

## STAFF REPORT

**DATE:** February 2, 2016

**TO:** City Council

**FROM:** Mike Webb, Assistant City Manager / Director of Community Development & Sustainability  
Katherine Hess, Community Development Administrator

**SUBJECT:** Nishi Gateway – Planning Application #14-57

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### **Recommendation**

Staff recommends the City Council continue its discussion on the project applications and environmental review, with

- a. Staff and City Council subcommittee update on Baseline Project Features and Development Agreement;
- b. Limited public testimony at the discretion of the Council; and
- c. Continue the item to the meeting of February 16, 2016 for Council consideration of documents to place the General Plan Amendment on the June 2016 ballot; including
  - i. Resolution making CEQA findings (certification of the EIR, statement of overriding considerations, and rejection of alternatives)
  - ii. General Plan Amendment and Baseline Project Features (Nishi Property)
  - iii. Rezoning and Preliminary Planned Development (Nishi Property)
  - iv. Gateway/Olive Drive Specific Plan Amendment (West Olive Drive)
  - v. Development Agreement, including Baseline Project Features (Nishi Property)
  - vi. Resolution calling for Election on General Plan Amendment

The item is a continuation of the Council workshop on the Nishi Gateway applications that was held on January 12, 2016 and public hearing that was held on January 19, 2016. Final Council action to place the General Plan Amendment on the June 2016 ballot would be required by February 16, 2016.

### **City Council Goals**

This effort supports the following Goals/Objectives/Tasks:

- ◆ Drive Innovation and Economic Vitality / Facilitate business development through entrepreneur and startup support.
  - Task: Facilitate dispersed innovation center strategy by: Completion of EIRs and public hearings for innovation center applications; and Support the community decision-making process on Measure R regarding innovation centers and Nishi Gateway through education regarding challenges and opportunities.
- ◆ Build and Promote a Vibrant Downtown/Improve the downtown as a destination both for Davis residents and for visitors.
  - Task: Complete environmental review and application processing for Nishi Gateway.

### **Fiscal Impact**

On January 19, the City Council called for the Chair and Vice-Chair of the Finance and Budget Commission to meet with fiscal and economic consultants to identify mechanisms for ensuring fiscal and economic benefits from the Nishi Gateway development. The FBC representatives met with Economic and Planning Systems, Andy Plescia, and Goodwin Consulting on Tuesday, January 26.

As directed by the Council, City Consultants are preparing additional sensitivity analysis of the project proposal and assumptions. This analysis will include topics identified at the Council meeting of January 19 hearing:

- ◆ Sales tax assumptions from the R&D uses
- ◆ Assessed values for purposes of property tax
- ◆ Extension of supplemental sales tax (all or portion)
- ◆ Opportunities for ongoing revenues after buildout, including potential “make-whole” provision for properties removed from tax rolls and private maintenance or funding for parks, greenbelts, and streets

The sensitivity analysis will be presented to the Finance and Budget Commission at its meeting of February 8 for recommendation to the City Council with the materials for the February 16 meeting.

The City Manager and Assistant City Managers have met with the County Administrator to begin discussions of concepts for the necessary tax-share agreement with Yolo County. Staff anticipates returning to City Council later in February with proposed “principles for tax-share agreements” for Council consideration, which would establish the City Council’s expectations for tax-share discussions moving forward.

### **Summary Project Description**

The requested applications would grant land-use entitlements to allow the 47-acre unincorporated Nishi property to be annexed to the City of Davis and developed as a mixed-use innovation district. The project also includes rezoning of properties on West Olive Drive to accommodate redevelopment at greater density/intensity, should property owners desire to do so.

The Nishi project includes

- 650 residential units
  - ◆ 440 apartments
  - ◆ 210 condominiums
- 325,000 square feet of office/R&D uses
- 20,000 square feet of ancillary retails (coffee shop, café, etc.)
- 19 acres of open space, park, and greenbelt
  - ◆ 3.3 acres of the Putah Creek Parkway
  - ◆ Two parks totaling 11 acres
  - ◆ An additional 4 acres of stormwater detention adjacent to the southern park

A hotel or extended stay hotel could be considered in the future, subject to subsequent discretionary review, CEQA, and market analysis. The Baseline Project Features also include potential of an additional 130 units (for a total of 780 residential units on the property). As with the hotel, these would be subject to environmental review and public hearing, at the sole discretion of the City (see discussion, page 4).



Vehicular access is proposed from West Olive Drive and a new grade-separated crossing of the railroad tracks to Old Davis Road. Bicycle/pedestrian access would also be provided through the Putah Creek Parkway connections to South Davis and the UC Davis Arboretum.

The project requires a General Amendment and Rezoning/Rezoning. Because the Nishi property would be re-designated from Agriculture to urban uses, voter approval would be required under Measure J/R (Municipal Code Chapter 41). Changes to West Olive Drive would not require Measure J/R vote and would be entitled through an amendment to the Gateway / Olive Drive Specific Plan.

### **Baseline Project Features and Development Agreement Deal Point Concepts**

Because development of the Nishi property requires a General Plan Amendment to re-designate the site from Agriculture to urban uses, voter approval would be required under Measure J/R (Municipal Code Chapter 41). A component of Measure R includes establishment of “Baseline Project Features” such as recreation facilities, public facilities, significant project design features, sequencing or phasing, or similar features and requirements. These features cannot be eliminated, reduced or significantly modified without subsequent voter approval. Baseline Project Features are a component of the General Plan Amendment and are also reflected, with additional details as necessary, within the Development Agreement.

