

January 14, 2020

Mark Grote, Secretary
Old East Davis Neighborhood Association
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Via e-mail

To: Eric Lee, planner, and the Downtown Plan Advisory Committee
Re: Comments on the draft Downtown Plan and Form-based Code

Dear Eric and committee members:

On behalf of the board members of the Old East Davis Neighborhood Association, I submit the following comments on the draft Downtown Plan and Form-based Code. We thank city staff and DPAC for their patience and perseverance during this planning and visioning process.

The implementation of the Downtown Plan will have profound effects on the people of our neighborhood, our homes and the physical environment. In this light, we reaffirm and support the plan's concern with the "triple bottom line": people, planet and profit.

At this time we support the draft plan and code as published in *concept*, but not in *detail*. Our comments are concerned broadly with two elements of the plan--historic resources, and the Core Transition East--that are important areas of intersection between the downtown, the goals of the Downtown Plan, and Old East Davis. Sub-headings under the two main topics summarize our suggestions for further consideration or action as the draft plan goes forward.

1. Historic Resources.

a. The Downtown Plan needs explicit policies and implementation actions for preserving the setting and feeling of Davis' historic resources.

Under federal and California historic resource management policies, *setting* is an aspect of a historic property's integrity, and refers to "...the physical environment of a historic property...setting refers to the *character* of the place in which the property played its historical role. It involves *how*, not just where, the property is situated and its relationship to surrounding features and open space..." (*How to Apply the National Register Criteria for Evaluation*, U.S. National Park Service 1997).

Federal and California policies define a historic property's *feeling* as the "...expression of the aesthetic or historic sense of a particular period of time. It results from the presence of physical features that, taken together, convey the property's historic character." (*ibid*)

Setting and feeling are tangible and practical aspects of *place-making*, as applied to historic resources.

The draft Downtown Plan references five purposes for the City's existing Conservation Overlay District, including the first purpose: to "Conserve the traditional neighborhood character, fabric and setting while guiding future development, reuse, and reinvestment". But there is no further mention of *setting* in the draft plan, and no mention in the draft plan of *feeling*. Setting and feeling are essential features of the historic resources in Davis' traditional residential neighborhoods: University Avenue/Rice Lane, which is entirely within the Downtown Plan area; Old East Davis and Old North Davis, parts of which are within the planning area. Setting and feeling are also relevant for areas of the downtown core with aggregations of historic properties, such as along Second Street between G and E Streets. All of these areas provide a setting for the historic resources they contain.

The draft plan offers only advisory language in sections bearing on setting and feeling, for example: "Particularly in areas with concentrations of historic resources and age-eligible buildings, zoning regulations and design guidelines should promote responsible development adjacent to historic resources (pg. 114, *Considerations for Future Development*). Phrases such as "should promote responsible development" are non-mandatory and, given likely competing interests, will ultimately be ineffective for historic resource preservation. Downtown Plan policies regulating the setting and feeling of historic resources must be explicit and enforceable.

Development policies in the draft plan specific to neighborhoods are also merely advisory, and suffer from language open to differing interpretations. For example, in the G Street neighborhood-- where five-story, block-scale building forms are allowed-- development adjacent to historic resources is guided by the policy: "Proposed building forms should be compatible with existing resources that are small- to medium-scale, largely one to two stories in height" (pg. 120). Here, both the weakness of the language "should be compatible", and the juxtaposition of five-story, block-scale buildings with small-to-medium, one-to-two story historic buildings, are dismaying. Similarly for the University Avenue-Rice Lane neighborhood, development is guided by the policy: "The proposed form and scale should consider compatible alterations to properties containing or adjacent to historic resources" (pg. 128). The phrase "should consider compatible alterations" is inadequate for effective historic preservation. The lack of enforceable language is a problem for policies specific to each neighborhood.

