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DATE: **July 13, 2021** AGENDA ITEM NO. 7A

TO: Planning Commission

FROM: Emmanuel Ursu, Principal Planner

SUBJECT: Study Session to solicit Planning Commission feedback on a conceptual proposal from Spirit Living to develop a Residential Care Facility for the Elderly around the Central Green in the Riverfront Mixed-Use project located at 500 Hopper Street  
File# PLSR-21-0014

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### **RECOMMENDATION**

It is recommended that the Planning Commission receive an informational presentation and provide non-binding comments regarding Spirit Living's conceptual proposal to develop an approximately 170 room residential care facility for the elderly on Lots 5 and 6 of the approved Riverfront Mixed Use Project located at 500 Hopper Street.

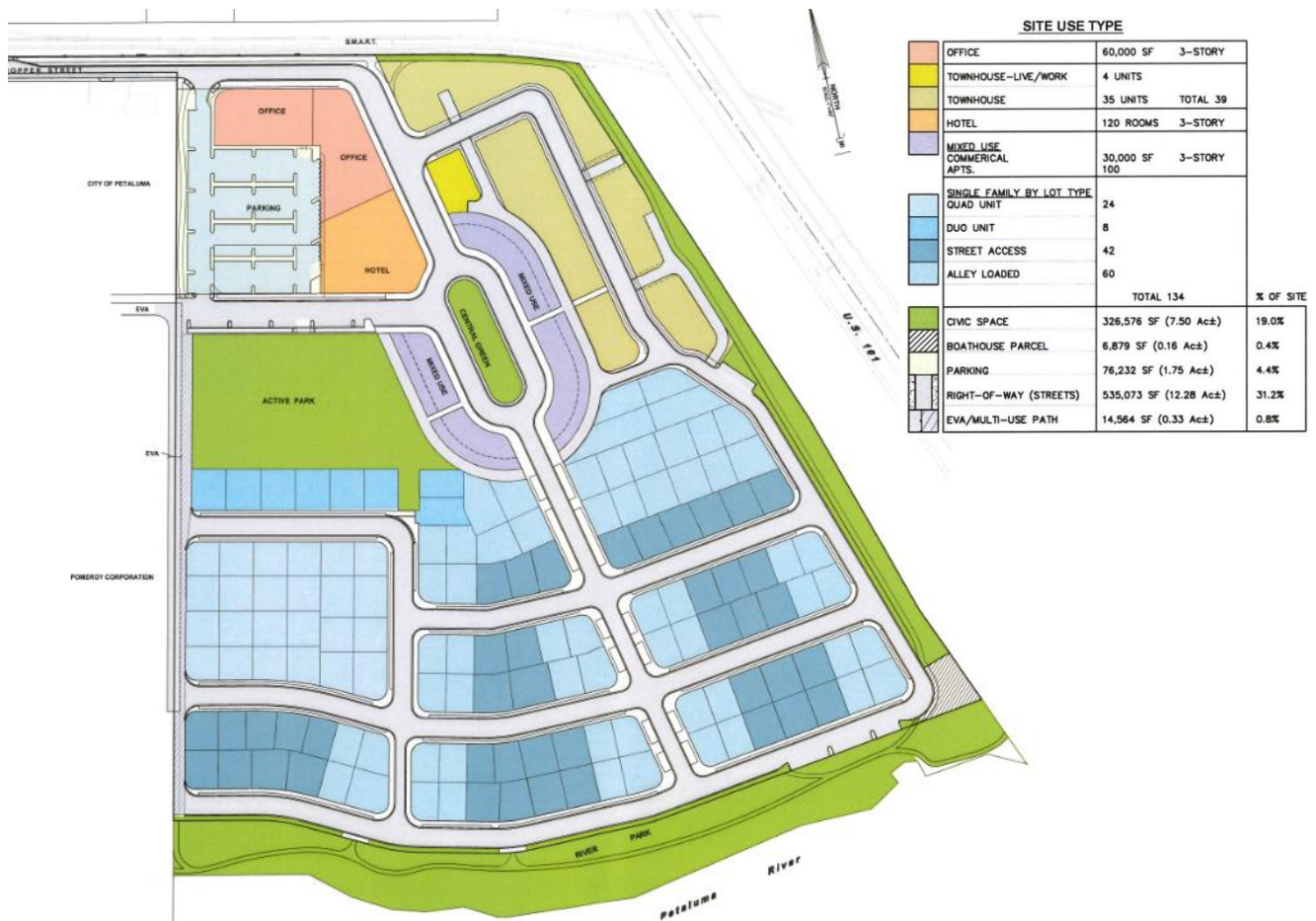
### **BACKGROUND**

In July 2014 the City Council approved initial entitlements and certified a Final Environmental Impact Report for the Riverfront Mixed-Use Development. Project entitlements included a Zoning Map Amendment to change the zoning of the 35.7-acre Riverfront site (39.5 acres including the adjacent Riverfront Park) from conceptual zoning boundaries to T-4, T-5, T-6 and Civic Space, and a phased Tentative Subdivision Map for the Riverfront Mixed-Use Development. As part of these approvals, the Council found that the project proposes a "vibrant, walkable mixed-use neighborhood" (Resolution No. 2014-127 N.C.S.) and it implements "the vision of mixed use development and pedestrian friendly neighborhood character envisioned in the Central Petaluma Specific Plan." (Ordinance No. 2508 N.C.S.) The overall development of the Riverfront project envisioned in the 2014 approvals included