Staff and the City Council subcommittee of Mayor pro Tem Davis and Councilmember Swanson have worked to refine the Baseline Project Features and Development Agreement provisions, reflecting the policy direction provided by the City Council at the January 19 meeting. Attachment 1 includes the current draft Baseline Project Features document.

Staff comments on the Baseline Project Features address the following components:

1. Site Plan and Project Description (page 4)
2. Phasing (page 4)
3. Financial Commitments (page 5)
4. Sustainability Commitments (6)
5. Implementation (page 7)

1. Site Plan and Project Description

**The baseline features describe the project as analyzed in the Environmental Impact Report.** This includes a maximum of 650 dwelling units (see following paragraphs for potential modification), 325,000 square feet of office/R&D, and 20,000 square feet of retail. The acreages for various land uses are shown as example ranges in the Baseline Project Features. The project has not been engineered, so precise calculations of land required for drainage, roadway grades, buffers, parking, and similar infrastructure requirements have not been established. This range will provide necessary flexibility, while ensuring compliance with the expectations of the Sustainability Implementation Plan and City standards.

**The Baseline Project Features also allow potential increase in residential units, or addition of a hotel, as a potential subsequent action by the City, but without a requirement for subsequent voter approval.** Discretionary review, public hearing, and environmental analysis would be required for a proposal to increase densities or add a hotel to be considered. The intent of the Measure J/R ordinance is to ensure citizen participation in land use decisions that convert properties from agricultural to urban use. Measure J/R cites city policies for compact urban form, agricultural land preservation, an adequate housing supply to meet internal city needs, affordable housing, open space, agricultural preservation and conservation as considerations for evaluating these changes.

If the General Plan Amendment and these Baseline Project Features are approved by the voters of Davis, the Nishi Property may be converted from agricultural uses to a University-Related Research Park, as outlined in the General Plan amendment. Other potential urban uses consistent



with the goals of the University-Related Research Park but differing from the uses enumerated in these Baseline Project Features may be proposed at a future date. As established by the Citizens' Right to Vote on Future Use of Open Space and Agricultural Lands Ordinance, these Baseline Project Features may not be changed without approval of the voters of the City. However, there may be future modifications of the project, consistent with the intent of the Measure J/R Ordinance and the University-Related Research Park General Plan Designation, that are relatively minor amendments that could be considered without the requirement for subsequent voter approval.

Two such amendments are identified in the Baseline Project Features. Each, if proposed, would be subject to full environmental review as required under CEQA and City Council consideration of the necessary General Plan and planned development amendment. These are

- Potential construction of up to 130 additional units of similar design and similar or higher density to the permitted 650 residential units, for a total of 780 residential units.
- Potential construction of a hotel or extended-stay hotel not to exceed 125 rooms.

The City Council would have the ability to City Council may approve, modify and approve, or deny, any submitted application, but subsequent voter approval would not be required.

**The project is limited to a maximum of 1,732 off-street parking spaces.** The City and the Developer are committed to exploring options to reduce the parking further, through the Transportation Demand Management Program, with a target maximum of 1,550 parking spaces. The Environmental Impact Report assumed 1,925 off-street parking spaces for the Nishi property. A reduction in parking spaces is one of the tools for achieving the desired reduction in Vehicles Miles Travelled and vehicle trips required by Mitigation Measure 4.14-5 and the Sustainability Implementation Plan. Staff has concluded that the proposed reduction in parking spaces anticipated by this Baseline Project Feature is consistent with the analysis and objectives of the Environmental Impact Report, and no further analysis is required.

## 2. Phasing

The Council and the community have expressed a desire for mechanisms to ensure that public facilities, particularly the improvements to the Richards interchange and the connection to UC Davis, are completed as envisioned. The Project Study Report for the interchange improvements is underway and the City is currently pursuing construction completion in 2020. The connection to the UC Davis campus requires completion of the Long Range Development Plan and environmental review, and approval of the Regents.

At the January 19 meeting, the City Council discussed whether there is a mechanism that would allow phased development of the site, so that a portion of the construction could occur prior to completion of all infrastructure. **We are now recommending that all backbone infrastructure, the grade-separated crossing to UC Davis, and the improvements to the Richards Boulevard interchange, be completed prior to any occupancy on the Nishi site.** Construction on the Nishi site could begin only after construction has begun on the interchange and the grade-separated crossing. This phasing approach has several advantages:

- It provides a clear commitment to the community that any project on the Nishi site will have the desired two connections.

- It reduces the variables the campus must analyze as it evaluates options for the Long Range Development Plan.
- It provides better opportunities for city and campus coordination within the Richards / 1st Street / Old Davis Road circulation system.
- It is more consistent with the assumptions in the EIR and public conversations.

The Baseline Project Features also include commitments for backbone infrastructure to the R&D properties with the first phase of development, to ensure “permit-ready” sites when prospective purchasers or buildings are identified.

The Development Agreement could also address timing of Olive Drive improvements and on-site public amenities, such as phasing park development tied to residential development.

### 3. Financial Commitments

The community, the Finance and Budget Commission, and the City Council have all been exploring the question of how this development can be managed to ensure fiscal benefits to the City. The property owner has committed to a Baseline Project Feature for a projected net fiscal positive with or without a hotel. One specific component of discussion has been a “make-whole” provision should property be purchased or leased by an entity exempt from property taxes. Other components could include a Landscaping and Lighting Assessment District, Community Facilities District, positive negotiations with Yolo County, or other mechanism as established in the Development Agreement.

