THE CITY OF PLEASANTON

Planning Commission
Staff Report

June 12, 2013
Item 5.c.

SUBJECT: **P13-1944**

APPLICANT/ PROPERTY OWNER: St. Anton Partners

PURPOSE: Application for a Development Agreement to vest entitlements of the project PUD-81-30-87D consisting of 168 apartment units and related site improvements.

GENERAL PLAN: Mixed Use/Business Park.

ZONING: Planned Unit Development – High Density Residential (PUD-HDR)

LOCATION: 5729 West Las Positas Boulevard

EXHIBITS:

A. Draft Development Agreement
B. Planning Commission Staff Report, May 8, 2013, without attachments
C. Draft Conditions of Approval for PUD-81-30-87D to be considered by the City Council on June 18, 2013

I. BACKGROUND

PUD-81-30-87D, a Planning Unit Development (PUD) development plan for a 168-unit apartment project and related site improvements was reviewed by the Planning Commission and recommended to the City Council on May 8, 2013. The City Council introduced an ordinance to approve the project on May 21, 2013, and has scheduled the second reading for the project on June 18, 2013. Just prior to the meeting, the applicant approached staff about entering into a development agreement in order to memorialize both the City's and the developer's rights and obligations regarding this project. The State legislature has enacted California Government Code sections 65864 *et seq* which authorizes the City to enter into an agreement with any person having a legal or equitable interest in real property regarding the development of such property. Further, this statute (Section 65867) requires a public hearing on the proposed Development Agreement shall be held by the Planning Commission and by the City Council. As noted in Section 65867.5, the Development Agreement shall be approved by ordinance and the provisions of the agreement shall be found to be consistent with the General Plan.

In essence, a development agreement locks in the laws in existence at the time of entering into the agreement and the City agrees not to change its planning or zoning laws applicable to the specific development project for a specific period of time. Therefore, future land use decisions regarding such a development project will not be based on the then current planning and

zoning law, but rather will be based on the laws as they were in existence at the time the development agreement was executed. In exchange, the City gets certain benefits and concessions that it might not be able to require through conditions of approval.

II. PROJECT DESCRIPTION

A full project description for the 168-unit apartment development is provided in the attached Planning Commission staff report of May 8, 2013 (Exhibit B). Subsequent to the Planning Commission's review, staff added some Conditions of Approval to meet the City's Climate Action Plan objectives. In addition, at its May 21 meeting, the City Council made two amendments to the Conditions of Approval: eliminating a duplicate COA (COA #39, related to implementing a program for reclaimed water) which also was shown as COA #53; and, changing condition #49 to require the installation of two electric vehicle charging stations. The Conditions of Approval which will be considered by the City Council on June 18 are included as Exhibit C. At the May 21 meeting, the City Council also agreed to consider a subsequent development agreement.

The draft Development Agreement (Exhibit A) includes sections regarding the vested right to develop, permitted uses, and applicable law which refer back to the project approval. Other sections cover moratorium, initiatives and conflicting enactments, the life of project approvals, development timing and compliance with State and federal law. The draft Development Agreement also lays out the Developer's Obligations as they relate to development impact fees, traffic mitigation measures, the below-market rate units, school fees, processing fees and permit fees, and park fees. City Obligations are covered in sections on protection of vested rights, availability of public services, developer's right to rebuild, and processing subsequent approvals. The term of the draft Development Agreement is ten years.

III. ANALYSIS

State law requires that the Planning Commission find the draft Development Agreement is consistent with the City's General Plan.

Land Use

The subject parcel has a General Plan Land Use Designation of "Mixed Use/Business Park" which permits land uses such as office, retail, hotel and other commercial uses, community facilities, research and development, and residential. The residential use is consistent with this land use designation. The Mixed Use/Business Park land use designation requires residential projects to have densities of at least 20 dwelling units per acre with higher densities (30 units per acre or more) encouraged in locations proximate to BART stations and other areas near transit[1]. In addition, Program 11.1 of the Housing Element indicates that sites designated Mixed Use shall be developed at a minimum density of 30 units per acre. The proposed density of 30 dwelling units per acre is consistent with the General Plan. Below are some of the General Plan Goals, Programs, and Policies that the project is consistent with or would promote:

[1] The project is located 1 mile from the East Dublin/ Pleasanton BART station, adjacent to bus stops, and connecting to a trail system (to be expanded in the future).

Land Use Element

Sustainability

Program 2.1: Reduce the need for vehicular traffic by locating employment, residential, and service activities close together, and plan development so it is easily accessible by transit, bicycle, and on foot.

Program 2.2: Encourage the reuse of vacant and underutilized parcels and buildings within existing urban areas.

Program 2.3: Require transit-compatible development near BART stations, along transportation corridors, in business parks and the Downtown, and at other activity centers, where feasible.

Program 2.4: Require higher residential and commercial densities in the proximity of transportation corridors and hubs, where feasible.

Program 2.6: Require design features in new development and redevelopment areas to encourage transit, bicycle, and pedestrian access, such as connections between activity centers and residential areas, and road design that accommodates transit vehicles, where feasible

Program 2.8: Require land development that is compatible with alternative transportation modes and the use of trails, where feasible.

Overall Community Development

Policy 4: Allow development consistent with the General Plan Land Use Map.

