policy 3.1)*
  - e. *Amend the zoning designation on the 1.4 acre former Orinda Library site to Medium-Density Residential. (IM 3-3)*
  - f. *...offer the City-owned former Orinda Library for sale to a developer of affordable senior housing at up to 30 units per acre. (IM 3-4)*
  - g. *Continue to encourage development of affordable senior housing in and near the downtown through increases in density, including up to 30 dwelling units per acre where appropriate. (IM 3-10)*
  - h. *Encourage development of housing designed to meet the unique needs of seniors and persons with disabilities." (IM 4.2)*
3. Development of affordable senior housing on the Site will assist the City in meeting its "fair share" of the regional housing need and thereby make the City of Orinda eligible to receive Measure J funds which constitute approximately one-third of the City's annual road maintenance budget.

Adopted by the City Council of the City of Orinda at a special meeting on November 29, 2010 by the following vote:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

\_\_\_\_\_  
Thomas T. McCormick, Mayor

ATTEST:

\_\_\_\_\_  
Michele L. Olsen, City Clerk

Exhibit A: Revised General Plan Map





BEFORE THE CITY COUNCIL OF THE CITY OF ORINDA

In the Matter of:

An Ordinance Revising portions of Title 17, )  
"Planning and Zoning Code" and Amending )  
the Zoning Map to Designate 2 Irwin Way )  
"Residential Medium-Density District" and to )  
Apply the "Senior Housing Overlay District" )  
to 2 and 20 Irwin Way )

---

Ordinance 10-11

The City Council of the City of Orinda does ordain as follows:

**Section 1.** The City Council of the City of Orinda intends, by adopting this Ordinance No. 10-11, to add a new zoning overlay district to Title 17 of the Municipal Code. This new district, called the "Senior Housing Overlay District," provides special development standards that may be applied to qualifying senior housing facilities. A qualifying senior housing facility is an age-restricted residential development for seniors that complies with state and federal fair housing law. Only senior housing facilities that satisfy state and federal requirements for permissible "housing for older persons" or "housing for senior citizens" may utilize the modified development standards of the new Senior Housing Overlay District. An applicant proposing a senior housing facility project may proceed under the design standards applicable to multifamily residential projects, if those standards are preferred.

The modified development standards of the Senior Housing Overlay District are designed to facilitate the development of senior housing facilities while recognizing the special needs of seniors. For example, these standards require such features as pedestrian access to neighboring streets and parks while reducing the off-street parking requirements typically required of non-age restricted multifamily housing. The modified development standards permit additional density (38 units per acre) for senior housing facilities in the Senior Housing Overlay District, but require additional design elements and features to ensure that the facilities fit in aesthetically with neighboring structures.

These modified development standards are consistent with the design guidelines set forth in California Civil Code section 51.2 for meeting the physical and social needs of seniors. See, e.g., Civ. Code § 51.2(d)(5) ("The development shall be designed to encourage social contact by providing at least one common room and at least some common open space."). They also assist the City in implementing its affordable housing incentive program, which seeks "to reduce production costs in projects containing affordable units by adjusting design standards for setbacks, lot coverage, street width, unit size and parking, for senior projects." Orinda General Plan, Housing Element, Implementation Measure 1-4.

The Senior Housing Overlay District does not prohibit the development of non-age restricted housing within the district's boundaries. However, non-age restricted

residential developments will be subject to the general development standards set forth in Title 17 of the Municipal Code, rather than the special standards for senior housing facilities.

This ordinance also intends to amend the Zoning Map to designate 2 Irwin Way "Residential Medium-Density District" and to apply the Senior Housing Overlay District to 2 and 20 Irwin Way.

**Section 2.** Under Section 17.2.3 of the Municipal Code, add the following definition between the definitions of "senior citizen" and "service station":

"Senior Housing Facilities" are housing facilities that qualify as "housing for older persons" ("HOP") under the federal Fair Housing Act, 42. U.S.C. § 3607(b), and as "housing for senior citizens" ("HSC") under the Unruh Civil Rights Act, Civil Code Sections 51.2 and 51.3.