**The Baseline Project Features include establishment of a Services Community Facilities District for municipal services, to ensure positive fiscal and economic benefits for the City of Davis. Parameters for the Services CFD process will be established in the Development Agreement. Exact revenues and methodologies will be established by the City Council upon formation of the District in the future, with input from fiscal consultants and the Finance and Budget Commission.**

A Services CFD is different from an infrastructure CFD, which has the purpose of financing bond debt to provide capital funds for construction of physical improvements related to a development project. A Services CFD provides an ongoing revenue stream from payments that are made by property owners within the district and collected with the annual property tax bill. This provides a permanent source of funding for City operations to serve the project, in addition to property and sales taxes that would continue to be collected per statute.

**The Baseline Project Features also establish a Development Commitment of \$1 million for the City Council to allocate amongst contributions to the Affordable Housing Trust Fund, on-site civic arts, establishment of a local carbon offset program, and implementation of the Downtown Parking Management Plan.**

The Development Agreement will establish implementing mechanisms for other financial components, including impact fees, fair-share contributions, and credits recognizing infrastructure costs, smaller unit sizes, and sustainability commitments.

#### 4. Sustainability Commitments

The City Council and the community have discussed the value of a third-party verification process for sustainability commitments. This would provide a structure for accountability to look at implementation of the Nishi project as a whole, rather than staff review of individual buildings and public improvements at the time of permit issuance. Leadership in Energy & Environmental Design Neighborhood Development (LEED-ND) offered by the U. S. Green Building Council has been cited as a rigorous program with the potential to provide that community assurance. However, continued research into the requirements of LEED-ND show inherent difficulties posed by the nature of the site and the development in meeting the prerequisites for certification, or garnering the necessary points for a given level of certification. Property Owner Tim Ruff has provided an analysis by Lynn Simon of Thornton Tomasetti, a well-known LEED expert, on the feasibility of meeting LEED prerequisite requirements (Attachment 2). This analysis concludes pursuing LEED for Neighborhood Development certification for the project is not feasible at this time.

Staff believes that continued conversations with the US Green Building Council could result in resolution of some of the issues identified in the Thornton Tomasetti analysis. However, certification would be difficult or impossible to achieve, and staff questions the benefit of continuing to pursue certification using standards designed to apply nationally, rather than evaluating sustainability reflecting local standards, priorities, and expectations.

**The Baseline Project Features commit the developer/ project to pursue a City-defined - certification equivalent to Leadership in Energy & Environmental Design Neighborhood Development (LEED-ND) offered by the U. S. Green Building Council, as defined in the Development Agreement.** This system will use local expertise to evaluate parameters established through the LEED-ND checklist, reflecting site constraints and also reflecting other sustainability commitments from the Baseline Project Features and Sustainability Implementation Plan that may not generate LEED-ND points (such as the 4.9MW PV and the contribution to the local carbon offset program). Requirements may be revisited over time, which will allow the City to adjust actions and methodologies with changes to regulations, technology, and societal behaviors.

**Key components of the Sustainability Implementation Plan will be also included as Baseline Project Features, including**

- Maximum of 1,732 off-street vehicle parking spaces, which is a 10 percent reduction from the current plan (see Site Plan and Project Description, above);
- Peak hour trip cap per the Sustainability Implementation Plan
- 4.9 MW photovoltaic (or equivalent, per Development Agreement)
- Buildings exceeding 2013 CalGreen standards by 30 percent.

Other components of the Sustainability Implementation Plan will be identified through the LEED-ND or equivalent process, as identified in the Development Agreement.

5. Subsequent City Reviews and Approvals

Staff anticipates that the Development Agreement would establish schedules and factors for consideration of review of additional implementing actions, including:

- Tax-sharing Agreement with Yolo County (City Council)
- Final Planned Development, Tentative Map, and Design Guidelines (Planning Commission)
- Parameters and process for City-designed certification equivalent to LEED-ND (Planning Commission, per Appendix F of Sustainability Implementation Plan, or City Council)
- Establishment of a Services Community Facilities District (City Council)
- Agricultural land mitigation (City Council)

**Conclusion**

Staff requests the City Council verify the Baseline Project Features and direct staff to return on February 16, 2016, with the Development Agreement, recommendations of the Finance and Budget Commission, and other actions.

**Attachments**

1. Draft Baseline Project Features
2. LEED-ND Opportunities Analysis prepared by Lynn Simon of Thornton Tomasetti

Note: General Plan Amendment, Preliminary Planned Development, and Development Agreement documents will be updated to reflect DA Commitments and Baseline Project Features. Updated versions will be included in the packet for the February 16 City Council meeting.

Staff report and attachments will be posted on the City's website at <http://cityofdavis.org/city-hall/community-development-and-sustainability/development-projects/nishi-and-downtown-university-gateway-district>

## NISHI PROPERTY BASELINE PROJECT FEATURES

### Project Goals

The essential concept for development on the Nishi property is to serve as a new mixed-use innovation district that takes advantage of the site’s close proximity to both Downtown Davis and UC Davis, major rail and freeway corridors, unique adjacent open space features along the creek corridor both on- and offsite, and its position and potential to be a new high-visibility “gateway” to the city. Project goals include the highest feasible levels of sustainability, defined as long-term and balanced outcomes for people, the environment, and the economy. City Council goals for the development include fiscal and economic benefits for the City General Fund and the overall community.

### Land Use Summary

The land use program for the development of the Nishi property is a mix of rental and for-sale, high-density residential uses; research and development (R&D) space; accessory commercial/retail space; on-site stormwater detention; parks and open spaces, including public parks, greenbelts, and private open space for the proposed residential uses; and parking. An illustrative draft land use and site plan depicting the location of the proposed land uses, along with proposed roadways and connections to adjacent areas, is shown 1.

