

Tentative Agreement /Settlement Term Sheet
Urban Habitat et al. v. City of Pleasanton
July 20, 2010

(This document has been prepared in furtherance of settlement negotiations. The provisions of California Evidence Code section 1152 specifically apply.)

Housing Cap

No later than October 19, 2010, the City Council will amend its General Plan eliminating Policy 24 and Programs 24.1, 24.2 and 24.3 and making revisions to other General Plan and Housing Element text

Housing Element

Within one year of the settlement date the City will submit to the HCD an amended Housing Element. The City will adopt the Housing Element within 90 days after receiving a response from HCD however, extensions may be granted for unique and unforeseen circumstances. A draft site inventory will be released within 180 days of the settlement date and rezonings will be completed prior to or concurrent with adoption of the Housing Element. An environmental impact report will be prepared for the Housing Element.

Climate Action Plan

Within 18 months of the settlement date the City will adopt a Climate Action Plan, including completion of an environmental impact report that will address the allegations raised by the Attorney General with regard to the General Plan CEQA complaint.

Non-discrimination

No later than August 17, 2010, the City will adopt a resolution adopting the proposed non-discrimination clause substantially as set forth in Exhibit A hereto. In fulfillment of this objective, the City will study and evaluate housing element programs related to creating programs that promote non-profit housing development for families, as well as special needs households and that strengthen and promote construction of affordable units for families. The City will undertake this effort as part of the City's housing element update, which is subject to public input and community participation.

No Additional Litigation

City agrees not to pursue appeal or other/further litigation; Petitioners and Intervener agree to dismiss the General Plan/CEQA litigation and two remaining discrimination causes of action in Urban Habitat litigation, and to not pursue additional litigation regarding Housing Cap and Hacienda rezonings and or the General Plan/CEQA.

City Permitting Authority

Petitioners and Intervener agree to set criteria to allow for the approval of any building permits from time of tentative settlement agreement until the settlement date. As of the date of the settlement agreement, the City's full permit authority shall be restored completely and without limitation of any kind.

Attorney's Fees

City will pay \$995,000 within 30 days of the settlement date and additional \$995,000 no later than 30 days after July 1, 2011.

CEQA

City will conduct appropriate environmental analysis in accordance with CEQA guidelines for actions identified in this Settlement Term Sheet.

Enforcement

Develop an enforcement provision indicating the Court will retain continuing jurisdiction to effectuate the provisions of the Settlement Agreement until such time that the City has completely performed the terms of the Agreement. Petitioners and Intervenor shall give written notice to City regarding potential breach and the parties shall meet and confer within fourteen (14) business days of such notice before any party seeks judicial enforcement.

Hacienda Rezonings (pertaining only to three sites zoned previously)

1. No later than November 2, 2010, the City Council will approve the second reading of an ordinance amending Ordinance 1998 to remove paragraph 5, PUD Modification Contingency.

2. Development Standards, Design Guidelines and Application Process

A. Phase I Core Development Standards

Within 120 days of the settlement date, the City Council will approve the following Core Development Standards:

Density: Minimum 30 units per acre

Affordability:

- Income Ranges:

The greater of: (a) 15% of units of all units, or (b) 130 units, will be very low income (50% of AMI). Through the affordable housing agreements entered into between the City and each developer, affordable units will be deed restricted in perpetuity. The affordable housing agreements will be recorded and run with the land.

- Section 8 Rental Assistance Vouchers:

The developments will be required by the affordable housing agreements entered into between the City and each developer to accept HUD Section 8 rental vouchers as a means of assisting qualified applicants.

- Affordability Unit Mix:

- 10% of the total affordable units will be 3 bedroom units
- A minimum of 35% of the total affordable units will be two bedroom units
- The remaining affordable units will be one bedroom units

- Location of Affordable Units:

All affordable units will be dispersed throughout the development.

B. Phase II Non core development standards and Design Guidelines

Within 180 days of the settlement date, the City will develop non-core development standards and Design Guidelines for the three Hacienda sites that are not inconsistent with the Core development standards.

C. Phase III Adoption of Development Standards and Design Guidelines

Within 180 days from the settlement date, the City Council will adopt a PUD zoning ordinance for the three Hacienda sites setting forth the Core, non-core development standards and design guidelines.


D. Phase IV Project Application

Commencing at the effective date of the PUD Zoning Ordinance, the City will accept the development application(s) from developer(s)/property owner(s) as part of the City's PUD application process to determine conformance with development standards and design guidelines.

E. Phase VI Project Approvals

The City will use its discretion to adopt conditions relative to interpretation of design standards and design guidelines but shall not deny a PUD application for a housing development on the three Hacienda Sites that meet the core and non-core development standards and/or design guidelines or shall not condition a project in a manner that makes it infeasible.


Accepted by:



Nelson Fialho
City of Pleasanton

July 21, 2010

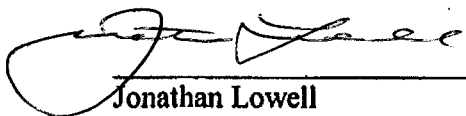
Date



Richard A. Marcantonio
Public Advocates

7/14/10


Date



Jonathan Lowell
City Attorney

JULY 21, 2010

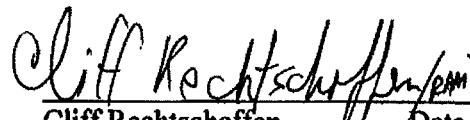
Date



Michael Rawson
The Public Interest Law Project

7/14/10

Date



Cliff Rechtschaffen
Deputy Attorney General

7/14/10

Date

Attachments:

Attachment A -- A Resolution of the City of Pleasanton Approving Enhancements to Existing Non Discrimination Policies