**Section 3.** Section 17.4.33, entitled Senior Housing Overlay District (SH-Overlay) Development Standards," is added as follows:

17.4.33 Senior Housing Overlay District (SH-Overlay) Development Standards. Senior Housing Facilities, as defined in section 17.2.3, in the SH-Overlay District may apply the standards of this section in lieu of the underlying multifamily district standards. Non-age restricted development in the underlying multifamily district shall be developed in compliance with the multifamily development standards of section 17.4.32, and all other applicable development standards.

A. Allowed by right. Multi-family Senior Housing Facilities, as defined in section 17.2.3, are allowed by right in the RM district subject to the design review requirements of Chapter 17.30, the development standards of this section and other applicable city ordinances.

B. Off-Street Parking. Parking spaces for each dwelling unit shall be provided consistent with the requirements of Chapter 17.16 of this title.

C. Shared Open Space. Outdoor common area(s) of at least 100 square feet per dwelling unit shall be provided for active and passive group recreation. Each outdoor area shall have a dimension no less than eight feet and shall not include driveways, parking areas or required street fronting yards.

D. Laundry Facilities. Adequate laundry facilities shall be provided by:

1. Constructing a laundry room with the equivalent of one standard washing machine for each 15 dwelling units and an equivalent capacity in automatic clothes dryers; or

2. Provide properly designed and plumbed areas within each dwelling unit for washing and drying clothes.

E. **Lighting and Security.** Night and security lighting and security measures shall be provided as necessary to ensure safe and convenient access and use of senior housing development. All outdoor lighting shall be shielded to prevent glare and outdoor light fixtures more than three feet above the ground shall be shielded to prevent direct illumination off-site.

F. **Landscaping.** All development shall include landscape plans as required in Chapter 17.17 of this title. In addition, landscaping shall provide substantial landscape screening from off-site vantage points and, as appropriate, side and rear yard landscaping. Landscaping shall blend with the design of the development and enhance the visual quality of the streetscape, and to help achieve design consistency with the character of the neighborhood.

G. **Permitted Density.** Multifamily senior housing in the RM district shall be developed at no more than 38 units per acre.

H. **Story Limit.** No more than four stories are permitted.

**(Alternate H.) Story Limit.** The maximum number of stories shall be as required by the closest adjoining residential or downtown district base regulations or as established by the Planning Commission by conditions imposed at the time of review for approvals required by this title.

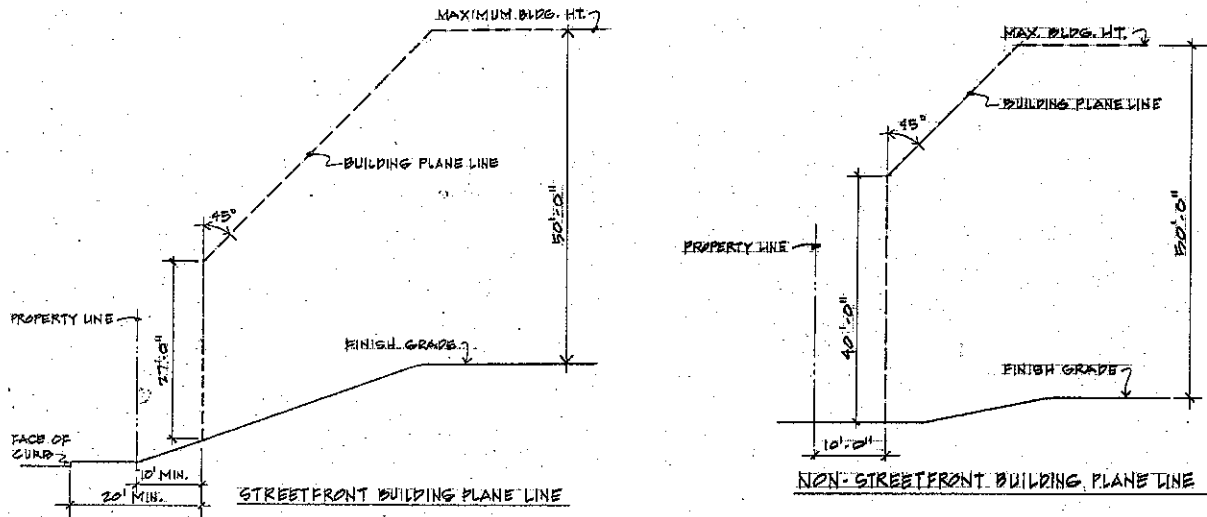
I. **Building Height Limit.** The maximum building height to the highest roofline is 50-feet, as measured perpendicular to finish grade. Five-foot building projections above the 50-foot maximum building height are permitted to add architectural interest and for mechanical equipment rooms, solar panels, elevator shafts, parapets and mechanical equipment.