The following table outlines the land use and site program for the Nishi site. This table generally outlines the authorized uses and the density and intensity of the authorized uses. The acreages is subject to change to reflect requirements of engineering, sustainability, and other implementation requirements. The total number of residential units and the square footage of R&D and accessory retail cannot change without a further vote of the electorate, except as expressly set forth in these baseline project features.

| Table 1. Nishi Project Land Use and Site Program Summary |                   |                                  |               |
|--|-------------------|----------------------------------|---------------|
| Land Use Type  | Estimated Acreage | Estimated Units / Square Footage | Density       |
| Residential: Multi-family Rental <sup>1</sup>            | 5-7               | 440 units                        | 60 du minimum |
| Residential: Multi-family For Sale <sup>1</sup>          | 3-6               | 210 units                        | 60 du minimum |
| Research and Development (R&D)/                          | 4-6               | 325,000 sf                       | 0.75-1.8 FAR  |
| Surface Parking <sup>2</sup>                             | 4-7               | -                                | -             |
| Retail <sup>3</sup>                                      | -                 | 20,000                           | -             |

|                             |             |  |          |
|-----------------------------|-------------|--|----------|
| Roads                       | 2-4         | -  | -        |
| Public Parks and Open Space | 14-20       | -  | -        |
| Stormwater Detention        | 3-5         | -  | -        |
| <b>Total<sup>4</sup></b>    | <b>46.9</b> | <b>650 residential units</b><br><b>325,000 sf R&amp;D</b><br><b>20,000-sf retail</b> | <b>-</b> |

Notes: FAR = floor area ratio; du = dwelling units; du/acre = dwelling units per acre; sf = square feet.

<sup>1</sup> Residential acreage includes 3.9 acres of private open space. See "Residential" section of these Baseline Project Features for process for consideration of up to 130 additional residential units.

<sup>2</sup> Surface Parking includes a large parking lot along the northwestern edge of the site, small lots south of the southerly rental housing, and smaller lots east of R&D uses along I-80, partially within an existing utility easement.

<sup>3</sup> Retail uses to be located within proposed Residential or R&D buildings.

Actual determination of Sub Area boundaries and acreages shall be established by the Planning Commission through the Final Planned Development as identified in the "Implementation" section of these Baseline Project Features.

Future development will be required to be consistent with the land use program enumerated in these Baseline Project Features (number of units, square footage, etc.) but would have flexibility in how specific buildings and exterior spaces on each block are designed in terms of orientation, floorplates, building footprints, etc.

*(Insert Site Plan – to come)*



## **Residential**

As set forth in the General Plan amendment, and analyzed in the Environmental Impact Report, a maximum of 650 multifamily residential units with a minimum density of 60 units per net acre on approximately 9.8 acres, including for-sale condominiums with an average of approximately 1,300 square feet per unit, and rental apartment units shall be permitted.

## **Research & Development**

As set forth in the General Plan amendment, and analyzed in the Environmental Impact Report, Research and Development (R&D) uses up to a maximum of 325,000 square feet in a series of commercial buildings on approximately 5.0 acres, not including the adjacent surface parking lots, shall be permitted.

## **Potential Changes: Hotel and/or Additional Residential Units**

The intent of the Citizens' Right to Vote on Future Use of Open Space and Agricultural Lands Ordinance is to direct citizen participation in land use decisions affecting city policies for compact urban form, agricultural land preservation and an adequate housing supply to meet internal city needs, and ensure that land use, affordable housing, open space, agricultural preservation and conservation are fully considered for proposed conversion of properties from agricultural to urban use.

If the General Plan Amendment and these Baseline Project Features are approved by the voters of Davis, the Nishi Property may be converted from agricultural uses to a University-Related Research Park, as outlined in the General Plan amendment. Other potential urban uses consistent with the goals of the University-Related Research Park but differing from the uses enumerated in these Baseline Project Features may be proposed at a future date. As established by the Citizens' Right to Vote on Future Use of Open Space and Agricultural Lands Ordinance, these Baseline Project Features may not be changed without approval of the voters of the City. However, there may be future modifications of the project, consistent with the intent of the Citizens' Right to Vote on Future Use of Open Space and Agricultural Lands Ordinance and the University-Related Research Park General Plan Designation, which require full environmental review, General Plan amendment, and public review, are exempt from the requirement for subsequent voter approval. Such exemptions are limited to the following two modifications:

The applicant may apply to construct up to 130 additional units of similar design and similar or higher density to the permitted 650 residential units, for a total of 780 residential units on the Nishi Property, which shall be subject to full environmental review as required under CEQA and

City Council consideration of the necessary General Plan and planned development amendment to permit up to 130 additional units, which the City Council may approve, modify and approve or deny, but shall not require subsequent voter approval.

The applicant may apply to construct a hotel or extended-stay hotel not to exceed 125 rooms on the Nishi Property, which shall be subject to full environmental review as required under CEQA and City Council consideration of the necessary General Plan and planned development amendment to permit up to a hotel or extended stay hotel, which the City Council may approve, modify and approve or deny, but shall not require subsequent voter approval.

### **Accessory Retail**

Ancillary ground-floor retail, is permitted on the ground floor of the residential and the R&D buildings, as established in the Preliminary Planned Development for the Nishi property.