New development can have both direct and indirect impacts on nearby historical resources. Indirect impacts include: "the introduction of visual, audible or atmospheric effects that are out of character with the historic property or alter its setting, when the setting contributes to the property's significance. Examples include, but are not limited to, the construction of a large scale building, structure, object, or public works project that has the potential to cast shadow patterns on the historic property, intrude into its viewshed, generate substantial noise, or substantially increase air pollution or wind patterns" (*San Diego Land Development Manual - Historical Resources Guidelines*, p.10).

The Form-Based Code makes adjustments to ground-floor ceiling heights, setbacks, and stepbacks for buildings adjacent to historic resources (40.14.080.C), but these technical modifications are not adequate by themselves for the big-picture tasks of avoiding indirect impacts, or preserving a historical building's context and the character of its surroundings.

b. The Downtown Plan needs explicit language stating how planning and review processes related to the existing Conservation Overlay District will evolve under adoption of the Plan. Lingering issues related to the application of “standards” in the Conservation Overlay District must be resolved in the Downtown Specific Plan.

Because of significant impacts on historic setting identified in the EIR for the B and 3rd Visioning Process, design review—including review under the Downtown Davis and Traditional Residential Neighborhoods Design Guidelines—is currently required for *all new development* in the Conservation Overlay District (Mitigation Measure 4.3-9(a) of the B and 3rd EIR). This review is a statutory obligation of the City under CEQA. Land-use and zoning regulations for the Conservation Overlay District are expected to be replaced by the Downtown Plan and Form-based code, for those parts of the Overlay District within the Downtown Plan area. Yet the draft Downtown Plan does not describe how planning and review processes related to the existing Conservation Overlay District will carry over functionally to the Downtown Plan upon its adoption. Neither section 5.3 of the draft plan (Conservation Overlay District), nor the Implementation Actions in Table 8G for Historic Resources Management, take on this issue. This omission raises questions about the continuity of the City’s historic resource management practices, which must be addressed prior to the Downtown Plan’s environmental review.

The use of the term “conservation district” in the draft plan (e.g., pg. 221) is confusing and misleading, and the term is no better defined in the draft plan than it is in the City’s existing ordinances. Existing policies applying to the Conservation Overlay District, such as the DDTRN Design Guidelines, have been downplayed in City planning documents and presentations as not providing specific, mandatory standards. Hence it is critical that terms are defined and standards are clearly stated.

The note on page 130 of the draft plan stating that the planning area does not include Old East Davis and Old North Davis is incorrect. The planning area includes some portions of Old East Davis and Old North Davis. The note should be edited for accuracy.

On page 131 of the draft Plan, the unsupported claim that the Design Guidelines “remain unclear” should be deleted.

In Table 40.13.060.A of the draft Form-based code, the *status* of article 40.13A, Downtown and Traditional Neighborhood Overlay District, should read: “Replaced by Downtown Code *within Downtown Code boundaries.*” As written, replacement within the entire Overlay District is implied.

c. Historic Resources located in adjacent neighborhoods, including Old East Davis and Old North Davis, should be identified on all maps in section 5.2 of the draft plan.

The map showing historic resources, on page 116 of the draft plan, gives the impression that they exist only in the plan area. Subsequently the text description for the G Street Neighborhood (pg. 120) mentions that the adjacent Old East Davis neighborhood has “a number of” historic resources; and the

Old North Davis neighborhood, adjacent to the North G Street Neighborhood, is described as having “numerous eligible or potentially eligible” historic resources (pg. 122).

Historic resources in Old East Davis and Old North Davis should be identified on the map on page 116, and on the subsequent neighborhood-specific maps whenever they occur within the frame. The spatial relationships and contexts of historic resources are relevant features, and the draft plan maps are incomplete having omitted identified resources. In neighborhood-specific maps, all historic resources (including those in other downtown neighborhoods shown in other neighborhood-specific maps) should be identified whenever they occur within the frame.

The draft Downtown Plan does as suggested above for the 1967 bike lane. The bike lane exits the downtown plan area into Old East Davis and runs north along J Street. This is shown in the map on page 116, and in neighborhood-specific maps whenever it occurs within the frame. All identified historic resources should be treated in these maps as the draft Downtown Plan treats the 1967 bike lane.

d. The form-based code has special regulations for buildings adjacent to historic resources, but “adjacency” should be clearly defined, and should relate to the whole physical context of a historic resource.