Attachment B -- Schedule of Tentative Agreement/ Settlement Term Sheet

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLEASANTON,
APPROVING ENHANCEMENTS TO EXISTING NON DISCRIMINATION HOUSING
POLICIES**

WHEREAS, in 2003, the Pleasanton City Council adopted a Housing Element; and

WHEREAS, the City's Housing Element includes goals and programs that prohibits discrimination to housing opportunities in Pleasanton, including the goal of identifying and making special provisions for the community's special needs housing; and

WHEREAS, the City is about to embark on an update to the existing Housing Element; and

WHEREAS, through adoption of this resolution, the City Council reaffirms its position on housing non-discrimination, and

WHEREAS, it is the intent of the City Council to update its Housing Element goals and programs through study and consideration of adoption of additional goals and programs related to eliminating discrimination in the areas of affordable housing for families with children and senior citizens as part of its Housing Element update process.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PLEASANTON CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the Council does hereby adopt the following Non-Discrimination Policy:

In recognition of State and Federal laws which prohibit municipalities from discriminating against developers of affordable housing, including non-profit developers of affordable housing, and from discriminating against families with children in need of affordable housing, it is the official policy of the City of Pleasanton, that the City staff and the City Council will act affirmatively to promote the development of well-designed affordable housing for families with children in Pleasanton. The City Manager will report regularly to the City Council on the City's efforts to fulfill this policy, the success of those efforts, and plans and proposals to attract well-designed affordable housing for families with children in the future.

SECTION 2. As part of its Housing Element update process the City will study and consider adoption of goals and programs promoting affordable non-profit housing development for families, as well as for other special needs households, including strengthening existing programs to promote construction of affordable three bedroom units for large families and including the goal of building affordable family units and affordable senior units in proportion to the need for each.

SECTION 3. As part of the Housing Element Update process, the City staff will conduct analysis and prepare information for review by the public and consideration of

adoption by the City Council, related to Sections 1 and 2 above. This analysis will include identifying sites that may be most competitive for Low Income Housing Tax Credits based on the "site amenities" point criteria included as part of the California Tax Credit Allocation Committee Application. Following the public review process for the Housing Element, which will include discussion with non-profit affordable housing developers, and identification of the most competitive sites for Lower Income Housing Tax Credits, the City Council will adopt and implement one or more programs to attract non-profit affordable housing development for families for the identified sites. Such program(s) shall not preclude non profit housing developments on sites other than the identified sites. The City will also study its existing Lower Income Housing Fee and Inclusionary Housing Ordinance to determine if it is appropriate to increase the amount of the fee or percentage of affordability to support affordable housing development.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Pleasanton at a regular meeting held on XXXX XX, 2010.

I, Karen Diaz, City Clerk of the City of Pleasanton, California, certify that the foregoing Resolution was adopted by the City Council at a regular meeting held on the ___ day of ___, 2010, by the following vote:

Ayes:
Noes:
Absent:

Karen Diaz, City Clerk

APPROVED AS TO FORM:

Jonathan P. Lowell, City Attorney

Schedule for Tentative Agreement/ Settlement Term Sheet Urban Habitat et al v.City of Pleasanton
7/20/10

| DATE | BODY | ITEM |
|--------------------|---------------------|---|
| July 20, 2010 | City Council | Approval of Settlement Term Sheet/Tentative Agreement and authorization to prepare Settlement Agreement |
| July 20, 2010 | City Council | Approval of agreement for consultant services to prepare the City's Climate Action Plan |
| July 20, 2010 | City Staff | Release of notice to Native American tribes indicating City's intent to amend its General Plan (90 days/ GC\$ 65352.3(a)) |
| July 21, 2010 | City Staff | Release draft revisions to the Housing Element to State HCD regarding intent to eliminate housing cap (45 days/ GC\$ 65754(a)) |
| August 17, 2010 | City Council | Approval of Settlement Agreement |
| August 17, 2010 | City Council | Approval of City non discrimination resolution |
| September 7, 2010 | City Council | Approval of agreement for consultant services to prepare Housing Element Update |
| September 15, 2010 | Planning Commission | Review of amendments to the General Plan and Housing Element regarding removal of the housing cap |
| September 15, 2010 | Planning Commission | Recommendation of amendment to PUD 1988 concerning removal of section 5 |
| September 16, 2010 | City Staff | Issuance of first payment for attorney fees |
| October 19, 2010 | City Council | Approval of resolution removing the housing cap from General Plan, including the Housing Element |
| October 19, 2010 | City Council | Introduction of ordinance amending PUD 1998 to remove Section 5 |
| November 2, 2010 | City Council | Second reading of ordinance amending PUD 1998 |
| December 7, 2010 | City Council | Introduction of ordinance establishing Core Development Standards for three Hacienda sites (final date is December 22, 2010) |
| January 4, 2011 | City Council | Second reading of ordinance establishing Core Development Standards for three Hacienda sites |
| February 15, 2011 | City Council | Introduction of ordinance establishing non-core development standards and design guidelines for three Hacienda sites |
| February 20, 2011 | City Staff | Final day to release Housing Element site inventory |
| March 1, 2011 | City Council | Second reading of ordinance establishing non-core development standards and design guidelines for three Hacienda sites |
| July 31, 2011 | City Staff | Issuance of second payment for attorney fees |
| August 16, 2011 | City Staff | Transmit Draft Housing Element Update to State HCD (City to adopt Housing Element within 90 days after receiving a response from HCD, however extensions may be granted for unique and unforeseen circumstances.) |
| February 17, 2012 | City Council | Adoption of Climate Action Plan |

Note: Ordinances are effective 30 days following second reading/adoption