- a mix of residential, commercial, recreational, and civic uses as described below and as illustrated in **Figure 1** below, 30,000 square feet of ground-floor neighborhood-serving commercial space
- 100 apartments on the second and third floor over the commercial space
- An urban park (Central Green) surrounded by the neighborhood-serving commercial area and apartments
- 60,000 square feet of offices
- 120-room hotel

- 134 detached small-lot single-family homes
- 39 townhomes
- Sports field
- Public paths
- Small watercraft facility
- 3.7-acre Riverfront park

Subsequent to the initial approvals, the City has issued approvals for further subdivision and Site Plan and Architectural Review for the 134 single family homes, currently under construction, and the 122-room Courtyard Marriott, which was completed in June 2021. Additionally, infrastructure improvements with the exception of the town home area and the three-block phase of the single family homes along the future Riverfront Park has been completed. Development of the Central Green is complete and the sports field and adjacent lot has been graded but turf installation was delayed due to the current drought conditions. The Tentative Map and SPAR for the 44 townhomes was recently submitted for the Planning Department's review on June 29, 2021.



**Figure 1- Riverfront Mixed-Use Land Uses**

Spirit Living is in contract to purchase the area planned for mixed-use commercial/apartments (Riverfront Phase 1 Final Map Parcels 5 and 6) around the Central Green as shown in purple in **Figure 1** above. Spirit Living is proposing a 170-room Residential Care Facility for the Elderly (RCFE) to provide a continuum of care and housing for seniors ranging from independent living to assisted

living and memory care.

Parcels 5 and 6 (project site) are designated Mixed Use in the General Plan 2025 and have a zoning designation of T6. The project site is governed under the SmartCode and was planned under the approved Riverfront Mixed-Use project for 30,000 square feet of ground floor commercial space with up to 100 apartments on the second and third floors. While RCFE is an allowed land use in multiple zoning districts governed by the Implementing Zoning Ordinance, the SmartCode does not list RCFE, congregate care, or assisted living facilities as an allowed use in any zone within the SmartCode.

As a part of Spirit Living's due diligence prior to purchasing the properties, their conceptual proposal is being presented as a study session to solicit feedback from the Planning Commission and members of the public. Any discussion and feedback are non-binding, as no formal application has been submitted. No action will be taken by the Planning Commission at tonight's hearing.

### **Development Review Committee**

Conceptual plans for the project were presented by Spirit Living to the Development Review Committee (DRC) on June 3, 2021. Staff provided the following verbal feedback to the applicant team regarding their conceptual proposal:

- Activated storefronts around the Central Green was a key design element of the Riverfront Mixed-Use project and staff is concerned that the conceptual Spirit Living proposal does not implement this important aspect of the development envisioned for the site given that the majority of the ground floor is tenant amenities and area for true commercial uses is reduced from 30,000 square feet to about 3,000 square feet.
- Although staff recognized that existing demand may not support 30,000 square feet of commercial space, there is significant potential for demand to increase with the completion of the southern crossing and build out of both the Riverfront project and the adjacent Scannell property. Consideration of ground floor flex spaces would allow lower intensity and/or residential uses now with the ability to convert over time as the demand increases and to facilitate ground floor activity around the Central Green and supporting the mixed use concept of the approved Riverfront project.
- The T-6 zoning of the site does not list residential care facilities for the elderly, congregate care, or assisted living facilities as an allowable use.
- Pedestrian easements through both sites provide convenient connections to the Central Green from the future townhomes to the east and the sports field and homes to the west. These pedestrian connections should remain in the plan to honor the interconnected approach to the approved Riverfront project.
- The applicant should consider submitting a preliminary application in order to get feedback from the Planning Commission on the appropriateness of the concept.

## **PROJECT DESCRIPTION**

### **Project Site**

The specific property under consideration is at the center of the Riverfront Mixed-Use development which is surrounded by the SMART rail tracks to the north, Highway 101 to the east, the Petaluma River to the south and the City corporation yard and Primary Influent Pump (PIP) station and the Scannell development site (formerly the Pomeroy property) to the west. A current application for development of the approximately 40-acre Scannell site includes up to 72 affordable apartments,



159 single-family homes, and up to approximately 197,000 sq ft of commercial office, including headquarters for Amy's Kitchen.



**Figure 2: Project Site Context Map**

Within the Riverfront project, townhomes will be developed along the east and north sides of Lot 6, recently constructed single-family homes in the Northbank subdivision are located to the south, and the Central Green is to the west. Lot 5 is surrounded by the newly completed Courtyard Marriott hotel on the north, the sports fields and tot lot to the west, single-family homes in the Northbank subdivision to the south and the Central Green to the east.