### **Open Space and Parks**

Open space, greenbelts, and parks within the Nishi site will include a minimum of 14 acres of parks and greenways, including the Putah Creek corridor, which runs between the Nishi site and the West Olive Drive subarea; pedestrian and bicycle trails and facilities; landscaped gathering spaces; and tree buffers between buildings and Interstate 80, as generally laid out in Figure 6.1 of the Sustainability Implementation Plan, incorporated within this Resolution and on file at the City Clerk's Office.

### **Roadways, Circulation, and Parking**

The proposed circulation system for the Nishi site consists of new local streets, along with a system of pedestrian and bicycle "greenways" that would connect the site with the West Olive Drive subarea to the northeast and the UC Davis campus to the west. This system would provide enhanced connectivity for pedestrians, bicyclists, transit riders, and automobiles via new multi-modal roadway connections and linkages to existing greenways along the historic Putah Creek corridor.

A central street on the Nishi site forms the backbone of the circulation system, which will connect with Old Davis Road and the UC Davis campus via a new grade-separated crossing of the UPRR line and subject to approval by the Regents of the University of California, as well as an extension of West Olive Drive that would connect to the West Olive Drive subarea via a new bridge over the historic Putah Creek channel.

Not more than 1,732 off-street surface and structured parking spaces may be constructed on the site. City and Developer shall work to further reduce on-site parking through the Transportation Demand Management Plan, with a target of a maximum of 1,550 off-street parking spaces.

## **Phasing**

Construction of backbone infrastructure, including the central street, utility mains, and drainage improvements, may be commenced only after commencement of construction of both the connection to UC Davis and the reconfiguration of the Richards Boulevard interchange identified as the "I-80/Richards Interchange" in the Sacramento Area Council of Governments 2012 Metropolitan Transportation Plan. Certificates of Occupancy will not be issued for any buildings on the property until the UC Davis connection (which is subject to approval by the Regents of the University of California), the Interchange improvements, and the road connection to West Olive Drive from the Project have been completed.

Backbone infrastructure, including roadways and utilities, necessary for development of R&D properties shall be provided with the first phase of construction, so that parcels are ready for application for design review and building permits.

## **Sustainability Components**

The developer/ project will pursue a City-defined - certification equivalent to Leadership in Energy & Environmental Design Neighborhood Development (LEED-ND) offered by the U. S. Green Building Council, as defined in the Development Agreement.

The project is subject to Sustainability Commitments as established in the Development Agreement. Specific components required by these Baseline Project Features are the following:

- Compliance with EIR Mitigation Measure 4.14-5 calling for a Transportation Demand Program, including limitations on vehicle trips for every project phase.
- 4.9 megawatts of photovoltaic, or equivalent, as established in the Development Agreement.
- Buildings exceeding 2013 CalGreen standards by 30%, or more restrictive standard established by State law at the time of building permit.

## **Community Enhancements**

The project will contribute \$1 million to the City of Davis for community enhancement programs to be used at the sole discretion of the City Council for the following four City programs;

Affordable Housing Trust Fund, on-site civic arts, establishment of a local carbon offset program, and implementation of the Downtown Parking Management Plan.

The project will participate in a services Community Facilities District or similar financing mechanism, as determined by the City Council.

Agricultural mitigation shall be provided in accordance with City of Davis Municipal Code requirements. City-owned land may not be utilized to fulfill any component of the agricultural mitigation obligation.

### **Baseline Project Features: Implementation**

The Nishi Gateway project is required to develop in a manner consistent with these Baseline Features. As provided for in Measure J/R, the Baseline Features may not be changed without approval by the voters of the City. The Planning Commission will review compliance with these Baseline Project Features as it considers application for Final Planned Development, Tentative Subdivision Map, approval of Design Guidelines, implementation of sustainability plans, and through the annual review of implementation of the Project's Development Agreement. There are other additional requirements for the Nishi Gateway project, including but not limited to, the mitigation measures set forth in the Final Environmental Impact Report, and the Development Agreement that, while important to the Project, are not Baseline Project Features and may be modified with the approval of the City, after the appropriate public process. In addition, minor changes to the Project can be anticipated during the course of this multiple year build out. Such changes, often the result of detailed engineering, sustainability obligations, or changing conditions, may be changed without voter approval, if they are substantially consistent with the Baseline Features and they do not materially alter the character of the project, as established in Resolution 06-40 Establishing Criteria to Determine What Constitutes a Significant Project Modification or Change Requiring a Subsequent Measure J Vote.

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|         |   |              |                   |
|---------|---|--------------|-------------------|
| TO      | Tim Ruff  | FROM         | Abena Darden      |
| COMPANY | Norcal Land   | DATE         | January 27, 2016  |
| RE      | LEED for Neighborhood Development<br>v4 Prerequisite Assessment – <b>DRAFT</b><br><b>v1.1</b> | PROJECT NO   | U16019.00         |
| CC      | Lynn N. Simon, TT; File   | PROJECT NAME | Nishi Development |

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**Executive Summary**

Thornton Tomasetti (TT) has been tasked to review the Nishi Development and assess whether it can achieve a LEED for Neighborhood Development (ND) certification. TT’s first step included assessing the LEED for Neighborhood Development v4 prerequisites in the Smart Location & Linkages (SLL) and Neighborhood Pattern and Design (NPD) categories. Thornton Tomasetti did not review the Green Building & Infrastructure prerequisites as the state green building code, CALGreen, and Title 24-2013 energy requirements lend themselves well to complying with the four prerequisites under that category.

The report is divided into the two credit categories, SLL and NPD, and includes a breakdown of the prerequisites requirements, analysis of the requirements, and summary of compliance. We have included only the requirements we felt were relevant to the project. For a full list of the requirements, please visit: <http://www.usgbc.org/credits/neighborhood-development-plan/v4>.