Section 40.14.080.C of the Form-based code makes adjustments to ground-floor ceiling heights, setbacks, and stepbacks for buildings adjacent to historic resources, but based on the images shown there, it could be inferred that the adjustments only apply when *front facades* are on adjacent properties. Obviously, new buildings can impact historical resources from the side and rear, and these impacts can extend over distances spanned by alleys, which are common parcel-dividers in the downtown core, University Avenue/Rice Lane, Old East Davis and Old North Davis. Concerns about the ambiguity of “adjacency” in the Form-based Code are amplified by the omission in plan area maps, noted above, of historic resources located in adjacent neighborhoods.

e. Specific standards for the height of a new building relative to the top-plate of an adjacent historic structure should be included in the Form-based Code.

An example would be: “The maximum height of a new structure adjacent to a single-story historic structure shall not exceed two times the height of the historic structure’s top-plate.” The multiple, two times the height of the top-plate of an adjacent single-story historic structure, should decrease for taller adjacent historic structures, to avoid absurdly tall new buildings. We propose that the Historic Resources Management Commission develop these standards, perhaps in consultation with an architectural historian of their choosing.

f. Policies for structures potentially eligible for historic designation, including “contributing” structures, should be explicit in the Downtown Plan. Structures recommended for designation

should be treated as historic under the Downtown Plan, pending definitive action from the HRMC and City.

The City created the Conservation District designation as a mechanism to mitigate potential impacts to historic resources under the City's 2001 General Plan. At that time, the City included Landmark and Merit designations, and also included a "contributing structure" designation. The intention was that the Conservation District overlays would function similarly to an historic district designation, but would accommodate the variety of structures that existed, given the piecemeal development in Davis over time, rather than development of full blocks or tracts. As time has passed and CEQA interpretation has evolved, the City has taken the position that protection is only afforded those structures designated as Landmark or Merit, without formal consideration of whether earlier designated contributing structures should be "upgraded". We are concerned that the draft plan continues this practice.

Demolition is final. We recommend that structures recommended for designation, such as the KetMoree building and others, be treated as historic under the Downtown Plan, pending final decisions. Federal land-use law regulating the designation of wilderness areas provides a parallel approach, prohibiting road-building and logging in areas considered for designation during their study and review period.

g. Policies to encourage and regulate adaptive re-use of historic structures should be included in the Downtown Plan.

Adaptive re-use is part of the portfolio of best practices for historic resources management. It is a green building strategy that avoids excessive accumulation of building materials in landfills, and reduces environmental disturbance at building sites caused by demolition and foundation-digging.

2. Core Transition East.

a. The 2005 City Council actions including the railroad parcels in the core planning area, along with the planning documents related to those actions, give the existing entitlements and restrictions for these properties.

In 2005, at the request of Jennifer Anderson (the owner of three of the four parcels along the railroad tracks), the City Council included four parcels in Old East Davis lying directly to the east of the Union Pacific Railroad tracks in the core planning area. The Council's actions included amendments to area plans to designate the parcels' land-uses as Retail with Offices, and an ordinance to rezone the parcels to Mixed Use (Resolution No. 05-220; Ordinances and planning documents in: June 23, 2005 Staff Report for the City Council).

The owner-- at that time-- of the southernmost parcel, consisting of 901-919 Third Street (currently the Trackage Center parcel), agreed to have this parcel included in the Core Area and re-zoned, along with

the three parcels owned by Anderson. Old East Davis neighbors participated in the City's planning process and agreed to the Council's actions, under specific provisions regarding the mass and scale of future buildings on these parcels which were stated in the resolution and ordinances, and detailed in the planning documents presented to the Council at that time.

The planning documents for these parcels allowed "buildings up to three stories and a floor area ratio of 1.5:1 (or 2.0:1 with bonuses)", and further stated that mixed use and residential structures above two stories were to "be carefully designed to avoid appearances of excessive bulk" (2005 Staff Report, pg. 27). The planning documents went on to state that "Provisions in the Design Guidelines and Core Area Specific Plan call for new infill development to respect the mass and scale of surrounding development" (2005 Staff Report pg. 27).