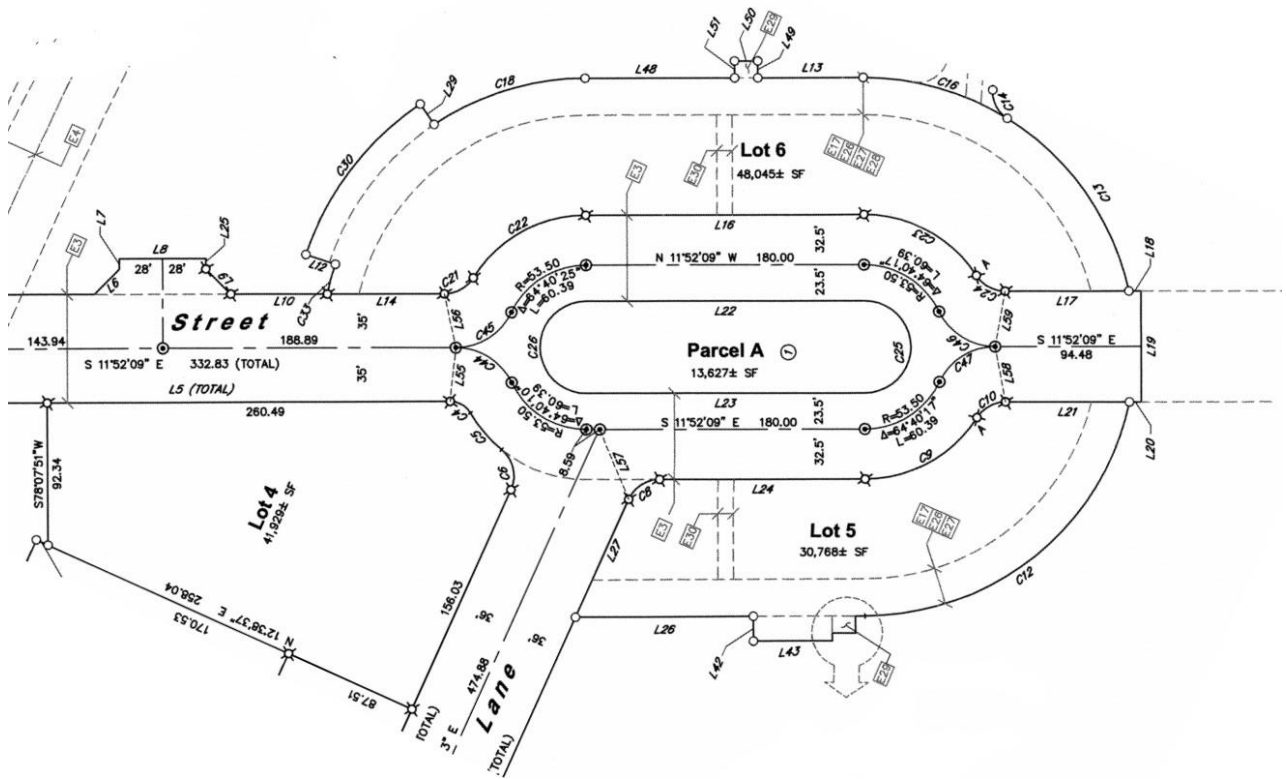
The two lots have a total gross land area of 1.8 acres with 30,768 square feet as Lot 5 and 48,045 square feet as Lot 6. Excluding easements (24-foot wide alley and 10-foot wide pedestrian access easements), the net lot area is 21,132 square feet for Lot 5 and 33,236 square feet for Lot 6 (see Final Map excerpt in **Figure 3**).

### **Proposed Project**

Spirit Living submitted a conceptual proposal with two Options:

- Option A is a 170-room RCFE with approximately 15,000 square feet of RCFE tenant support uses on the ground floor, approximately 15,000 square feet of commercial and live/work units

on the ground floor, 86 parking spaces at the back of the buildings accessed from the alleys and all client rooms on the second and third floor (**Figure 4 and 5**)



**Figure 3 - Final Map Excerpt**

- Option B is also a RCFE but without any ground level tenant support uses, an increase in parking to 92 spaces, and 28,500 square feet of ground floor commercial space. A reduction in the number of rooms would presumably be required under Option B to accommodate the RCFE support areas on the upper floors, however conceptual plans for the upper levels in Option B are not provided (**Figure 6**).



