

Housing Commission
Agenda Report

May 2, 2013
Item 11

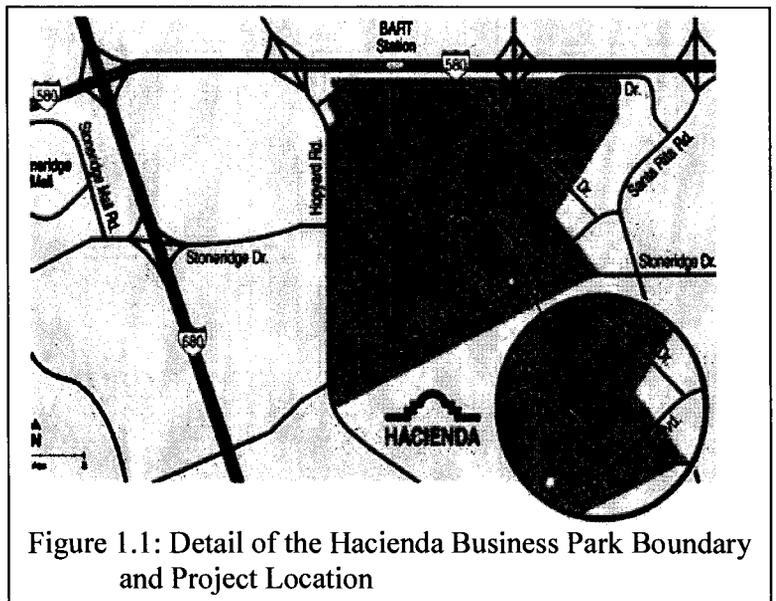
SUBJECT: Approval of an Affordable Housing Agreement with St. Anton Partners for a 168 Unit Apartment Development at 5729 West Las Positas Boulevard (PUD-81-30-87D)

STAFF RECOMMENDATION: Approve the attached affordable housing agreement reflecting Option 2 with St. Anton Partners and recommend its approval by the City Council

- ATTACHMENTS:**
1. Recommended Affordable Housing Agreement
 2. City Resolution 04-073 Concerning IZO Unit Transfers
 3. HUD 2013 Income and Typical Rent Levels

BACKGROUND

The approximately 5.6-acre flat site is located at 5729 West Las Positas Boulevard, within Hacienda Business Park and fronts on West Las Positas Boulevard and backs up to Tassajara Creek. The site was developed in 1983 for Hewlett-Packard and currently contains an auto service center, lawn area, and parking lot. There is one bus stop with a shelter located along West Las Positas within the vicinity of this project site. The 5.6-acre site is designated as Lot 32 (a portion thereof) in the Hacienda Design Guidelines.