Along with restrictions on the mass, scale and number of stories, the housing density for Mixed Use residential projects on these parcels was capped at 30 dwelling units per acre, and Mixed Use residential projects were required to provide at least one on-site parking space per unit (2005 Staff Report). These density and parking provisions are still in effect for the parcels in the Core Transition East.

The City has processed only one planning application involving these parcels-- for the Trackside Center project-- since the 2005 amendments. The Trackside Center planning documents incorporated the 2005 land-use and zoning provisions implicitly, as defining the existing entitlements for this property (November 14, 2017 Staff Report for the City Council, pg. 05-7, Table 1; *ibid*, pg. 05-21, Table 2 "Base M-U Standard"). By analogy the 2005 provisions also define the existing entitlements for the parcels in the Core Transition East owned by Anderson.

The planning documents for the November 14, 2017 City Council hearing on the Trackside Center proposal included special provisions incorporated in the Planned Development application for this parcel, such as increased building height and density, as well as inclusion into the project area of land leased from the Union Pacific Railroad. A Planned Development application and Tier-3 review were required for the Trackside Project, because these special provisions went beyond the parcel's existing entitlements.

A decision filed on May 15, 2019 by the Yolo Superior Court ordered the City of Davis to vacate and rescind all approvals for the Trackside Project, though the City subsequently appealed this decision. The special provisions related to the Trackside Project's Planned Development application cannot be claimed as existing entitlements for this parcel (901-919 Third Street) while the City's appeal is pending. This parcel's existing entitlements are as described in the 2005 Staff Report.

The term "Main Street scale" was applied to the four Core Transition East parcels in the 2005 documents, but we caution that this phrase had a narrow meaning, referring only to setback distances (2005 Staff Report, pg. 13 and Attachment 3). "Main Street" in the 2019 draft Form-based Code refers to a collection of building forms sharing multiple features, notably mass and scale at the level of a city block. The 2005 documents did not envision block-scale buildings on the Core Transition East parcels.

b. The existing entitlements and restrictions for the parcels in the Core Transition East, as well as other applicable City policies, require that building forms and land uses on these parcels make an appropriate transition from Old East Davis to the commercial core.

At least six unique, substantive references to transitional building scales and land-uses, as applied to the railroad parcels, occur in the 2005 Staff Report. Some examples are:

i) “These applications are considered to facilitate achievement of community goals to increase housing in the Downtown and provide a scale and use transition between the Downtown Core and adjacent residential area as identified in the Design Guidelines ‘Mixed Character Areas: Core Transition East’ (2005 Staff Report, pg. 2);

ii) “The Core Area Specific Plan identifies the properties around the perimeter of the Downtown Core as Retail with Offices and establishes a Transitional Boundary which is to function as a transition between higher intensive commercial and office land uses and lower intensive uses...” (from the Resolution of Intent to Amend the General Plan and Core Area Specific Plan, 2005 Staff Report, pg. 6);

iii) “The public necessity, convenience and general welfare require the adoption of the proposed amendment to ensure consistency with the General Plan, Core Area Specific Plan and Downtown and Traditional Neighborhood Overlay District (40.13A.) which encourage the mixed retail, office and residential uses on the periphery of the Downtown Core Area to support the vitality of the commercial area and to provide a transition between the more intense commercial core and surrounding residential neighborhoods” (from the ordinance to re-zone the four parcels from Commercial Service to Mixed Use, 2005 Staff Report, pg. 12).

To summarize, the requirement for transitional building forms and land uses on the Core Transition East parcels was codified in the 2005 City Council actions, and is a current condition for development on these properties.

c. The Downtown Plan’s treatment of transition areas must be consistent with policies in the City’s General Plan.

