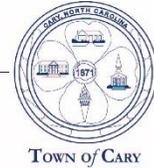


Staff Report for Town Council



Meeting Date: January 10, 2019

Conveyance of Town-owned Property to Habitat for Humanity of Wake County to further the Provision of Affordable Housing

Purpose: Conveyance of Town-owned Property to Habitat for Humanity of Wake County to Further the Provision of Affordable Housing.

Prepared by: Donna Lunsford, Transportation and Facilities

Speaker: Donna Lunsford, Transportation and Facilities

Executive Summary: Habitat for Humanity of Wake County plans to build an affordable housing development on a 2.58 acre parcel it owns on Trimble Avenue. Habitat for Humanity has requested that the Town convey an adjacent Town-owned parcel to Habitat, which would be used to provide part of the required perimeter buffer around the affordable housing development and would contain part of the required stormwater control structure for the affordable housing development. Use of the Town parcel would enable Habitat for Humanity to build seven affordable homes on its property. The stormwater control structure will also capture and detain runoff from both the affordable housing development as well as from a significant portion of the existing Savon Heights subdivision, which currently has no stormwater treatment.

Recommendation: *Town Council adopt the attached Resolution 1) authorizing the Town Manager or Deputy Town Manager to dispose of the Property by means of instruments substantially similar to the attached instruments (to be provided by 5:00pm on January 8th); and 2) instructing Town Staff to publish a notice summarizing this Resolution once after its passage and at least 10 days prior to the sale of the Property.*

Background: On April 28, 2016, Town Council adopted the FY 2017 Community Development Block Grant (CDBG) Annual Action Plan which committed \$175,000 to assist Habitat for Humanity of Wake County (“Habitat”) in acquiring a 2.58-acre parcel located at 113 Trimble Avenue (“Trimble Property”) to support the construction of affordable housing.

The prior owner of the Trimble Property requested the property be rezoned in preparation for Habitat’s purchase. Town Council voted to rezone the property from Residential 40 (R-40) to Residential 8 Conditional Use (R-8-CU) on June 22, 2017. The property is within the Watershed Protection Overlay District (Swift Creek sub-district) and the rezoning did not make any changes to this designation. The following zoning conditions were approved as part of the case:

1. The property will be developed for a maximum of seven single family detached homes.
2. Any plat that divides the subject property shall include notes substantially similar to the following:
 - a. All homes will be built on a crawl space foundation which will be faced with brick on the front.
 - b. All homes will have a covered front porch facing Trimble Avenue.
 - c. All homes will have driveways that will allow two vehicles to park side by side (minimum driveway parking pad of 18’ x 18’).

- d. Individual storage space shall be provided for each dwelling unit. Such storage space shall be attached to the principal structure and located in the rear yard, and include an external access point.
- e. All lots will have frontage on Trimble Avenue.
- f. All homes will have a minimum roadway setback of 30 feet from the Trimble Avenue right-of-way.

There is no zoning condition that requires the construction of affordable housing; however, conveying the Town Parcel to Habitat in the manner discussed in this report will require the Trimble Property to be used for affordable housing.

Prior to the vote, Council was made aware of and discussed the possibility that Habitat desired to utilize a 0.27-acre, Town-owned parcel (“Town Parcel”) located to the north of the Trimble Property to move forward with their development as envisioned with seven homes. The Town Parcel (Wake County Real Estate ID 0456351), shown as area A in Figure 1, is located between Trimble Avenue and the western terminus of Palmetto Drive. Bethel Baptist Church conveyed Area A to the Town in September 1995.

Figure 1 – Location of Town and Habitat parcels



Habitat completed its purchase of Area B on September 19, 2017 and began moving forward with a plan to construct a residential development containing seven homes, with the intent to offer these homes for purchase by individuals of low and/or moderate income (“Affordable Housing Development” or “Development”). The most recent iteration of the development plan for the Affordable Housing Development, which is under review by staff, is attached to this staff report. In order to construct seven homes (as opposed to five or six),

the required perimeter buffer around the site, and the required stormwater control structure (“SCS”), Habitat requests the conveyance of the Town Parcel.