Based upon the documents we have been provided (i.e. *Sustainability Implementation Plan*, and documents found online such as the *Environmental Impact Report*), and discussion with Adam Maynard, a US Green Building Council (USGBC) staff person with the LEED ND team, we have determined that pursuing a LEED for Neighborhood Development certification for the project is not feasible at this time.

**Presently, the project is not meeting four of the eight evaluated prerequisites.** While three of these could be met with design changes and additional effort on behalf of the team and developer, one prerequisite is outside of the control of the project team: SLLp Smart Location.

The LEED for Neighborhood Development rating system is best geared towards previously developed, infill projects. These project types have streamlined compliance options for many of the prerequisites, particularly under the SLL category. While greenfield sites can apply for certification, these sites often face the challenges outlined below if they are not directly connected to adjacent developed land.

Re: Nishi Development LEED ND v4 Prerequisite Assessment – **DRAFT v1.1**  
 Page 2

**SUMMARY OF PREREQUISITES**

| LEED ND Prerequisites                                     | Compliance with Prerequisite |       |    |
|---|------------------------------|-------|----|
|   | Yes                          | Maybe | No |
| <b>SMART LOCATION &amp; LINKAGES (SLL)</b>                |                              |       |    |
| Smart Location  |                              |       | X  |
| Imperiled Species and Ecological Communities Conservation |                              | X     |    |
| Wetland and Water Body Conservation                       |                              |       | X  |
| Agricultural Land Conservation                            | X                            |       |    |
| Floodplain Avoidance                                      |                              | X     |    |
| <b>NEIGHBORHOOD PATTERN &amp; DESIGN (NPD)</b>            |                              |       |    |
| Walkable Streets  | X                            |       |    |
| Compact Development                                       | X                            |       |    |
| Open and Connected Community                              |                              |       | X  |

**SMART LOCATION & LINKAGES**

**SLLp Smart Location**

Requirements

1. Locate the project on a site served by existing water and wastewater infrastructure OR within a legally adopted, publicly owned, planned water and wastewater service area.  
**AND**
2. Meet one of the following:
  - a. Infill site
  - b. Adjacent site with connectivity
  - c. Transit Corridors
  - d. Access to basic neighbor assets

Analysis

1. Thornton Tomasetti could not find evidence that the project area is located within a planned water or wastewater service area, nor is the project currently served by existing water or wastewater infrastructure (reference: City of Davis General Plan, Nishi Gateway Preliminary Site Water, Sewer and Drainage Infrastructure Concepts Study, Environmental Impact Report, 2008 City of Davis Sphere of Influence Update.)
2. Thornton Tomasetti evaluated each of the qualifying items under Item 2:
  - a. Infill site – Project does not qualify; at least 75% of the surrounding area is not previously developed



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Re: Nishi Development LEED ND v4 Prerequisite Assessment – **DRAFT v1.1**  
 Page 3

- b. Adjacent site with connectivity – Project does not qualify: 40 intersections per square mile, also there are not through connections at least every 600 feet (there are no exemptions to this)
- c. Transit Corridors – Further evaluation required.
- d. Access to basic neighbor assets - Project qualifies: there are seven diverse uses along Olive Drive and Richards Blvd that are within a 0.5 mile walk distance from the project’s geographic center.

The 2008 City of Davis Combined Municipal Service Review/Sphere of Influence Update includes the Nishi project area as an area of potential future expansion. However, the project area has not been formally annexed by the City of Davis, and as such does not appear to within a legally adopted, publicly owned, planned water and wastewater service area.

Summary

**The project does not comply with this prerequisite.** While the project does meet the requirements of item 2.d, Access to basic neighborhood services, both elements of the prerequisite must be met for prerequisite compliance.

TT recommends that a project LEED Interpretation request be submitted to the USGBC for a formal ruling on whether or not the “Sphere of Influence” document meets the prerequisite intent. This process takes approximately two to four weeks. Prior to the formal LEED Interpretation process, TT will engage in further conversations with Adam Maynard regarding this issue and how to best proceed with the Interpretation request.

**SLLp Imperiled Species and Ecological Communities Conservation**

Requirements

Consult with the state Natural Heritage Program and state fish and wildlife agencies to determine if one of the following have been or likely to be found on the project site because of the presence of suitable habitat and nearby occurrences:

- 1. Species listed as threaten or endangered under the US Endangered Species Act or the state’s endangered species act
- 2. Species or ecological communities classified by NaturServe as GH, G1, or G2
- 3. Species listed as threatened or endangered specified under local equivalent standards

*Case 2. Sites with Affected Species or Ecological Community:* If the site has any affected species or ecological communities, meet either of the following two options.

- Option 1. Habitat Conservation Plan: Comply with an approved habitat conservation plan under the Endangered Species Act for each identified species or ecological community.

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- OR Option 2. Habitat Conservation Plan Equivalent: Work with a qualified biologist, a nongovernmental conservation organization, or the appropriate state, regional, or local agency to create and implement a conservation plan that includes the actions:
  1. Identify and map the extent of the habitat and the appropriate buffer, not less than 100 feet (30 meters), according to best available scientific information.
  2. If on-site protection can be accomplished, analyze threats from development and develop a monitoring and management plan that eliminates or significantly reduces the threats.
  3. Protect the identified habitat and buffer in perpetuity by donating or selling the land or a conservation easement on the land to an accredited land trust, conservation organization, or relevant government agency.
  4. If any portion of the identified habitat and buffer cannot be protected in perpetuity, quantify the effects by acres (hectares) or number of plants and/or animals affected, and protect from development in perpetuity habitat of similar or better quality, on-site or off-site, by donating or selling a conservation easement on it to an accredited land trust, conservation organization, or relevant government agency. The donation or easement must cover an amount of land equal to or larger than the area that cannot be protected.