Regarding transitions, the City’s General Plan states: “Accommodate new buildings with floor area ratios that can support transit use, especially within 1/4 mile from commercial areas and transit stops, but maintain scale transition and retain enough older buildings to retain small-city character” (Land Use Principle 4, p.56). Policy UD 2.3 of the General Plan further states: “Require an architectural ‘fit’ with Davis’ existing scale for new development projects” (p.159); the subsequent Standard a) states: “There should be a scale transition between intensified land uses and adjoining lower intensity land uses”. The General Plan will still be in effect at the time the Downtown Plan is adopted, and policies in the Downtown Plan, including its treatment of transitions, must be consistent with those of the General Plan, as a condition for its adoption.

d. Imprecise language and policy direction in the draft Downtown Plan regarding transition areas between traditional neighborhoods and the downtown core, as well as incorrectly drawn neighborhood boundaries in Figure 5.34, must be revised prior to the Plan’s environmental review.

Recommendation D for the Conservation Overlay District (pg. 132) states: “...establish special areas of interest to encompass the transitional areas between the Downtown Commercial Core and the Old East and Old North neighborhoods. These special areas of interest will be for the Downtown commercial core, and along G Street including the Amtrak site, and would allow for more nuanced conservation and development in these areas, as shown in Figure 5.34.”

This recommendation occurs in the context of other proposals for how the existing Conservation Overlay District will evolve under adoption of the Downtown Plan, but it is not clear what, exactly, is being recommended in Recommendation D. In particular, the phrase “allow for more nuanced conservation and development” is unacceptable, as it is vague and open to different interpretations. Recommendation D fails to meet a premise of the Downtown Plan: to increase certainty for both residents and developers about the course of future development in the plan area and the kinds of projects that can be approved.

As a policy document concerned with transition areas, the draft Downtown Plan lacks the detail and specificity of the General Plan, Core Area Specific Plan and DDTRN Design Guidelines. It is not an improvement on, or an evolution of, these existing policy documents. Policies in the draft Downtown Plan make the future of development in transition areas less clear than in the City’s current plans.

Table 8G, Action Item 7C (pg. 222) (“...establish special areas of interest...to encompass the transitional areas between the Downtown Commercial Core and the Old East and Old North neighborhoods”) amplifies the ambiguities in Recommendation D. It is not clear what is intended by this apparent recommendation to separate, and regulate differently, the transition areas and the neighborhoods that contain them.

The dashed lines showing the existing Conservation Overlay District boundaries are incorrect in Figure 5.34 (pg. 131, referenced in Recommendation D). The map on pg. 4 of the DDTRN Design Guidelines gives the correct boundaries. A comparison of the DDTRN map with the “proposed” boundaries for Old East Davis and Old North Davis (red-orange boundaries in Figure 5.34 of the draft plan), suggests that City planners wish to annex the transition areas into the downtown core, removing them from the traditional neighborhoods. This is unacceptable in OEDNA’s view. The Core Transition East is part of the Old East Davis neighborhood. The Union Pacific railroad tracks form the western boundary of Old East Davis—they are both a *historical* and *physical* boundary.

e. The Old East Davis Neighborhood Association supports the three-story transitional building forms shown in the published draft Regulating Plan for the Core Transition East.

Since 2005 and before, OEDNA has consistently supported development of neighborhood-compatible Mixed Use buildings in the Core Transition East, in order to increase the City's housing supply near the downtown core and enhance its economic vitality. The three-story Neighborhood Medium building forms in the draft Regulating Plan and Form-based Code embody the Missing Middle housing concept, and will have OEDNA's support.

We believe that clear policy direction by the City on development in transitional areas will enhance the triple bottom line. By establishing definitive standards for transitional building forms, the City will create stable conditions that will allow market forces to determine a development project's feasibility. Feasible projects that further the City's goals for increased housing and economic activity near downtown need not overwhelm neighborhoods adjacent to transition areas. Solutions that satisfy all stakeholders are attainable.

Thank you for your attention to these matters.

Sincerely,

A handwritten signature in black ink that reads "Mark Grote". The signature is written in a cursive, slightly slanted style.

Mark Grote, Secretary
Old East Davis Neighborhood Association