**(Alternate I.) Building Height Limit.** The maximum building height shall be as required by the closest adjoining residential or downtown district base regulations or as established by the Planning Commission by conditions imposed at the time of review for approvals required by this title.

J. **Building Setbacks.** Buildings shall be set back 20 feet from the face of curb on all street fronting property lines, but in no case less than 10 feet from the property line and a 10-foot setback shall be provided from all other property lines.

K. **Building Plane Line.** Except as provided in subparagraph 12, no portion of a building shall project beyond the building plane line. The building plane line for facades with street frontage is a plumb line drawn 27 feet high at the setback line then inward on the lot at a 45-degree angle to the maximum building height. At interior property lines the building plane line is a plumb line 40 feet high at the setback line then inward on the lot at a 45-degree angle. For purposes of this requirement, the vertical measurements are taken from finish grade.

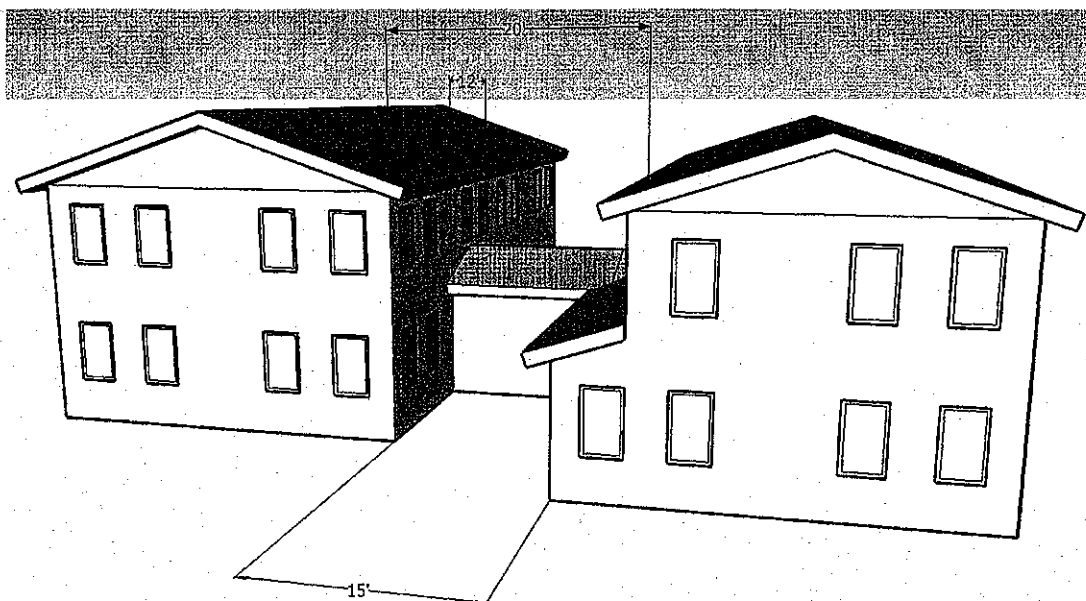
**Section 17.4.33 K Graphics**



L. Building Projections. Projections described permitted in section 17.4.18 also apply to the building setbacks and building plane line of this section.

M. Building Separation. Separate buildings on the same parcel shall be no closer than 20 feet. Buildings with common walls less than 12 feet in length shall be considered separate buildings for the purposes of this requirement. This requirement shall apply to each story separately as illustrated below.

**Section 17.4.33 M Graphic**



N. **Trash Enclosures.** Trash and recycling enclosures shall be located conveniently for residents, and out of vehicular circulation areas. Trash and recycling enclosures may not be located within five feet of interior property lines or within the street fronting setbacks. Trash and recycling enclosures shall be of a design which is compatible with the development.