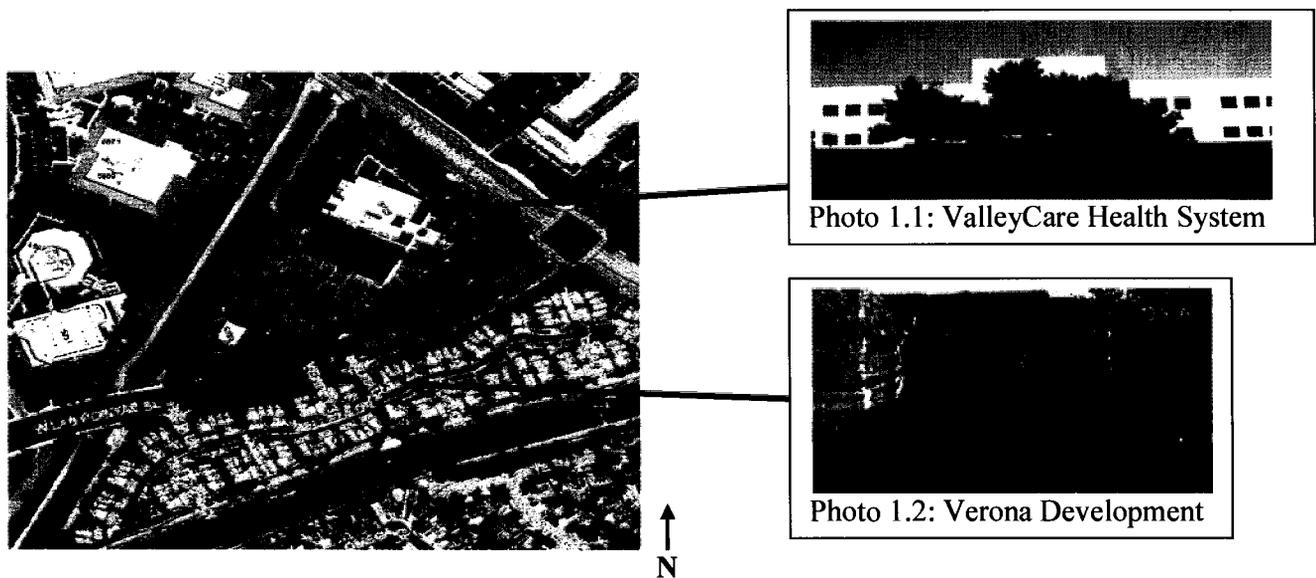


The site is approximately one mile from the East Dublin/Pleasanton BART station and is within ¼ mile to one major shopping development, two City parks, and adjacent to a two-story office

building (Occupied by ValleyCare Health System) and the Verona Townhome development to the south across West Las Positas Boulevard. Tassajara Creek lies to the west and north and beyond the creek are office developments.

The site currently contains a single building of approximately 3,640 square feet that was built in 1983 as an auto service center in conjunction with the 110,000 square-foot, two-story office that was originally building for Hewlett-Packard and is now currently occupied by ValleyCare Health System.

A location diagram is listed below:



The developer proposes to build an apartment complex on the 5.6-acre site that includes 168 apartment units, one clubhouse building/ leasing office, on-site amenities, and surface parking. The housing will be distributed among three buildings. Two “U”-shaped buildings fronting West Las Positas Boulevard are three-stories (38-feet tall), 58,000 square feet each, and house 38 units. The third residential building is an “L”-shaped structure (located in the northern part of the site) and is four-stories (53 feet) tall, 115,000 square feet in size, contains 92 units, and overlooks Tassajara Creek.

The clubhouse/leasing office is approximately 4,650 square feet in area and is one-story in height with a breezeway entry feature (maximum of 24’ tall). The clubhouse will offer a fitness center (including yoga and group exercise studio), clubroom with kitchen and seating for community gatherings, and multiple leasing offices. The central outdoor recreation area offers an 800-square-foot outdoor swimming pool, children’s play area, grassy village green, barbeque picnic area, and water feature.

The southwest corner of the property contains a 9,000-square-foot pocket park with a large open lawn, community vegetable garden, fenced pet area, earth sculpture and gathering areas with seating. The pocket park is also designed to provide a 3,600-square-foot stormwater basin. The main access to the site would remain on West Las Positas Boulevard with additional emergency vehicle access being provided off of Stoneridge Drive through the adjacent ValleyCare site.

DISCUSSION

To memorialize affordable housing standards, the City requires the parties to enter into an affordable housing agreement as required by the City's Inclusionary Zoning Ordinance (IZO). Typically, these agreements are standardized recorded documents that clearly describe the project's affordability elements.

As discussed with the Commission previously, recent court rulings related to city inclusionary zoning ordinances have limited our ability to fully reinforce its IZO. However, the City and St. Anton have worked cooperatively to present two options for Commission consideration.

Option 1 provides 26 (15% of total project units) rent restricted units ranging from 50% AMI to 100% AMI and generally mirrors the affordability plan approved recently by the City Council for the California Center project. Approximately half of the rent restricted units are at the Median income level which is inconsistent with the IZO requirement that they be very-low or low income.