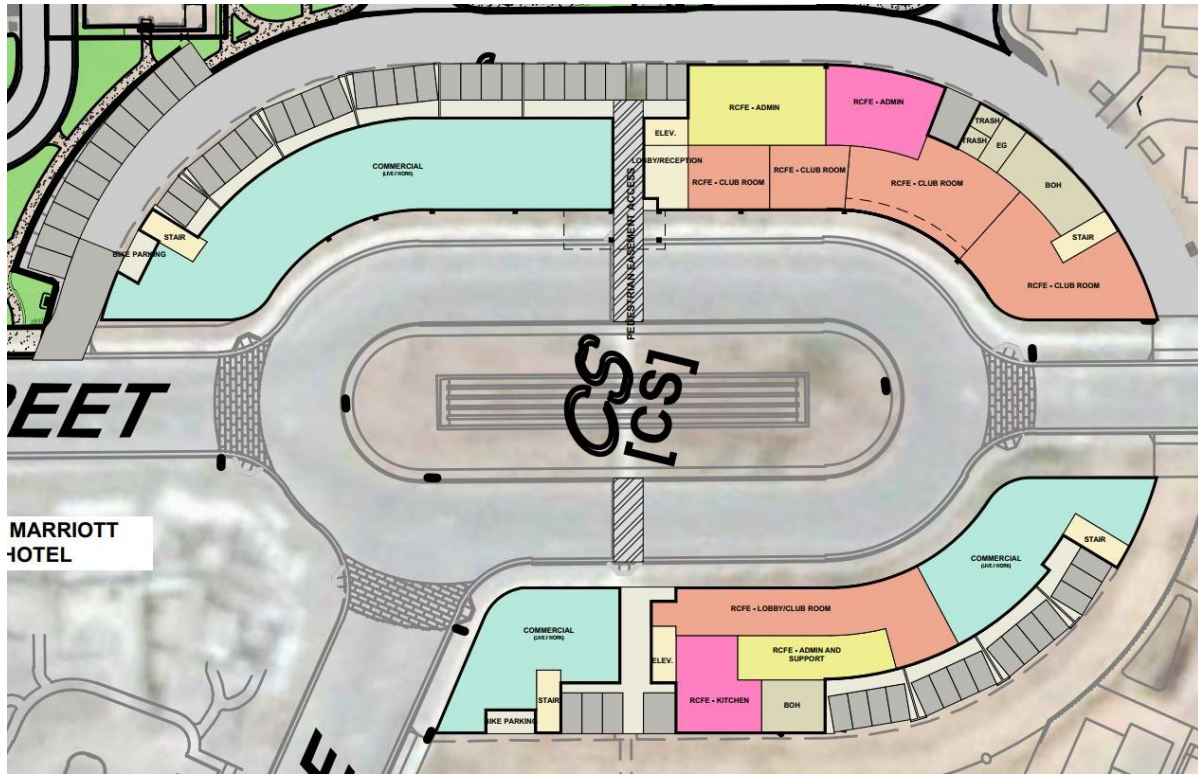


Figure 4 – Ground Floor Uses Option A

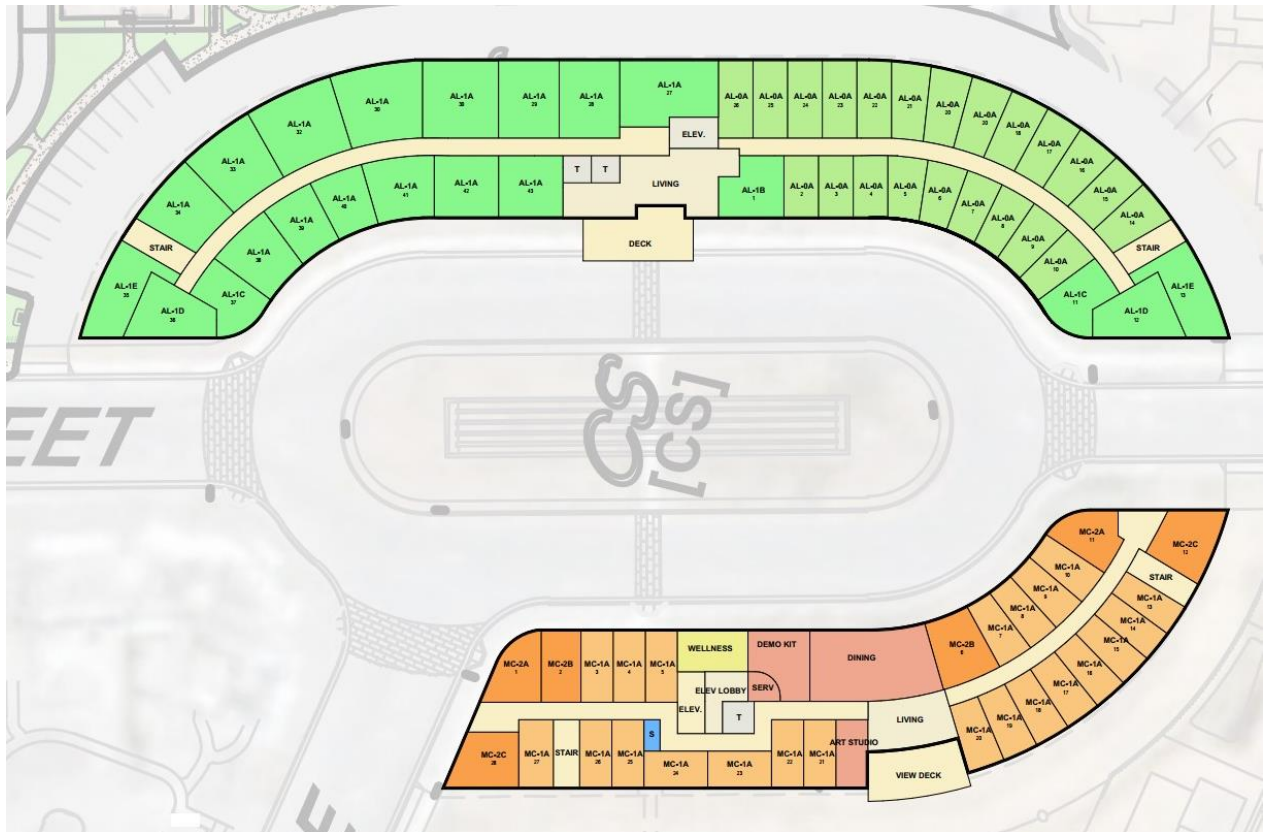
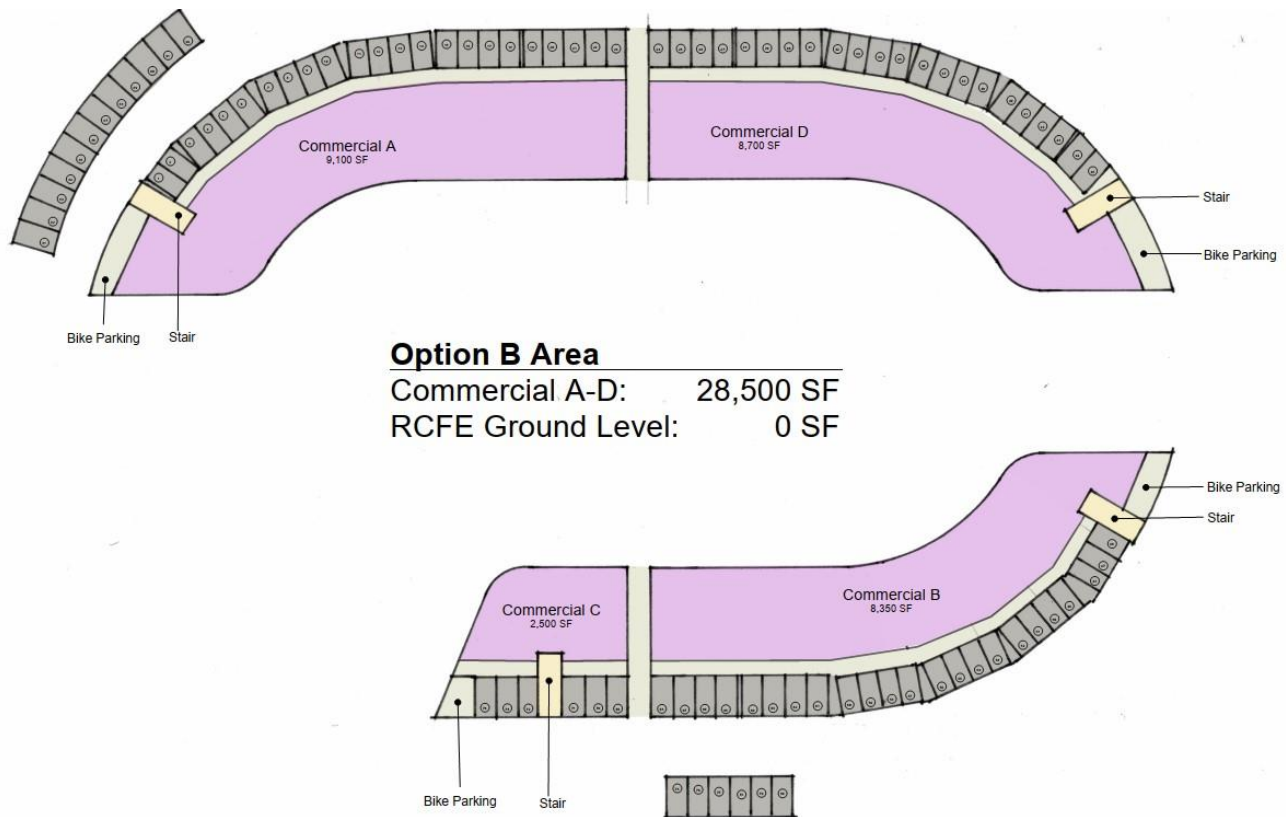


Figure 5 – Second and Third Floor Plan Option A



**Figure 6 – First Floor Uses Option B**

## **DISCUSSION**

### **Smart Code**

Adopted July 1, 2013, the SmartCode establishes detailed regulations for development and land uses in Transect Zones. Transect zoning is an organizing principle that focuses on intended character and type of place first, then on the mix of uses within places with a gradual progression from rural to urban forms. Transect zones progress from the least developed T-1 Natural Zone to the most developed T-6 Urban Core. Zoning at the Riverfront Mixed-Use development includes T-4 in the small-lot single-family and townhome areas, T-5 for the office and hotel area, T-6 around the Central Green and Civic Space to encompass the Central Green, Riverfront Park, Active Park, and perimeter path.