O. **Gathering Rooms.** Projects with eight or more units shall include adequate gathering rooms or locations for facility residents, based on a requirement of at least ten square feet per dwelling unit. Areas devoted to kitchen areas and restrooms in such community facilities shall not count toward meeting this requirement.

P. **Pedestrian access.** Direct pedestrian access to abutting public streets and parks shall be provided.

Q. **Mechanical Equipment:**

1. **General Requirement.** Exterior mechanical equipment (except solar collectors) and operating mechanical equipment must be screened from off-site views. Equipment to be screened includes, but is not limited to, heating, air conditioning, refrigeration equipment, plumbing line, ductwork and transformers. Placement of mechanical equipment is limited by the setback requirements of the base zoning district, unless otherwise provided for within this title.

2. **Utility Meters.** A utility meter must be screened from view from the public right-of-way. A meter or transformer in a required front yard or in a corner side yard must be enclosed in a subsurface vault.

3. **Screening Specifications.** Screening material may have evenly distributed openings or perforations not exceeding fifty (50) percent of the surface area and must effectively screen mechanical equipment so that it is not directly visible from off-site. Heavy, evergreen landscaping may be used to meet these requirements.

**Section 4.** Under section 17.16.4, Schedule 17.16.4A is amended as follows:

**Schedule 17.16.4A**

**Off-street Parking and Loading Spaces Required**

Use Classifications	Schedule A Off-Street Parking Spaces	Off-Street Loading Spaces per Group Classification on Schedule B
<b>Residential</b>		
Congregate Care	0.5 per sleeping room, or as specified by use permit	

Day Care, Limited	One per six children; maximum enrollment based on maximum occupancy load	
Group Residential	One per sleeping room plus one per 100 sq. ft. used for assembly purposes or for common sleeping areas	
Multifamily Residential:		
Studio	One covered/unit	
One Bedroom	1.5 covered/unit	
2+ Bedrooms	Two covered/unit	
Guest Parking	0.25/unit	
Single-family Dwelling and Manufactured Home on Individual Lot	Four: two enclosed/two unenclosed	
Second Dwelling Unit	Two: one enclosed/one unenclosed	
Residential Care	One per three licensed beds	
<u>Multifamily Senior Housing Facility:</u>		
<u>Senior occupied unit</u>	<u>0.5 covered per unit</u>	
<u>On-site manager's unit</u>	<u>1 covered per unit</u>	
<u>Guest</u>	<u>1 space per 10 units</u>	
Commercial		
Adult Businesses	As specified by use permit	A
Animal Services	One per 400 sq. ft.	A
Commercial Recreation:		
Electronic Game Centers	One per 400 sq. ft.	
Theaters	One per four fixed seats, or one per 35 sq. ft. seating area if there are no fixed seats.	B
Restaurants	One per three seats	
Restaurants, Take-out	One per 150 sq. ft.	A
Bar/Tavern	One per 50 sq. ft. of seating area	A
Bar with Live Entertainment/Dancing	One per 50 sq. ft. of seating area; plus one per 50 sq. ft. of dance floor	A
Home Improvement Sales and Service	One per 500 sq. ft. plus one per 1,000 sq. ft. of outdoor sales and storage area	
Laboratory, Limited	One per 500 sq. ft.	A

Maintenance and Repair Services	One per 400 sq. ft.	A
<b>Use Classifications</b>	<b>Schedule A Off-Street Parking Spaces</b>	<b>Off-Street Loading Spaces per Group Classification on Schedule B</b>
Nursery	One per 1,000 sq. ft. lot area for first 10,000 sq. ft.; one per 5,000 sq. ft. thereafter, plus one per 250 sq. ft. sales floor area	
Offices, Business and Professional, including Medical and Dental	One per 250 sq. ft.	B
Personal Services (Barber, Beauty Shop)	Two spaces per chair	
Retail Sales, General	One per 250 sq. ft.	A
Bank and Savings and Loan	One per 200 sq. ft., plus three spaces for each walk-up teller window and ATM	B
With Drive-Through Service	Queue space for five cars per teller	
Vehicles Sales and Service:		
Automobile Repair, Limited	One per 200, but not less than five	
Auto Rentals	One per 400 sq. ft.; plus two vehicle drop-off spaces	A
Auto Washing	One per 200 sq. ft. of sales, office, or waiting area; plus on-site queue for three cars	
Service Stations	One per 2,500 sq. ft. of lot area; plus one per 500 sq. ft. of service bay and storage area (Pump spaces are not counted)	
Vehicle Equipment Sales and Service	One per 1,000 sq. ft. of lot area	
Visitor Accommodations	One per guest room; plus one per 50 sq. ft. banquet seating area plus parking for other uses and facilities as required by this schedule	A
<b>Public and Semi-Public</b>		
Cemetery	As specified by permit	