Option 2 includes 34 (20% of total project units) rent restricted units at 50% AMI. To provide this level of affordability, the developer anticipates utilization of tax exempt multifamily housing revenue bonds and State tax credits. The developer has considerable experience with this financing model and has already submitted a preliminary financing application to the state's processing agency. In addition to this financing, the City is agreeing to provide \$500,000 in the form of a fee waiver or cash as a financial contribution to the project. The City is also agreeing to an accelerated development application review process that includes approval of preliminary financing plans at the City Council's meeting of April 7.

Regarding Option 2, while the project would include 20% of its units at 50% AMI, a total of 8 (5%) of these units may be "sold" to another development for meeting a portion of its onsite inclusionary/affordability requirements. However, St. Anton assumes the financial risk/advantages of this transaction. Assuming St. Anton is successful in securing a partner to reimburse it for the cost of providing the 8 affordable units, the overall result would be that the St. Anton project would be providing 15% affordability which is still consistent with the IZO. The partnering development would have its onsite inclusionary requirement reduced by up to 8 affordable units. This type of transfer is consistent with the IZO and City Resolution 04-073 (Attachment 2) which sets forth the policy for these types of transfers.

A summary of the two Options is as follows:

SUMMARY OF St. ANTON PARTNERS OPTIONS

Unit Type	OPTION 1 (15% Inclusionary)				OPTION 2 (80/20 at 50% AMI)			
	50%	80%	100%	Total	50%	80%	100%	Total
1-Bedroom	5	3	6	14	19	0	0	19
2-Bedroom	0	3	4	7	12	0	0	12
3-Bedroom	0	2	3	5	3	0	0	3
Total	5	8	13	26	34	0	0	34

In view of the above, staff is recommending Option 2 and the attached draft Affordable Housing Agreement is prepared to reflect Option 2. A summary of the terms of the AHA are as follows:

- Of the total of 168 project apartment units, 34 will be affordable units as follows:

Unit Type	Very Low Income (50% of AMI)
1 Bedroom	19
2 Bedroom	12
3 Bedroom	3
Total	34

- Attachment 3 includes the most recent listing of HUD income and rent levels that are typical for each income level. Actual rents would be determined based on when the project was ready for occupancy since they would be based on the HUD income levels in place at that time.
- The agreement will be recorded with the land and remain affordable for perpetuity.
- Requires the development to accept Section 8 housing vouchers from eligible qualified applicants.
- Affordable units will be rented based on the City’s adopted preference system.
- Payment of the City’s Lower Income Housing Fee is not required as the development will meet the goals of the City IZO.
- One of the Affordable 1-bedroom units, one Affordable 2-bedroom units and one Affordable 3-bedroom units as included in 1(A) above shall be fully accessible for the physically disabled. Unit design shall include amenities such as grab bars, modified case work and bathroom facilities and other amenities deem significant for disabled access.

Consistent with the IZO the Commission's responsibility is to review the affordable housing agreement/proposal and make a recommendation that the City Council either accept, reject or modify the proposal and the use of City incentives for the project. In light of the difficulty obtaining affordable units at the 50% level, staff is recommending Option 2.

Following the Commission's decision on this matter this development will be reviewed by the Planning Commission for PUD review. The City Council will then decide on both the PUD and the recommended affordable housing agreement. In addition, on May 7 the City Council will consider a resolution required to initiate the use of the revenue bond financing planned for this project.

**Recorded at the Request of
and when recorded, return to:**

**City of Pleasanton
P.O. Box 520
Pleasanton, CA 94566**

Exempt per Gov. Code §27383

AFFORDABLE HOUSING AGREEMENT

This **AGREEMENT** is made this ____ day of _____, 2013, by the **CITY OF PLEASANTON**, a Municipal Corporation (“City”), and **ST. ANTON PARTNERS**, a California Corporation (“Developer”).