#### Analysis

The Environmental Impact Report reports that several special status species and habitat occur within the project area, therefore Case 2 applies to the project. There is a Yolo County Habitat Conservation Plan in draft form that has not been legally adopted. The project should then follow Option 2, Habitat Conservation Plan Equivalent.

#### Summary

**Project may comply if the following conditions are met:**

Prepare an “equivalent” Habitat Conservation Plan for the project area since the Yolo County Habitat Conservation Plan is in draft format<sup>1</sup>.

The Plan must address the following:

- Map habitat and buffer zone
- Analyze and manage threats
- Provide perpetual protection
- Set aside equivalent area if perpetual protection is not possible

Local conservation and wildlife agencies should be included in preparation and implementation of the Plan equivalent.

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<sup>1</sup> TT has reached out to the Yolo County Habitat Conservancy to inquire about the timeframe for adoption of the Yolo County Habitat Conservation Plan. At the time of writing, our inquiry has not been responded to. TT will update this assessment with new information as it becomes available.

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Upon discussion with Adam Maynard with the USGBC, this course of action was determined to be best for the Project.

### **SLLp Wetland and Water Body Conservation**

#### Requirements

Limit development's effects on wetlands, water bodies, and surrounding buffer land according to the requirements below:

*Case 2: Sites with Sensitive Areas:* If the site has pre-project wetlands, water bodies, land within 50 feet (15 meters) of wetlands, or land within 100 feet (30 meters) of water bodies, select one of the following two options:

- Option 1. No Development on Wetlands and Water Bodies: Locate the project such that pre-project wetlands, water bodies, land within 50 feet (15 meters) of wetlands, and land within 100 feet (30 meters) of water bodies are not affected by new development, unless the development is minor improvements or is on previously developed land.
- Option 2: Rainwater Management and Protected Buffers: Earn at least 1 point under GIB Credit Rainwater Management, and limit any development beyond minor improvements to less than the percentage of buffer land listed in Table 1 in the Reference Guide.

### **AND**

FOR ALL PROJECTS: Comply with all local, state, and federal regulations pertaining to wetland and water body conservation.

Direct impacts to wetlands and water bodies are prohibited, except for minimal-impact structures, such as an elevated boardwalk, that allow access to the water for educational and recreational purposes. Structures that protrude into wetlands or water bodies may be replaced, provided the replacement structure has the same or smaller footprint and a similar height.

#### Analysis

The Putah Creek runs across the north-eastern boundary of the project site. Olive Drive is proposed to extend into the project site, which would cross over Putah Creek and within the 100 foot buffer zone. The project must follow Case 2. Site with Sensitive Areas, Option 1 or 2. For Option 2, based upon the project density, no more than 20% of the buffer zone can be impacted.

#### Summary

**The project does not currently comply with this prerequisite.** While the less than 20% of the buffer zone would be impacted, the development of the road over the creek does not fall under any of the exemptions below:

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- i. Previously developed land
- ii. Man-made water bodies
- iii. Man-made linear wetlands
- iv. Wetlands that were man-made incidentally and have been rated “poor” for all measured wetland functions

A 160 foot bridge (measured within the property boundary) could be constructed over the creek that starts outside of the creek’s 100 foot buffer zone. Any impacts within the buffer zone would need to be limited to 20% of the total buffer zone, which is approximately 4,709 square feet.

Upon discussion with Adam Maynard with the USGBC, this course of action was determined to be the best solution for the Project in order to meet this prerequisite.

#### **SLLP Agricultural Land Conservation**

##### Requirements

Locate the project on a site that is not within a state or locally designated agricultural preservation district (or local equivalent for projects outside the U.S.), unless any changes made to the site conform to the requirements for development within the district (as used in this requirement, “district” does not equate to land-use zoning).

Meet the requirements of the following:

*Option 4. Sites without Affected Soils:* Locate the project’s development footprint such that it does not disturb prime farmland, unique farmland, or farmland of statewide or local importance as defined by the U.S. Code of Federal Regulations, Title 7, Volume 6, Parts 400 to 699, Section 657.5 and identified in a state Natural Resources Conservation Service soil survey (or local equivalent for projects outside the U.S.).

##### Analysis

Thornton Tomasetti reviewed the California Farmland Mapping and Monitoring Program database and EIR report and found that the soils are currently classified as “Grazing,” and not Prime Agricultural.

##### Summary

**Project complies with Option 4.** Site without Affected Soils. The project site is classified as “Grazing” land per the California Farmland Mapping and Monitoring Program.

Refer to Appendix A for a figure of the site designation.

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**SLLp Floodplain Avoidance**

Requirements

*Case 3. All Other Sites with Flood Hazard Areas* The project must comply with one of the following:

- Option 1 American Society of Civil Engineers Standard. On portions of the site that are not previously developed, do not develop on land that is within either a regulatory floodway or a coastal high hazard area. On all other portions of the site that are not previously developed and in the flood hazard zone, design buildings in accordance with ASCE 24.
- Option 2 National Flood Insurance Program. On portions of the site that are not previously developed and in the flood hazard area, do not develop on land that is within either a regulatory floodway or a coastal high hazard area. On all other portions of the site that are not previously developed and within the flood hazard area, design buildings in accordance with NFIP.