Guiding policies intended to be implemented by the SmartCode (SmartCode p. 6) and particularly related to the discussion of the Spirit Living proposal include:

- That the size of neighborhoods reflect a five-minute walking distance from the edge to center (center meaning a railroad connecting transit stop or the existing downtown)
- That ordinary activities of daily living shall occur within walking distance of most dwellings, allowing independence to those who do not drive
- That within neighborhoods, a range of housing types and price levels shall be provided to accommodate diverse ages and incomes
- That appropriate building densities and land uses shall be provided within walking distance of transit stops

Development within Transect Zones of the SmartCode are required to comply with the following requirements of the SmartCode:

- A. Zoning Map of the SmartCode – identifies location of zones that differentiate standards for building placement, design, and use
- B. Building Function Standards – identifies land uses allowed in each zone
- C. Urban Standards – outlines regulations for building placement and façade design, parking, civic spaces, and landscaping
- D. Thoroughfare Standards – regulations governing street and path design for vehicles, cyclists, and pedestrians
- E. Landscaping and Utility Standards – requirements for street trees, planters, and utilities
- F. Parking Standards- establishes regulations for the design and location of required parking
- G. Historic Preservation Standards – establishes standards for changes to historic structures
- H. Design Review – requires Planning Commission review
- I. Civic Buildings- exempts civic buildings from the urban standards of the SmartCode

Table 3-1 of the SmartCode (**Attachment C**) identifies “building functions” (land uses) as allowed by right, subject to administrative approval of a minor use permit (MUP), or subject to Planning Commission approval of a conditional use permit (CUP). Some uses are only allowed on upper floors or behind an allowed ground floor use in the T-5 and T-6 zones, are limited to 5,000 square feet on the ground floor, or only allowed in spaces greater than 8,000 square feet on the ground floor. Land uses are organized under general categories, including Assembly, Lodging, Residential, Retail, Services, Transportation, Communications, and Infrastructure, and Industry, Manufacturing and Processing, Wholesaling.

Residential Care for the Elderly is not listed as an allowed use in the T-6 zone or any other zone identified in the SmartCode. Some specific uses allowed in the T-6 zone are listed in the table below along with the permit required and whether allowed on the ground floor space with street frontage. Uses allowed on the ground floor with street frontage are in bold typeface. The complete list of uses allowed in the SmartCode are in **Attachment C**.

Land Use Category	Land Use	Permit Required	Ground floor street frontage
Assembly	<b>Bar/tavern/night club</b>	<b>CUP</b>	<b>Y</b>
	Commercial recreation facility	MUP (< 5,000 sf) CUP (> 5,000 sf)	N
	Community meeting facility	MUP (< 10,000 sf) CUP (> 10,000 sf)	N
	Fitness/health facility	Permitted	N
	Library, museum	Permitted	N
	Studio – art, dance, music, etc.	MUP	
	Theatre	Permitted	N
Lodging		Permitted	N
Residential	Live/work	CUP	N (see note 1)
	Multi-family	Not allowed	n/a
	Residential in mixed-use building	Permitted	See note 2



Land Use Category	Land Use	Permit Required	Ground floor street frontage
	Single-family dwelling	Not allowed	n/a
	<b>Work/live unit</b>	<b>CUP</b>	<b>Y (See note 1)</b>
Retail	<b>Alcoholic beverage sales</b>	<b>CUP</b>	<b>Y</b>
	<b>Artisan shop</b>	<b>Permitted</b>	<b>Y</b>
	<b>General retail &lt;10,000 sf</b>	<b>Permitted</b>	<b>Y</b>
	<b>General retail &gt;10,000 sf &lt;50,000 sf</b>	<b>CUP</b>	<b>Y</b>
	<b>Restaurant, café, coffee shop</b>	<b>Permitted</b>	<b>Y</b>
Services	Adult day care in home ,<7 clients	Permitted	N
	Adult day care 7 or more clients	CUP	N
	<b>Bank</b>	<b>Permitted</b>	<b>Y</b>
	Business support service	Permitted	N
	<b>Catering service</b>	<b>Permitted</b>	<b>Y</b>
	Child family day care	Permitted	N
	Child day care center	MUP	N
	Community service organization	MUP	N
	Drive-through service	Not Allowed	n/a
	Medical services – clinic, lab, urgent care	Not allowed	n/a
	Doctor office	MUP	N
	<b>Personal services – such as barber/beauty shops, dry cleaning, laundromats, massage, shoe repair</b>	<b>MUP</b>	<b>Y</b>
	Restricted Personal services – such as check cashing services; tattoo and body piercing services	Not allowed	n/a
Industry, Manufacturing & Processing, Wholesaling	Artisan/craft product manufacturing	MUP	N
	Media production	Permitted	N
	Research and development	Permitted	N

1. Subject to Mixed-use Project requirements of SmartCode Section 4.70.030 including: Provide shopfronts along street frontages to maintain a pedestrian orientation at the street level. Residential developments, including live/work, shall be designed such that ground floor units may be converted to retail/commercial shopfronts and to establish a clear, functional design relationship with the street front.
2. Subject to requirements of SmartCode Section 4.70.020

Section 8.10.020 (G) of the SmartCode specifies that a land use not listed in Table 3-1 is not allowed unless the following findings (in bold type) can be made. Staff analysis of the proposal as it relates to the required findings is provided below each finding.