Recitals

- A. Developer currently owns a 5.60 acre site at 4452 West Las Positas Boulevard, Pleasanton, California, more particularly described in Attachment 1 attached hereto and incorporated herein by reference (the “Property”).
- B. For the Property, Developer has obtained all necessary entitlements to develop a residential housing project consisting of 168 apartment units (“Project”).
- C. Developer and the City wish to make a certain number of the apartment units within the Project available to households with incomes at or below fifty percent (50%) (very-low income) of the Area Median Income.
- D. Area Median Income (AMI) shall mean the area median income for the San Francisco-Oakland-Fremont Metropolitan Statistical Area adjusted for household size in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development (HUD) pursuant to Section 8 of the United States Housing Act of 1937 or any successor statute.
- E. Execution of this Agreement meets the requirements of the City’s Inclusionary Zoning Ordinance and shall be in lieu of paying the City’s Lower Income Housing Fee for this Project.

NOW, THEREFORE, in consideration of the mutual covenants, agreements and conditions contained herein, City and Developer agree as follows:

1. Of the 168 apartment units, 34 shall be “Affordable” units. Developer shall make all 34 Affordable units available for rent to households at or below 50% of the Area Median Income. The Affordable units shall be consistent with the following:

A. The Affordable unit mix shall be as follows:

Unit Type	Very Low Income (50% of AMI)
1 Bedroom	19
2 Bedroom	12
3 Bedroom	3
Total	34

B. Affordable unit rents shall be based on the following household sizes:

Unit Type	Household Size
1 Bedroom Unit	Two (2) person household
2 Bedroom Unit	Three (3) person household
3 Bedroom Unit	Five (5) person household

C. The monthly rent for each of the Affordable units shall be calculated so that it shall not exceed one-twelfth of 50% of the Area Median Income adjusted for the household sizes listed in Section B above multiplied by 30%.

D. Rent for Affordable units shall be based on the AMI at the time of the City issues Certificate of Occupancy and shall adjust consistent with HUD adjustment in the AMI. If HUD fails to issue revised Area Median Income/ household income statistics for the San Francisco-Oakland-Fremont Metropolitan Statistical Area within 15 months of the previous revision, rents for the Affordable units may be adjusted based on the annual percentage increase in the San Francisco-Oakland Consumer Price Index for urban wage earners and clerical workers.

E. The rents described herein shall exclude utilities in the broadest sense, including, but not limited to gas, electricity, water, garbage, television cable, telephone, and internet service; provided, however, that if any or all of such utilities are offered at no cost to market rate units they shall also be offered at no cost to the Affordable units.

F. The Affordable units shall be dispersed throughout the Project unless otherwise approved by the City. The Affordable units shall not be fixed in the Project and may change depending on vacancies.

G. The Affordable units shall have the same interior standards of quality (e.g., appliances, interior features/amenities, services, etc.) as the market rate units.

H. All Affordable units shall be rented to qualified applicants in accordance with the City's Preference System, as may be amended, with the most current version set forth in Attachment 2.

I. Once each year, the Developer (or the Developer's successor in interest) shall provide the City a report detailing the average annual income of tenants

occupying the Affordable units for each of the income categories listed in Section 1(A) above, the number persons in each household occupying the Affordable units, the number of vacancies and new rentals during the year for the Affordable units.

- J. All Affordable units shall be subject to this Agreement for perpetuity.
2. The Developer, with City consultation, shall assume all responsibility to market the Affordable units. Marketing shall be in accordance with City eligibility and income guidelines in-conformance with the City's Preference System. Marketing material, leases, rent-up schedules and-other printed material related to the Affordable units is subject to City approval.
 3. One of the Affordable 1-bedroom units, one Affordable 2-bedroom units and one Affordable 3-bedroom units as included in 1(A) above shall be fully accessible for the physically disabled. Unit design shall include amenities such as grab bars, modified case work and bathroom facilities and other amenities deem significant for disabled access. Developer shall market the availability of these units but may rent to any applicant if a qualified disabled applicant in not available for a period of ten (10) days after the initial marketing.
 4. Developer shall accept Section 8 vouchers as a means of assisting qualified applicants/residents.
 5. This Agreement shall be recorded in Alameda County and shall run with the land.
 6. The Developer may utilize eight (8) of the 34 Affordable units as a transfer point for Inclusionary Unit Credits subject to the terms and conditions as set for in City Resolution 04-073 (Included as Attachment 3).
 7. In recognition of the 34 Affordable units, the City will contribute a total of five-hundred thousand dollars (\$500,000) within 30-days after a Certificate of Occupancy is issued by the City, or at such other time approved to in writing by the City.