Club and Lodge	One per 50 sq. ft. used for assembly purposes	C
College, Public or Private	One per three classroom seats, or as specified by use permit	
Congregate Care	Per use permit	
Convalescent Hospital	As specified by use permit	A
Cultural Institution	One per 300 sq. ft.	C
Day Care, General	Three plus one per ten children	C
Government Office	One per 200 sq. ft.	C
Hospitals	One per two licensed beds	A
Park and Recreation Facilities	As specified by use permit	
Public Safety Facility	As specified by use permit	A
Religious Assembly	One per 50 sq. ft. seating area	
Schools, public and private	As specified by use permit	
Utilities, Major	As specified by use permit	
Vocational Schools	As specified by use permit	

**Section 5.** Under section 17.30.5, entitled "Basic Design Review Standards," subsection (D) is added as follows:

D. Inapplicability to Senior Housing Facilities. The above basic design review standards shall not apply to a Senior Housing Facility (as that term is defined in section 17.2.3) proposed in a Senior Housing Overlay District (SH-Overlay). Design review of such a proposal shall instead be governed by the standards contained in section 17.30.11.

**Section 6.** Section 17.30.11 is renumbered as Section 17.30.12.

**Section 7.** Section 17.30.11, entitled "Senior Housing Facility Design Review," is added as follows:

17.30.11 Senior Housing Facility Design Review.

A. Standards. To approve or approve with conditions a Senior Housing Project, as defined in section 17.2.3, located within a Senior Housing Overlay District, the Planning Commission shall make findings of fact to support each of the following standards:



1. Development is designed to respect the scale, privacy, views and tranquility of nearby properties.
2. The development is pedestrian oriented with pedestrian connections to adjoining public streets and parks and vehicular parking does not overwhelm the character of development.
3. The visible mass of the building is minimized and facades highly visible from nearby off-site vantage points are designed to reduce the blocky or massive features of building surfaces and provide articulation and visual interest.
4. Primary landscaping elements consist mainly of locally native species and complement and are appropriate for the structure, the site, and the neighborhood.
5. The development is designed to relate to the natural and man-made context of the site including on- and off-site views of the hills and open space areas; solar access for on-site common areas and adjacent properties; creek preservation, restoration and orientation; and preservation of street trees.
6. Development on parcels in excess of one acre is designed to avoid monolithic undifferentiated building masses.

B. Conditions. The decisionmaker may impose conditions of approval including changes to development standards in Chapter 17.4, subject to making findings for the applicable variance or exception, if applicable, or may deny the application.

**Section 8.** Zoning Map is amended to designate the 2 Irwin Way "Residential Medium-Density District and to apply the Senior Housing Overlay District to 2 and 20 Irwin Way.

**Section 9.** This ordinance will not have a significant impact on the environment as defined by the California Environmental Quality Act (CEQA). The City Council has certified a mitigated negative declaration analyzing the potential environmental impacts of this ordinance and adopted a Mitigation Monitoring and Reporting Program in Resolution 68-10.

**Section 10.** This ordinance becomes effective 30 days after adoption.

**Section 11.** The City Clerk shall either (a) have this ordinance published once within 15 days after adoption in a newspaper of general circulation or (b) have a summary of this ordinance published twice in a newspaper of general circulation, once 5 days before its adoption and again within 15 days after adoption.

The foregoing ordinance was introduced at a special meeting of the City Council of the City of Orinda held on November 29, 2010 and was adopted and ordered published at a regular meeting held on \_\_\_\_\_, 2010, by the following vote:

AYES:            COUNCILMEMBERS:

NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

\_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
Michele Olsen, City Clerk