- a. **The characteristics of, and activities associated with the proposed use are similar to one or more of the listed uses, and will not involve a greater intensity than the uses listed in the district.**

No similar use to RCFE is allowed at the ground-floor street frontage. Above the ground floor, residential uses in a mixed-use building and adult day care services are allowed. RCFE is not a residential use however, it has similarities in that it provides long-term housing for seniors and the associated support services provided have similarities to adult day care

services, albeit 24-hour basis. Intensity of the proposed use can be regulated through limits on the total number of clients allowed.

**b. The proposed use will be consistent with the purposes of the applicable zone.**

One of the purposes of the T6 zone is to provide a vertical mix of uses with ground floor spaces that are pedestrian oriented with commercial, service and residential uses on the upper floors. The SmartCode defines Pedestrian Oriented Uses as “*A land use that is intended to encourage walk-in customers and that generally does not limit the number of customers by requiring appointments or otherwise excluding the general public. A pedestrian oriented use provides spontaneous draw from sidewalk and street due to visual interest, high customer turnover, and social interaction.*”

As proposed in Option A, the tenant support functions associated with RCFE are located on the ground floor and do not create the same pedestrian orientation as general retail/commercial uses would, therefore creating a potential conflict with the primary purpose of the T6 zone to create that vertical mix of uses with pedestrian orientation at the ground floor. Option B helps address this by focusing both the residential rooms and the tenant amenities on the upper floor and maintaining commercial space on the ground floor to better meet the intent of the T6 zoning.

**c. The proposed use will be consistent with the General Plan and this Code.**

Similar to the discussion above, the ground floor components of the RCFE as shown in Option A are not consistent with the General Plan and the SmartCode vision for pedestrian oriented ground floor uses. Option B improves this aspect in that it maintains commercial uses on the ground floor and creates a more “mixed use” building with the RCFE use limited to the upper stories.

**d. The use will be compatible with the other uses allowed in the district.**

The placement of RCFE tenant support on the ground floor as shown in Option A is not compatible with other uses allowed in the T-6 zone. T-6 explicitly calls out less pedestrian oriented uses such as residential, doctors office, or personal services as either not allowed or allowed only through use permits. Option B maintains the commercial land uses on the ground floor in an effort to create a pedestrian oriented environment on the ground floor and fronting on the Central Green. Placement of the RCFE land use on the upper floors appears compatible with some of the other uses specifically allowed on upper floors in the T-6 zone such as residential in a mixed use building, or those allowed through a use permit such as child care or doctors offices.

**e. The proposed use is not listed as allowable in another zone.**

RCFE is not listed as an allowable use in another zone of the SmartCode. It is an allowed land use in specific zones in the Implementing Zoning Ordinance.

While the SmartCode provides for such a determination to be made in writing by the Director, the code also provides for the Director to refer the question of whether a proposed use qualifies as a

similar and compatible use to the Planning Commission. Given the future prominence of this site and the specific intent of the approvals for the overall Riverfront project, staff indicated to the applicant that they would refer such a determination to the Planning Commission as part of the project entitlements should a formal application be submitted. Additionally, staff encouraged the applicant to seek initial feedback in a study session format.

### **Implementing Zoning Ordinance**

Per Section 1.10.020 of the SmartCode, if a conflict occurs between a requirement of the SmartCode and the IZO, the provisions of the SmartCode apply. There is no conflict between the SmartCode and the IZO. As stated above, uses allowed in the T-6 zone are set forth in the SmartCode and the SmartCode contains procedures for considering uses not listed. RCFE is not a listed use in the SmartCode however, it is allowed by the IZO in the MU1A and MU1B zones. For reference, the IZO definition of RCFE is as follows:

*Residential Care Facilities for the Elderly (RCFE). Provide care, supervision and assistance with activities of daily living, such as bathing and grooming. They may also provide incidental medical services under special care plans.*

*The facilities provide services to persons 60 years of age and over and persons under 60 with compatible needs. RCFEs may also be known as assisted living facilities, retirement homes and board and care homes. The facilities can range in size from six beds or less to over 100 beds. The residents in these facilities require varying levels of personal care and protective supervision. Because of the wide range of services offered by RCFEs, consumers should look closely at the programs of each facility to see if the services will meet their needs.*

### **General Plan and Central Petaluma Specific Plan**

The project site has a General Plan land use designation of Mixed Use and the General Plan refers to the Central Petaluma Specific Plan (CPSP) for applicable development policies and densities. There are four subareas of the CPSP: North River, Turning Basin, Riverfront Warehouse and Lower Reach. Riverfront Mixed-Use project is in the “Lower Reach” area.