THIS AGREEMENT is executed the date and year first above written.

CITY:

CITY OF PLEASANTON,
a Municipal Corporation

By: _____
Nelson Fialho

City Manager

ATTEST:

Karen Diaz, City Clerk

APPROVED AS TO FORM:

Jonathan P. Lowell, City Attorney

DEVELOPER:

St. Anton Partners, a California Corporation

By: XXXXX

By: _____

Name: _____

Title: _____

STATE OF CALIFORNIA)
)
COUNTY OF ALAMEDA)

On _____, 2013 before me, _____,
personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

ATTACHMENT 1

LEGAL DESCRIPTION

Real Property in the City of Pleasanton, County of Alameda, State of California, described as follows:

ATTACHMENT 2
CITY'S PREFERENCE SYSTEM

[Attached]



CITY COUNCIL OF THE CITY OF PLEASANTON

ALAMEDA COUNTY, ALAMEDA

RESOLUTION NO. 04-073

**GUIDELINES FOR INCLUSIONARY UNIT CREDITS (IUC'S) AS SET FORTH
IN CITY ORDINANCE 1818 (Chapter 17.44 of the Pleasanton Municipal Code)**

WHEREAS, the City Council adopted in November 2000 an Inclusionary Zoning Ordinance, Ordinance No. 1818, codified in Chapter 17.44 of the Pleasanton Municipal Code; and

WHEREAS, Section 17.44.080 (C), Credit Transfers, provides for the application of Inclusionary Unit Credits (IUC's) in accordance with the following language:

In the event a project exceeds the total number of Inclusionary Units required in this Chapter, the Project Owner may request Inclusionary Unit IUC's, which may be used to meet the affordable housing requirements of another project. Inclusionary Unit IUC's are issued to and become the possession of the Project Owner and may not be transferred to another Project Owner without approval by the City Council. The number of Inclusionary Unit IUC's awarded for any project is subject to approval by the City Council.

WHEREAS, at its meeting of June 29, 2004, the City Council reviewed the Inclusionary Zoning Ordinance and determined the need to develop guidelines for the application of IUC's as detailed above.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PLEASANTON RESOLVES AS FOLLOWS:

Section 1: The City Council hereby adopts the following Guidelines for Inclusionary Unit Credits:

- A. The City Council shall make the final determination regarding granting or denying IUC's. The Council may approve or deny the application of credits based on its review of a development application.

- B.** The number of affordable units provided in a development must exceed the minimum number of units required by the Inclusionary Zoning Ordinance (IZO) after the granting of any IUC's. Developments with affordable units significantly exceeding the minimum amount required in the IZO are more likely to be granted IUC's. As an example, if a development is required to include 50 affordable units to be consistent with the IZO, it, or any combination of developments involved with the IUC's, must have at least 51 affordable units.
- C.** The amount of financial assistance provided by the City, including fee waivers, loans, grants, participation with tax-exempt bond financing, or land dedications to support the affordable units may be considered when evaluating requests for IUC's. Developments that minimize financial assistance from the City are more likely to be granted IUC's.
- D.** The amount of funding by the Project Owner including private bank financing, loans, land dedications etc., may be considered when evaluating requests for IUC's. Developments providing significant project funding are more likely to be granted IUC's.
- E.** It is more likely IUC's will be granted when applied to a development with similar unit types. As an example, if the affordable units are for multi-family rental housing, greater weight will be given if the IUC's will be used to offset affordability requirements for similar multi-family rental housing. If a request is made to apply IUC's from an affordable rental multi-family unit to a single family or ownership unit, the Council may establish a ratio, such as two rental units to one single family unit or two rental units to one non-rental unit. The Council's determination of ratios will be based on its review of the development and these Guidelines.
- F.** Requests for IUC's should be made during the development application review process. The Council will generally not consider requests for IUC's after approval of the development's PUD and project financing.
- G.** IUC's will expire five years from the date of approval or from the date that it is possible to use the credits unless further extended by the City Council.
- H.** If the Project Owner requests IUC's be transferred to another project owner, the request must be made within 180 days of approval of the IUC's. If approved, the conveyance must be made within 90 days of the approval date. The Council will consider any monetary considerations received from transferring the IUC's as part of its review.