If conveyed as discussed in this staff report, the Town Parcel may be used only for the SCS and the perimeter buffer. The SCS has been designed to capture and detain the runoff for a 100-year storm event from both the proposed Habitat development as well as from a significant portion of the existing, untreated Savon Heights Subdivision located to the east. These improvements will mitigate negative drainage impacts on the surrounding community. The SCS will be a “wet pond” and is designed to meet all of the aesthetic requirements of both the Community Appearance Manual and Land Development Ordinance. Below is a depiction of a modern Wet Pond:



The Town’s Land Development Ordinance also requires a 20’ perimeter buffer between the Habitat development and adjacent properties. As noted on the Plan, the perimeter buffer on the Town Parcel would be planted with upper story trees and shrubs to meet a Type B planting rate.

As a final background note on this request, by separate staff report on this agenda, staff requests that Council adopt a Resolution to correct the Town of Cary Official Zoning Map to reflect the zoning designation of the Town Parcel as Residential (R-40). Prior to 1995, the Town’s Zoning Map did not depict the right-of-way for Palmetto Drive extending west to connect with Trimble Avenue, and the larger, undivided property owned by the church was zoned R-30. In October 1995, after the conveyance of Area A to the Town, the Zoning Map depicted the right-of-way for Palmetto Drive extending through to Trimble Avenue. Area A has never been designated by the Town as right-of-way, and the paved portion of Palmetto Drive does not extend across Area A to Trimble Avenue.

Discussion: Chapter 2 of the Imagine Cary Community Plan, “LIVE,” provides policy directions specifically encouraging the support of affordable housing initiatives. LIVE Policy Statement 6 lists multiple objectives related to the provision of affordable housing, including the objective to facilitate and support the creation of new affordable housing units by nonprofits.

N.C.G.S. § 160A-279 authorizes the Town to convey property interests in property it owns by private sale to non-profit corporations, such as Habitat, if that non-profit will use the property interest to carry out a public purpose. The provision of affordable housing – housing for the benefit of persons of low and/or moderate income – is a public purpose, as recognized by state law (such as N.C.G.S. § 160A-278). When this authority is used, state law requires the Town to place covenants and conditions on the conveyance to “assure that the property will be put to a public use.” To accomplish this, the Town and Habitat will execute the attached draft “Declaration of Covenants, Conditions, and Restrictions” (“Declaration”) and record it prior to the Town executing and recording the attached “Quitclaim Deed.” (Declaration and Quitclaim Deed will be attached to this staff report by 5:00pm on January 8th) This Declaration, once recorded, will place covenants and conditions on both the Town Property and the Trimble Property, requiring them both to be used for the purposes of providing affordable housing for at least 30 years. The Declaration will require all homes to be conveyed to persons who earn no more than 80% of the area median income for Wake County.

As noted above, the stormwater facilities will also benefit the surrounding community by capturing and detaining the runoff for a 100-year storm event from both the proposed Habitat development as well as from a significant portion of the existing, untreated Savon Heights Subdivision. Habitat will separately be required to convey to the Town a Stormwater Control Structure and Access Easement, which requires Habitat (or successive property owners) to inspect, operate, and maintain the SCS in accordance with all federal, state, and Town requirements and the approved Plan; to grant the Town access to the SCS; and to permit the Town to inspect and perform necessary repairs, at the expense of the current owners, if the current owners do not meet their maintenance obligations.

Fiscal Impact: There are no operating impacts associated with the actions presented in this staff report. The Town Parcel is proposed to be conveyed for the nominal amount of \$1.00 and will be restricted in use as outlined above. Conveyance of the Town Parcel will preclude future sale by the Town for increased monetary consideration and will preclude future development of the Town Parcel.

Next Steps:

1. Town staff will continue reviewing the proposed development Plan.
2. Once the Plan is approved, Town Staff will publish a notice summarizing the contents of the attached resolution pursuant to the requirements of N.C.G.S. §160A-267.
3. The Declaration and Deed will be executed no sooner than 10 days after the publication of notice mentioned above (as required by state law), and the instruments will be recorded with the Wake County Register of Deeds Office.
4. Construction and installation of the Development can begin after all relevant permits and approvals have been obtained.

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