A guiding concept in formulation of the CPSP was to advocate for greater densities and mixed use opportunities, including ground floor retail. (CPSP p. 4). Specific to the Lower Reach area, Policy 5.3 is to “[a]llow for an intense Mixed Use development on land not utilized for industrial purposes” and “encourages incorporating housing, restaurants, cafes, banking facilities, child care services, and showers and lockers and related services.”

According to the 2015-2023 Housing Element, in 2013 there were almost 2,400 residents 65 years and older with a disability. The Housing Element notes that there is a need for congregate or group housing and housing that will allow seniors to “age-in-place” will become increasingly important. (Housing Element p. 17)

For purposes of calculating the number of housing units developed toward meeting the Regional Housing Needs Allocation (RHNA), CA Department of Housing and Community Development relies on the US census definition of a housing unit. The US Census defines Housing Unit as follows:

*A housing unit is a house, an apartment, a group of rooms, or a single room occupied or intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants do not live and eat with other persons in the structure and which have direct access from the outside of the building or through a common hall. For vacant units, the criteria of separateness and direct access are applied to the intended occupants whenever possible. If the information cannot be obtained, the criteria are applied to the previous occupants. Tents and boats are excluded if vacant, used for business, or used for extra sleeping space or vacations. Vacant seasonal/migratory mobile homes are included in the count of vacant seasonal/migratory housing units. Living quarters of the following types are excluded from the housing unit inventory: Dormitories, bunkhouses, and barracks; quarters in predominantly transient hotels, motels, and the like, except those occupied by persons who consider the hotel their usual place of residence; quarters in institutions, general hospitals, and military installations except those occupied by staff members or resident employees who have separate living arrangements.*

As described in the project narrative and is typical for Residential Care Facilities for the Elderly, the development will have approximately 50 employees with staff on-site 24/7. The project includes multiple floor plan types with the units intended for independent living (proposed on Lot 6) that appear to meet the definition of “housing unit” while the rooms intended for individuals in need of greater care (proposed on Lot 5) do not meet the definition of “housing unit.” If a formal application is submitted, as a part of the development review process, the City will determine whether the proposal includes the development of “housing units.”

In determining the appropriateness of the conceptual proposal, programs and policies of the Housing Element to consider are listed below. If a formal application is submitted, the applicability of some of the following programs and policies will depend on the determination of whether the proposal includes “housing units.”

**Programs 1.2** Utilize the Central Petaluma Specific Plan to facilitate the development of vacant and underutilized land at the heart of the City.

**Program 2.2** Utilize the Central Petaluma Specific Plan to facilitate the development of rental and live/work units in the downtown, e.g., high density housing, relaxed parking requirements, and encouraging on-site inclusionary units.

**Policy 4.2** Assign a share of the responsibility for providing affordable housing to the developers of market-rate housing and non-residential projects.

**Program 4.3** Require developers of residential projects, both homeownership and rentals, of five or more units to provide 15% of the units on-site for use as affordable housing with affordability restrictions for 45 years for homeownership developments and affordability restrictions for 55 years for rental development.

**Program 4.4** Administer the Housing - Commercial Linkage Fee Program.



## **NEXT STEPS**

The Planning Commission may offer non-binding comments regarding the appropriateness of a Residential Care Facility for the Elderly in the T-6 zone and use of portions of the ground floor spaces to support the administrative functions, kitchen, and dining facilities of the RCFE.

The SmartCode and Central Petaluma Specific Plan are clear that ground floor uses with street frontage in the T-6 zone are to be pedestrian oriented. Option A includes support and administrative functions of the RCFE on the ground floor and is inconsistent with the zoning for the site. Use of the upper floors for RCFE appears more compatible and similar to the range of service and residential uses allowed above the ground floor in the T-6 zone.

## **ENVIRONMENTAL REVIEW**

No action is proposed at this time; therefore, this item is not a project, as defined by the California Environmental Quality Act (CEQA), 14 California Code of Regulations Section, 15378, and is not subject to CEQA requirements.

Additionally, a Final Environmental Impact Report (EIR) was prepared and certified and a Mitigation Monitoring and Reporting Plan was adopted for the Riverfront Mixed-Use project. If an application for a RCFE is submitted, the City will determine the appropriate level of additional review that may be necessary under the California Environmental Quality Act.

## **PUBLIC OUTREACH**

Notice of this Planning Commission item was posted in compliance with the Brown Act and in an effort to solicit initial public comments, public notice of this item was mailed to property owners and tenants within 1,000 feet of the project site and was published in the Argus on July 1, 2021.

If a formal application is submitted, a neighborhood meeting will be required prior to a Planning Commission hearing and public notice in compliance with the Brown Act and local noticing requirements will be provided.

## **ATTACHMENTS**

- A. Applicant Project Narrative
- B. Conceptual Project Plans
- C. Building Functions Table 3-1, SmartCode