Resolution No. 04-073

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Section 2: This resolution shall become effective immediately upon its passage and adoption.

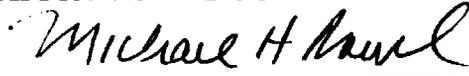
I HEREBY CERTIFY THAT THE FOREGOING WAS DULY AND REGULARLY ADOPTED BY THE CITY SEPTEMBER 21, 2004 BY THE FOLLOWING VOTE:

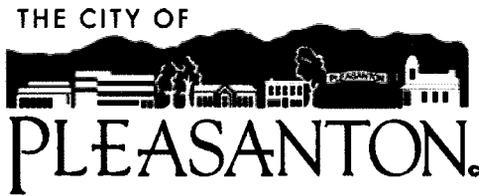
AYES:	Councilmembers- Ayala, Brozosky, Campbell, and Hosterman
NOES:	None
ABSENT:	Mayor Pico
ABSTAIN:	None

ATTEST:


Dawn G. Abrahamson, City Clerk

APPROVED AS TO FORM:


Michael H. Roush, City Attorney



P.O. Box 520, Pleasanton, CA 94566-0802
Housing Division (tel. 925-931-5007; fax 925-931-5485)

2013

Applicable Income and Rent Limits for Below-Market Rent (BMR) Apartments

(revised annually by City)

Persons in Household	MAXIMUM ANNUAL INCOME:				
	120% (Moderate)	100% (Median)	80% (Low)	60% (Low)	50% (Very Low)
1	\$74,950	\$62,450	\$49,950	\$37,450	\$31,200
2	\$85,650	\$71,350	\$57,100	\$42,800	\$35,700
3	\$96,350	\$80,300	\$64,200	\$48,150	\$40,150
4	\$107,050	\$89,200	\$71,350	\$53,500	\$44,600
5	\$115,600	\$96,350	\$77,050	\$57,800	\$48,150
6	\$124,150	\$103,450	\$82,800	\$62,100	\$51,750
7	\$132,750	\$110,600	\$88,500	\$66,350	\$55,300
8	\$141,300	\$117,750	\$94,200	\$70,650	\$58,850

Size/Type of Unit	MAXIMUM MONTHLY RENT:				
	120% (Moderate)	100% (Median)	80% (Low)	60% (Low)	50% (Very Low)
Studio	\$1,874	\$1,561	\$1,249	\$936	\$780
1 BR	\$2,141	\$1,784	\$1,428	\$1,070	\$893
2 BR	\$2,409	\$2,008	\$1,605	\$1,204	\$1,004
3 BR	\$2,890	\$2,409	\$1,926	\$1,445	\$1,204

NOTES:

Derived from the Oakland Primary Metropolitan Statistical Area (PMSA) most recent median income level for family of four (*). The Oakland PMSA includes Alameda and Contra Costa counties. Maximum annual income and monthly rent levels are shown for five different income categories: 1) 120% of median, 2) 100% of median, 3) 80% of median, 4) 60% of median, and 5) 50% of median. The maximum annual income level is determined by the number of persons in the household. The applicable maximum rent level is determined by the size and type of the rental unit and assumes 30% of the monthly household income for housing.

(*) Department of Housing and Urban Development (HUD); \$89,200 ; 12/11/2012