



## Planning Commission Staff Report

September 15, 2010  
Item 6.d.

- SUBJECT:** PRZ-57, City of Pleasanton, Hacienda Business Park Rezoning
- APPLICANT:** City of Pleasanton
- PURPOSE:** Application to amend the zoning for three sites in Hacienda Business Park to remove Section 5 of Ordinance No. 1998 and to allow the submittal of development applications consistent with the settlement agreement approved by the City Council on August 17, 2010 in the case of *Urban Habitat v. City of Pleasanton*
- GENERAL PLAN:** Mixed Use/Business Park
- ZONING:** PUD-M-U
- LOCATION:** Site 1: Southeast corner of Willow Road and Owens Drive (APN 941-2778-013 and a portion of APN 941-2778-012)  
Site 2: North of Gibraltar Drive and Hacienda Drive (APN 941-2778-011)  
Site 3: Southeast corner of Gibraltar Drive and Willow Road (a portion of APN 941-2761-003)
- EXHIBITS:**
- A. Location of sites to be rezoned
  - B. Ordinance No. 1998
  - C. Showing repeal of Section 5 of Ordinance No. 1998
  - D. Negative Declaration, previously approved by the City Council on October 20, 2009
  - E. City Council Agenda Report, August 17, 2010: Approval of Settlement Agreement Concerning *Urban Habitat v. City of Pleasanton* Litigation (Including Attachment 1: Final Settlement Agreement)

## **BACKGROUND**

The three subject sites are vacant properties in Hacienda Business Park, all within one-half mile of the Dublin/Pleasanton BART station (see Exhibit A). The three parcels are currently the focus of a Hacienda Transit Oriented Development planning effort that is being guided by the Hacienda Task Force.

Consistent with a provision in the 2003 Housing Element to rezone land sufficient to accommodate the City's share of the regional housing need, on November 3, 2009 the City Council approved Ordinance No. 1998 (Exhibit B). That ordinance rezoned the three subject sites to allow Mixed Use development and required a minimum density of 30 units per acre for any residential development. The rezonings were also intended to address a cause of action raised in the litigation filed by Urban Habitat, related to the deficit of housing sites in the 2003 Housing Element.

Section 5 of Ordinance No. 1998 stated that any subsequent development plan for mixed use or residential development could not be approved until the completion of the PUD Major Modification (i.e. at the conclusion of the Hacienda Task Force process that was just starting at the time the ordinance was adopted) unless the property owner can show good cause to proceed earlier.

Earlier this year, the Court issued a decision in the Urban Habitat matter, and part of that decision referred to Ordinance No. 1998. The March 12, 2010 Court Order stated in part:

"The City's enactment of Ordinance No. 1998 a month and a half before the hearing on this petition may start a process to cure the City's failure in this matter, but is wholly inadequate to be considered a cure. Its requirement of further necessary acts before any development plan can be approved vitiates any actual remedial effect of the Ordinance. Moreover, the "good cause" exception in the ordinance is illusory because it is not defined and because it is an obvious disincentive to developers."

In August 2010, the City Council reached a settlement with the plaintiffs and with the State Attorney General's office which had intervened in the lawsuit. (See Exhibit E, City Council Agenda Report of August 17, 2010 and Final Settlement Agreement). As part of the Settlement Agreement, the City agreed to eliminate Section 5 of Ordinance No. 1998 by November 2, 2010. The City also agreed to adopt several core development standards that will apply to residential development of these sites and are related to density, affordability, the use of Section 8 Rental Assistance vouchers, the bedroom mix of affordable units, and the location of the affordable units. The Planning Commission will review this proposed rezoning in October, 2010.

## **PROJECT DESCRIPTION**

The Planning Commission is being asked to make a positive recommendation to the City Council regarding the repeal of Section 5 of Ordinance No. 1998.

## **DISCUSSION**

As the Planning Commission is aware, the Hacienda Task Force has been meeting since March, 2010, and will provide recommendations to the City Council regarding guidelines and

development regulations that will be used to evaluate mixed use or residential projects on the sites near the Pleasanton/Dublin BART station. Representatives of the three privately owned vacant sites subject to this rezoning are serving on the Task Force. The guidelines and regulations recommended by the Task Force will be “non-core” development standards that will be in addition to the “core” development standards detailed in the Settlement Agreement and described in “Background”, above. The Settlement Agreement requires that the “non-core” development standards and design guidelines are approved as part of a PUD zoning ordinance for the three sites no later than March 1, 2011. Repealing Section 5 of Ordinance No. 1998 will remove any restriction on approval of development plans for these sites. However, because “core” and “non-core” development standards must be adopted on the schedule outlined above, and the property owners are aware of the terms of the settlement and have indicated their intention to work with the City as it implements those terms, it is unlikely that any mixed use or residential project will be proposed by these property owners prior to the adoption of specific development standards.

### **ENVIRONMENTAL REVIEW**

On October 20, 2009, at the time the City Council was considering the previous rezonings, it also approved a Negative Declaration dated August 31, 2009, which determined that the project impacts, as they were known at that time, were less than significant (see Exhibit D). Because the environmental setting has not changed since August 2009, and repealing Section 5 of Ordinance No. 1998 would not substantially change the nature of the anticipated development, staff believes no additional environmental analysis is required for this project.

### **PUBLIC NOTICE**

Public Hearing notices were sent to 2,506 property owners and tenants within the Hacienda Business Park, and published in The Valley Times.

### **STAFF RECOMMENDATION**

Staff recommends that the Commission take the following actions:

1. Receive public input on the repeal of Section 5 from Ordinance No. 1998 and then close the public hearing; and,
2. Recommend the City Council repeal Section 5 of Ordinance No. 1998

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