

Proposed Revisions to Nishi Development Agreement
(as attached to Staff Report Item 07, beginning on page 127)

Revisions proposed as follows:

- **Page 10** – Staff desired to provide an additional option for the City on implementation of the “make whole” provision for property taxes.
- **Page 57 & 58** – The applicant requested removal of language that they felt was unnecessary as we already have a provision for compliance with Fair Housing Laws. Staff does not find this edit objectionable considering the fair housing laws language is included in the plan.
- **Page 59** – The applicant requested that language be included that would allow them to enter into an agreement with UC Davis to have campus administer the Affordable Housing Plan through a leasing program. Staff is comfortable with the concept and the language.

3. Community Enhancements. The Developer shall provide for additional contributions to community enhancements, as set forth in Exhibit G.

4. Predevelopment Contribution. Developer shall repay predevelopment expenses incurred by City in accordance with the Pre-Development and Cost-Sharing Agreement approved by the City Council on November 27, 2012. Repayment will be allocated per parcel, on a basis such parcel size, parcel use, and/or anticipated as on a building square footage basis, at the time of approval of the first Design Review or Final Planned Development application for the project. Payment for each parcel shall be made with Certificate of Occupancy for the first building on that parcel.

5. Affordable Housing. The Developer shall comply with the affordable housing requirements as set forth in Exhibit L.

6. Reimbursement for Property Taxes. Prior to issuance of building permit, Developer shall record a covenant on the title to the Project Site regarding property tax payments. The covenant shall include a permanent obligation for the property owner to make payments to the City, Yolo County, and Davis Joint Unified School District in lieu of the City's, Yolo County's and Davis Joint Unified School District's respective share of otherwise-required property taxes in the event that the Property is ~~acquired or master~~acquired, or master leased in whole or in part by an entity exempt from payment of property taxes. Wording of the covenant is subject to review and approval of the City Attorney. Alternatively, at the City's sole and absolute discretion, a Land-Secured Financing District for Public Services shall be established such as a Community Facilities District, to provide an ongoing revenue source to the City for municipal services. Specific amounts of assessment shall be established to provide replacement revenue equal to the amounts that otherwise would be realized for the respective agencies through property taxes. The Developer shall agree to participate in said financing district. The timing of establishment of the district shall be prior to the first map for the property or first building permit, whichever occurs first.

7. Water and Energy Conservation Information and Incentive Plan. The Developer shall comply with and implement the measures identified in Exhibit K to provide information and incentives to residents on their water and energy use to encourage conservation.

EXHIBIT L

Affordable Housing Plan

Nishi Student Living

Developer will satisfy the City's affordable housing requirements through the rental of individual beds within the 700 multifamily rental units (the "Nishi Multifamily Units") that are developed in the Nishi development to very-low and extremely low income students.

1. Structure of Program

Developer intends to lease individual beds within the Nishi Multifamily Units, with the project marketed primarily to students. The 700 multifamily units are anticipated to include approximately 2,200 total beds. A minimum of 264 total beds (the "Affordable Beds") within the Nishi Multifamily Units shall be designated as affordable beds pursuant to this Affordable Housing Plan, with 132 beds rented to very low income students and members of their household ("Very-Low Income Beds"), and 132 beds rented to extremely low income students ~~and members of their household~~ ("Extremely Low Income Beds"). There will be no distinction made between the Affordable Beds and beds rented at market rate, except that market beds may in one-bed bedrooms while all Affordable Beds are anticipated to have two beds per bedroom. Renters of the Affordable Beds will enjoy the same amenities and living experience as all other residents in the project. Affordable Beds shall be disbursed throughout the Nishi Student Living Project. Management staff employed by the owner of the Nishi Multifamily Units will administer both eligibility and suitability of residents and matches, subject to oversight by the City.

2. Qualification for Affordable Beds

The Affordable Beds will be made available to full-time students. To qualify to lease a Very-Low Income Bed, a full-time student must demonstrate that he or she is a member of a household whose annual income does not exceed a very-low income household income, adjusted for household size, as determined by the California Department of Housing and Community Development ("HCD") on an annual basis pursuant to California Code of Regulations Title 25, Section 6932 ("Very-Low Income"). To qualify to lease an Extremely Low Income Bed, a full-time student must demonstrate that he or she is a member of a household whose annual income does not exceed the annual income for an extremely low income household, adjusted for household size, as determined by HCD on an annual basis pursuant to California Code of Regulations Title 25, Section 6932 ("Extremely Low Income"). Students that participate in the program must also prove their full-time status with a schedule from any community college or four-year college or university. Full-time status will be reviewed at the execution of each lease, and subsequently on an annual basis prior to entering into a new lease or lease extension.

