

ORDINANCE NO. 1-09 N.S

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND TO ESTABLISH THE MFR-4 MULTI-FAMILY VERY HIGH DENSITY RESIDENTIAL ZONING DISTRICT TO REZONE THE PARCEL AT 3151 GARRITY WAY (APN: 405-290-069) TO MFR-4 MULTI-FAMILY VERY HIGH DENSITY RESIDENTIAL ZONING DISTRICT.

WHEREAS, on May 6, 2008, Tony Hladek (the “Project Sponsor” or the “Developer” [as used hereinafter shall mean Hladek, his successors and assigns]) filed a land use application with the City of Richmond (the “City”) for the Garrity Way Apartments Development project (the “Project”) consisting of a proposed 127 residential dwelling units complex. The land use application included a Design Review Permit and a request for Rezoning and a General Plan Amendment pursuant to the Richmond Zoning Ordinance and the General Plan. The proposed Project would occupy a 2.2-acre site with street frontage on Garrity Way in the Hilltop Mall area (the “Project Site”); and

WHEREAS, pursuant to CEQA, a Mitigated Negative Declaration was prepared for the Project in October 2008 (EID110442) which consists of the Proposed Mitigated Negative Declaration and the Mitigation Monitoring and Report Program; and

WHEREAS, the Draft Initial Study/Proposed Mitigated Negative Declaration was circulated for public and agency review on October 10, 2008 and the twenty-day review period ended on October 30, 2008 and this comment period provided an opportunity for the public and agencies to review the issues addressed and offer comments on any aspect of the process, or the adequacy of the evaluation and mitigation measures; and

WHEREAS, the intent to adopt the Mitigated Negative Declaration was noticed in the West County Times, and notice was also sent to all property owners within 300 feet of the Project site as well as to interested local agencies and parties; and

WHEREAS, the Project Applicant submitted a letter to the City of Richmond dated October 16, 2008 agreeing to all mitigation measures set forth in the Mitigated Negative Declaration that are required to be implemented pursuant to CEQA; and

WHEREAS, on November 12, 2008 the Design Review Board held a duly noticed public hearing and recommended to the Planning Commission to forward a positive recommendation to the City Council based on the design changes that have been incorporated into the Project; and

WHEREAS, at a duly noticed public hearing on December 4, 2008, the Commission heard public comments on the Mitigated Negative Declaration. After reviewing the Mitigated Negative Declaration, and considering all oral and written information regarding the Mitigated Negative Declaration presented at or before that hearing, the Commission adopted the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

WHEREAS, after adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, the Planning Commission approved the Design Review Permit and recommended to the City Council to approve the General Plan Amendment and Rezoning of the property for the 127 residential dwelling units Project (also known as the Garrity Way Apartments).

WHEREAS, on December 16, 2008, the City Council held a duly notices public hearing and heard public comments on the Mitigated Negative Declaration. After reviewing the Mitigated Negative Declaration, and considering all oral and written information regarding the Mitigated Negative Declaration presented at or before that hearing, the City adopted the Mitigated Negative Declaration and approved the General Plan Amendment, Rezoning, and the Design Review Permit for the 127 residential dwelling units Project (also known as the Garrity Way Apartments).

WHEREAS, on the basis of the application, plans, materials, and testimony submitted at or before the public hearing on December 16, 2008, the City Council finds and determines that the requested Rezoning will serve the public interest as it will further the goals and policies of the General Plan, including:

1. *Land Use Goal LU-A: Improve the aesthetic and economic value of individual sites, the adjacent properties, the neighborhoods and the entire City.*

The project site is located in a built-out, urban area comprised of various commercial and residential land uses. A 200-unit apartment community (The Tides Apartments) is located to the east of the site. Adjacent to the west is Chevy's Restaurant on the corner of Garrity Way and Blume Drive. Across Garrity Way to the southwest is the Extended Stay Hotel, two office buildings, and the Marriott Courtyard Hotel. Located to the rear of the site is Garrity Ravine which is designated open space preservation area as previously mentioned. The proposed residential project is consistent with land uses and high intensity and concentrated the development pattern of the Hilltop Mall area. The project will improve the visual quality and economic value of the site and surrounding area by developing a vacant site with an aesthetically-pleasing residential building resulting from a quality design.

2. *Land Use Goal LU-G: Achieve residential, commercial, and mixed-use developments which are compatible with environmental constraints and which protect and enhance the area's natural resources.*

The proposed project has been reviewed to determine the adverse effects that might result from development of the site (See Exhibit A for details). The rear of the site abuts a designated 60 acre open space preservation area (Garrity Ravine) which includes a creek and a riparian corridor downhill at a much lower elevation. Garrity Ravine is likely to contain special status plant species, and a variety of birds and mammals. Since the project requires grading for foundation work and landslide repair, it could affect the character of Garrity Ravine, if appropriate measures are not taken. The initial study identifies certain mitigation measures to ensure that the adverse effects can be reduces to a level of nonsignificance. These measures have been incorporated into conditions of approval. The applicant has agreed to incorporate the mitigation measures identified in the Environmental Initial Study (EIS) into the project design.