Policy 9: Develop new housing in infill and peripheral areas which are adjacent to existing residential development, near transportation hubs or local-serving commercial areas.

Policy 10: Provide flexibility in residential development standards and housing type consistent with the desired community character.

Housing Element

Housing Variety, Type, and Density

Goal 1: Attain a variety of housing sizes, types, densities, designs, and prices which meet the existing and projected needs of all economic segments of the community.

Housing Location

Policy 35: Disperse high-density housing throughout the community, in areas near public transit, major thoroughfares, shopping, and employment centers.

Program 35.1: Provide and maintain existing sites zoned for multi-family housing, especially in locations near existing and planned transportation and other services, as needed to ensure that the City can meets its share of the regional housing need.

Based on the above, staff believes the project and the draft Development Agreement are consistent with the City of Pleasanton's General Plan.

IV. PUBLIC COMMENT

Public notices were sent to property owners within a 1,000-foot radius of the project site. At the time this report was written, staff had not received any comments from the surrounding property owners. Staff will forward to the Commission any public comments as they are received.

V. ENVIRONMENTAL ASSESSMENT

On January 4, 2012, the City Council certified a Supplemental Environmental Impact Report (SEIR) and adopted the CEQA Findings and a Statement of Overriding Considerations for the Housing Element update and Climate Action Plan General Plan Amendment and Rezonings. This SEIR was a supplement to the EIR prepared for the Pleasanton 2005-2025 General Plan which was certified in July 2009. The subject property was one of 21 potential housing sites analyzed in the SEIR. A total of 168 multi-family housing units was analyzed in the SEIR for this site.

The analysis in the Addendum to the SEIR determined that the proposed project will not trigger any new or more severe significant environmental impacts as compared to those analyzed in the context of the SEIR and confirmed that none of the conditions described in Section 15162 occurred. Therefore, the previously prepared SEIR and Addendum to the SEIR, taken together, are determined to be adequate to serve as the environmental documentation for this project and satisfy all the requirements of CEQA.

The SEIR included some mitigation measures that needed to be addressed prior to issuance of a building permit for a project (e.g., pre-construction bat survey, air quality construction plan, etc). These mitigation measures have been addressed in the draft conditions of approval for this project.

The SEIR included a Statement of Overriding Considerations for two significant and unavoidable impacts:

Impact 4.D-1: Development facilitated by the General Plan Amendment and rezoning has the potential to adversely change the significance of historic resources.

The Irby-Kaplan-Zia and Pleasanton Mobilehome Park properties on Stanley Boulevard contain older structures that may be historic. Mitigation measures in the SEIR required that historic evaluations be conducted for the structures before they could be demolished. If deemed to be historic through these evaluations, the demolition of these structures to make way for new housing would be a significant and unavoidable impact. Staff notes that the Irby-Kaplan-Zia and Pleasanton Mobilehome Park properties were ultimately not included in the nine sites that were selected for multifamily housing.

Impact 4.N-7: Development facilitated by the General Plan Amendment and rezonings could potentially add traffic to the regional roadway network to the point at which they would operate unacceptably under cumulative plus project conditions.

Traffic generated by development facilitated under the proposed Housing Element on the potential sites for rezoning would not worsen any segment projected to operate acceptably to unacceptable conditions; however, it would increase the volume to capacity ratio (V/C) by more than 0.03 on two roadway segments projected to operate at LOS F: Sunol Boulevard (First Street) between Vineyard Avenue and Stanley Boulevard under Year 2015 and 2035 conditions; and Hopyard Road between Owens Drive and I-580 under 2035 conditions. Based on the significance criteria, this is considered a significant impact. Existing development surrounding these roadways would need to be removed in order to widen them, rendering such widening infeasible. However, there are improvements that could be made to nearby parallel corridors which could create more attractive alternative routes and lessen the traffic volumes on Sunol Boulevard and Hopyard Road. A mitigation measure of the SEIR requires developers of the potential sites for rezoning to contribute fair-share funds through the payment of the City of Pleasanton and Tri-Valley Regional traffic impact fees to help fund future improvements to local and regional roadways. However, because the City cannot be assured that the collected regional funds would be spent to specifically improve the nearby parallel corridors as the regional funds are used by the regional agency, the traffic impact remained significant and unavoidable. Staff notes that the traffic impacts of the nine sites ultimately selected would be considerably less than the traffic impacts analyzed in the SEIR.

VI. CONCLUSION

Staff believes that the proposed draft Development Agreement is consistent with the General Plan and meets the requirements of State Planning and Zoning law. The draft Development Agreement provides the developer with certainty regarding project entitlements and provides the City with an agreement regarding the developer's obligation to pay certain development fees, school fees, and provide below market-rate housing units.

VII. STAFF RECOMMENDATION

Staff recommends that the Planning Commission take the following actions:

1. Find that the conditions described in CEQA Guidelines Section 15162 have not occurred as described in the Addendum to the SEIR and find that the previously prepared SEIR, including the adopted CEQA Findings and Statement of Overriding Considerations, and the Addendum to the SEIR are adequate to serve as the environmental documentation for this project and satisfy all the requirements of CEQA;
2. Find that the proposed Development Agreement is consistent with the General Plan;
3. Adopt a resolution recommending approval of Case P13-1944, a draft Development Agreement, as set forth in Exhibit A.