Developer shall be responsible for developing selection criteria for the Affordable Beds that are consistent with all state and federal fair housing laws, including but not limited to the Federal Fair Housing Act, the California Fair Employment and Housing Act, and the California Unruh

Act (collectively, “Fair Housing Laws”). The City shall reasonably consider changes to the eligibility criteria for the Affordable Beds if deemed necessary to comply with Fair Housing Laws.

Both financially dependent full-time students and financially independent full-time students will be eligible for the program if the following criteria are met:

A. Financially Dependent Full-time Students

Full-time students claimed as an income tax dependent by any individual for the tax year preceding application to the program may qualify for the program by demonstrating that the income of the student’s household, including the student’s income, does not exceed Very-Low Income or Extremely Low Income, as applicable to the Affordable Bed for Yolo County.

i. *Verifying Student Household’s Low Income Status:* The full-time student must verify his or her household income by means of documentation such as tax returns, W-2s, pay stubs, bank statements, and other information as deemed appropriate. “Income” shall be defined as set forth in 25 Cal. Code Regs. §6914. Developer shall be responsible for developing written procedures for verification of income status consistent with the Fair Housing Laws, this Affordable Housing Plan and the Regulatory Agreement to be recorded against the Nishi Multifamily Units. The written criteria shall be subject to review and approval by the City.

B Financially Independent Full-time Students

Full-time students who have not been claimed as an income tax dependent by any individual for the tax year immediately preceding application to the program may qualify by verifying financial independence and by demonstrating that the full-time student’s income does not exceed Very-Low Income or Extremely Low Income for a single person household ~~(or, for a student with minor children, the appropriate household size)~~, as applicable to the Affordable Bed for Yolo County.

i. *Verifying Financially Independent Status:* Financially independent full-time students must be able to demonstrate that they are not claimed as a dependent on anyone else’s tax return and show financial self-sufficient status by means of verifying documentation such as tax returns and W-2s, and additional information to demonstrate financial independence.

ii. *Verifying Low Income Status:* The full-time student or non-student must document his or her income by means of verifying documentation such as tax returns, W-2s, FAFSA documentation, bank statements, etc. “Income” shall be defined as set forth in 25 Cal. Code Regs §6914. Developer shall be responsible for developing written procedures for verification of income status consistent with the Fair Housing Laws, this Affordable Housing Plan and the Regulatory Agreement to be recorded against the Nishi Multifamily Units. The written criteria shall be subject to review and approval by the City.

Alternatively, rather than Developer leasing the Affordable Beds described in this Affordable Housing Plan directly to qualified students, the Developer may, at its discretion, enter into an agreement with the University of California at Davis (the “University”), under which the Developer agrees to lease some or all of the Affordable Beds required under this Affordable Housing Plan to the University for the University to lease the beds to qualifying students as provided in this Affordable Housing Plan. The lease payment paid by the University for each bed leased under any such agreement will not exceed the amount allowed under this Affordable Housing Plan for the Affordable Bed leased to the University, considering whether the Bed is designated for a Very Low Income or an Extremely Low Income student. Any agreement completed under this provision shall contain a requirement that the University re-lease/sublet all Affordable Beds leased under this provision to full time students that meet the Income Qualifications for the individual Affordable Bed re-leased/subletted, whether Very Low Income or Extremely Low Income at the affordable rents, as set-forth in this Affordable Housing Plan.

3. Affordable Rent Determination

The monthly rent for each Affordable Bed will not exceed:

- i For a Very-Low Income Bed, 1/12 of 30% of the maximum annual income for a one person Very-Low Income household in Yolo County as determined by HCD; or
- ii. For an Extremely Low Income Bed, 1/12 of 30% of the maximum annual income for a one person Extremely Low Income household in Yolo County as determined by HCD.

This rental rate includes all utilities and any cost for amenities provided to residents of the Nishi Multifamily Units.

Priority of tenant applications will be based on demonstrated need. However, where qualifying tenant applicants outnumber available beds, a waitlist will be implemented that takes the order in which applications are received into account in addition to demonstrated need.

4. Marketing of Program

Developer shall develop and implement a marketing plan for the Affordable Beds that shall be subject to the review and reasonable approval by the City. The marketing plan shall include, at a minimum, use of social media channels, outreach to student programs on the UC Davis campus that represent traditionally underserved groups, as well as communication with the City of Davis, Yolo County Housing, and the UC Davis Housing Office to target outreach to eligible full-time college students in Davis and the surrounding region.

5. Reporting for Affordable Beds