3. *Land Use Goal LU-K: Meet future housing needs within the existing Planning Area through infill development already served by community facilities, utilities, and transportation system.*

The project consists of a residential development that includes seventy-two (72) one-bedroom units and fifty-five (55) two-bedroom units which are designed to attract a certain segment of the population, particularly residents that choose to rent a unit that have convenient services nearby. The project site is located in a developed urban area already served by a variety of public services, such as emergency services, community facilities, schools, and parks with all utilities available and infrastructure. As such, the project will not trigger the need for new or physically altered facilities in order to provide services to the site.

4. *Land Use Policy LU-K.1: encourage the infill of housing on parcels within the multi-family residential neighborhoods at a density appropriate to an urban area and which can be efficiently served by public transit, utilities, and services.*

Given the urban character of the area and existing infrastructure serving the site, the project conforms to this generalized goal. The current residential density for the site established by the General Plan and Zoning Ordinance is characteristic of medium-density residential districts, but is not suitable from an urban area which are well-served by existing infrastructure and transit.

5. *Land Use Policy LU-C.1: Require that new development establish a distinctive character, as expressed in the external design of buildings, works of art, and open space and in their relationship to the terrain, water, and the surrounding environment.*

The building design exhibits a Mediterranean/Spanish Colonial style which is well-composed, balanced, and highly detailed. The project will be a catalyst for new development that better defines the City's vision for the area's future as an intensive commercial business and activity center.

THE COUNCIL OF THE CITY OF RICHMOND DO ORDAIN AS FOLLOWS:

SECTION 1. Section 15.04.170 of the Zoning Ordinance is hereby added to read as follows:

15.04.170 MFR-4-Multifamily Very High Density Residential District.

SECTIONS

15.04.170.010 Title, Purpose and Applicability.

15.04.170.020 Permitted Uses.

15.04.170.030 Accessory Uses.

15.04.170.040 Conditional Uses.

15.04.170.050 Development Standards.

15.04.170.060 Performance Standards.

15.04.170.070 Parking and Loading Requirements.

15.04.170.080 Signs.

15.04.170.090 Administrative and Enforcement Procedures.

15.04.170.010 Title, Purpose and Applicability.

The provisions of Section 15.04.170 shall be known as the MFR-4-multifamily very high density residential district. MFR-4 zone is intended to create, preserve, and enhance high rise apartment living in areas with accessibility to major transportation routes, shopping and community centers. Any applicable overlay district described in Section 15.04.500 may impose additional regulations for this district. The purpose of the regulations for this district is to implement policies contained in the Richmond general plan, particularly the very high density land use category.

15.04.170.020 Permitted Uses.

The following uses shall be permitted. Similar uses may be permitted by interpretation of the Planning Director or designee.

Residential Uses.

Single-family residential

Duplexes

Multifamily residential

Second dwelling units

Civic, Public and Semipublic Uses.

Community centers

Congregate care, limited*

Day care home, limited and general*

Elementary and secondary schools

Homeless shelters/transitional housing**
Recovery facilities, limited*

Commercial Uses.

Home occupations

Industrial Uses.

Public utilities, minor

Temporary Uses.

Arts and crafts shows, outdoors

Outdoor exhibits

Religious assembly

Street fairs

* Primary use of property remains residential.

** For 10 persons or fewer only.

15.04.170.030 Accessory Uses.

Accessory uses and buildings shall be limited to those uses that are clearly incidental to the primary use of the property and which are sited within the property boundaries of the primary use, such as garages, swimming pools and gazebos. Refer to Section 15.04.880 for details.

15.04.170.040 Conditional Uses.

The following uses may be permitted by conditional use permit and then must comply with all the terms and conditions of the permit as provided for in Section 15.04.910. Similar uses may be conditionally permitted by interpretation of the Planning Director or designee.

Residential Uses.

Senior housing

Planned residential groups

Civic, Public and Semipublic Uses.

Colleges, universities, vocational schools, and educational facilities

Congregate care, general

Hospitals

Public safety facilities

Recovery facilities, general

Religious assembly

Commercial Uses.

Business services

Convenience stores

Engineering, management, public administration and related offices and services

Hotels and other lodging places:

bed and breakfast inns
hotels or motels
rooming and boarding houses
Medical and dental offices***
Membership organizations, clubs and lodges

Industrial Uses.

Public utilities, major

Open Space and Recreational Uses.

Parks, open space and trails
Flea markets/swap meets, nonrecurring

*** Permitted as a transitional use within a residential structure.

Temporary Uses.

Live entertainment events
Recreation events
Retail sales, outdoors
Seasonal sales lots, for example Christmas trees and pumpkins
Trade fairs

15.04.170.050 Development Standards.

The following is a partial listing of standards that shall apply in the MFR-4, multifamily: very high density residential district. For a complete delineation of all development standards applicable refer to Section 15.04.830.

Minimum lot size is 5,000 square feet.

Exceptions: Where a lot has a width of less than fifty feet (50') or an area of less than five thousand (5,000) square feet and was recorded under one ownership at the time this chapter became effective and has not subsequently been consolidated with an abutting lot under one ownership, nor provides required interior yard space, parking or other required amenities to an existing dwelling, such lot may be occupied by any use permitted in this section, (refer to Sections 15.04.830.030(E) and 15.04.940.030(A)(3) for further details) except that:

- (a) Any such lot that is three thousand three hundred (3,300) square feet or less in area or is thirty-three (33) feet or less in average width shall constitute a residential building site for no more than one single-family dwelling unit.
- (b) Any such lot that exceeds the dimensions and area enumerated above, but which is three thousand seven hundred fifty (3,750) square feet or less in area, or is thirty-seven and one-half (37.5) feet or less in average width, shall constitute a residential building site for no more than one two-family dwelling unit.

	Minimum lot area per unit (sq. ft.)	Maximum building height (ft.)	Minimum lot width (ft.)	Typical* setbacks and yards (ft.)		
				Front	Side	Rear
Per dwelling unit	750	45 ¹	50	10	5 ²	20

* Unless otherwise specified, front setbacks are 10% of the lot depth with a minimum of 10' required and rear setbacks are 20% of the lot depth with a maximum of 20' required. Interior side yard setbacks are 10% of the lot width with a 3' minimum and 5' maximum as in the example above. Accessory buildings and structures must comply with requirements specified under Section 15.04.880.

1. Planning Commission may allow up to 75' height limit on larger parcels (7500+ square feet) with the approval of a conditional use permit.
2. For buildings two and one-half (2 1/2) stories or less in height. For buildings more than two and a half stories in height, one foot shall be added for each additional story from the third story and above.

Open Space Requirements.

For single-family dwellings and duplexes on lots over 30' in width and 3,000 square feet in area, IYS equal to 16% of the lot area shall be provided. On smaller lots, IYS equal to 20% of lot area shall be provided. Required minimum interior yard space (IYS) for two detached, multifamily units is 20% of lot area.

For multifamily dwellings with three or more units, the following shall apply:

Private Open Space—square feet per dwelling unit	Common Open Space—square feet per dwelling unit	Required Additional—square feet per dwelling unit (2+ bedroom units)
60	100	100 common or private

15.04.170.060 Performance Standards.

The uses in this district must comply with all applicable performance standards delineated in Section 15.04.840.

15.04.170.070 Parking and Loading Requirements.

In addition to the number of parking spaces which follow, all parking and loading must comply with the provisions contained in Section 15.04.850.

Single-family	2 spaces per unit
Duplexes	2 spaces per unit
Multifamily	

3 or more units	(Note: For multifamily units, any room that can be considered as a bedroom per Uniform Building Code (UBC) standards shall be used for the purposes of calculating parking. At least one required parking space per unit must be covered)
1 bedroom	1 space per unit
2 bedrooms	1.5 spaces per unit
3 or more bedrooms	2 spaces per unit
Guest Parking	1 guest space per five units
Other Uses	Refer to Section 15.04.850

15.04.170.080 Signs.

All signs must comply with the applicable provisions of Section 15.04.860, in addition to Chapter 15.06, Sign Ordinance, and Chapter 4.04, Sign Code.

15.04.170.090 Administrative and Enforcement Procedures.

Administrative activities, development and uses allowed in this district are subject to the provisions contained in Section 15.04.900. Provisions of this section and any conditions of approval will be enforced in accordance with the provisions set forth in Sections 15.04.950 and 15.04.990.

(Amended by Ordinance No. 31-97 N.S. and 5-04 N.S.)

SECTION 2: The property located at 3151 Garrity Way (APN: 405-290-069) as shown in the attached map in Exhibit A Existing Zoning District, is hereby rezoned as shown on Exhibit B, Proposed Zoning District.

SECTION 3: Effective Date. This Ordinance becomes effective thirty (30) days after its final passage and adoption.

First read at a meeting of the Council of the City of Richmond held on December 16, 2008, and finally passed and adopted at a meeting held January 6, 2008, by the following vote:

AYES: Councilmembers Bates, Butt, Lopez, Rogers, Sandhu, Viramontes, Vice Mayor Marquez, and Mayor McLaughlin.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

DIANE HOLMES
Clerk of the City of Richmond

(SEAL)

Approved:

GAYLE McLAUGHLIN
Mayor

Approved as to form:

RANDY RIDDLE
City Attorney

State of California)
County of Contra Costa) ss.
City of Richmond)

I certify that the foregoing is a true copy of Ordinance No. 1-09 N.S., finally passed and adopted by the Council of the City of Richmond at a regular meeting on January 6, 2009.