Analysis

Case 3 applies to the Nishi project. The project site along the Putah Creek is within a 100-year Flood Zone.

Summary

**The project can comply with the requirements.** Aside from the roadway, development is not planned for the Flood Hazard zones; these areas will remain as open space. Discussion with Adam Maynard revealed that the roadway located within the floodplain would need to comply with prerequisite requirements. The road must be developed in accordance with the American Society of Civil Engineers Standard or the National Flood Insurance Program. If a bridge is constructed for compliance with SLLp Wetland and Water Body Conservation, this may meet the requirements of the SLLp Floodplain Avoidance requirements.

Refer to Appendix B for a figure of the floodplain zone.

**NEIGHBORHOOD PATTERN & DESIGN**

**NPDp Walkable Streets**

Requirements

Design and build the project to achieve the following:

1. 90% of new buildings have a functional entry onto the circulation network or other public space, but not a parking lot.
2. At least 15% of the block length of the existing and new circulation networks within and bordering the project has a minimum building-height-to-street-centerline ratio of 1:15.

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3. Continuous sidewalks or equivalent all weather routes for walking are provided along both sides of 90% of the circulation network bordering the project. New sidewalks must be at least 8 feet wide on retail or mixed-use blocks and 5 feet wide on all other blocks.
4. No more than 20% of the block length of the circulation network within the project is faced by garage and service bay openings.

#### Analysis

With the information in hand, Thornton Tomasetti could not undertake a full analysis of the prerequisite requirements in relation to the project's design. However, visual analysis of the site plan indicates that the project should readily meet the requirements.

#### Summary

**Project appears to comply with all four requirements.**

#### **NPDp Compact Development**

##### Requirements

Design and build the project to meet the densities specified below. Minimum densities must be met for both (1) the entire project at full build-out and (2) the portion of the project that will be built within five years of the date that the first new building of any type is occupied.

*Case 1. Projects with Access to Quality Transit:* For projects with existing and/or planned transit service that meets or exceeds the 2-point threshold SLLc3, build at the following densities, based on the walk distances to the transit service specified in SLLc3:

- a. For residential components located within the walk distances: 12 or more dwelling units per acre of buildable land available for residential uses.
- b. For residential components falling outside the walk distance: 7 or more dwelling units per acre of buildable land available for residential uses.
- c. For nonresidential components located within the walk distances: 0.80 floor-area ratio (FAR) or greater of buildable land available for nonresidential uses.
- d. For nonresidential components falling outside the walk distances: 0.50 FAR or greater of buildable land available for nonresidential uses. Design and build the project to meet the densities specified below. Minimum densities must be met for both (1) the entire project at full build-out and (2) the portion of the project that will be built within five years of the date that the first new building of any type is occupied.

If the project location is served by a transit agency that has specified guidelines for minimum service densities that are greater than the densities required by this prerequisite, the project must achieve those service densities instead.



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*Case 2. All Other Projects:* Build any residential components of the project at a density of 7 or more dwelling units per acre (17.5 DU per hectare) of buildable land available for residential uses. Build any nonresidential components of the project at a density of 0.50 or higher FAR for the buildable land available for nonresidential uses.

**AND**

*FOR ALL PROJECTS:* Density calculations include all planned and existing buildings within the project boundary, excluding those portions of parking structures devoted exclusively to parking. If the residential component of the project meets the minimum density requirement but the nonresidential component does not, or vice versa, include only the qualifying density. Use that component's dwelling units or nonresidential floor area in the numerator and the total buildable land area in the denominator. If the resulting density meets the minimum requirement, the prerequisite is achieved.

Analysis

As detailed transit information to determine compliance with SLLc Access to Quality Transit was not available, Thornton Tomasetti evaluated Case 2 only. For LEED ND purposes, density is calculated based upon buildable land areas, which includes any non-protected open space and parks. The LEED ND residential density is 24.73 dwelling units per acre and the non-residential density is 0.69 FAR.

Summary

**The project complies with Case 2.**

**NPDp Open and Connected Community**

Requirements

Meet the requirements of Case 1 if the project has no circulation network intersections within the project boundary and is five acres or less in size. All other projects must meet Case 2.

*Case 2. Internal Connectivity.* Any part of the circulation network counted toward the connectivity requirement must be available for general public use at all times and not gated. Additionally, no more than 10% of the project area may be accessed via circulation network that is gated. Education campuses, health care campuses, and military bases where gates are used for security purposes are exempt from the 10% limit, and intersections within those projects may be counted toward the connectivity requirement.

Design and build the project with at least one through-connection (of the circulation network) intersecting or terminating at the project boundary at least every 800 feet (245 meters), or at existing abutting intervals and intersections of the circulation network, whichever is the shorter distance. These requirements do not apply to portions of the boundary where connections cannot be made because of physical obstacles, such as prior platting of property, construction of existing buildings or other barriers, slopes steeper than 15%, wetlands and water bodies,

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railroad and utility rights-of-way, existing limited-access motor vehicle rights-of-way, and parks and dedicated open space.

#### Analysis

The total project area is 0.07 square miles (46.9 acres), which requires a minimum of 10 eligible intersections. To count as an eligible intersection, one must not enter and exit through the same intersection. Any intersections beyond that point also do not count as eligible. Thornton Tomasetti counted three eligible intersections within the project. The project is also exempt from the 800 foot requirement as the physical barriers, the 80 freeway, railroad, and existing buildings exempt this requirement.

#### Summary

**Project does not comply.** Additional eligible intersections must be constructed within the project boundary. These intersections could be a part of the multi-use bicycle and pedestrian trail system.

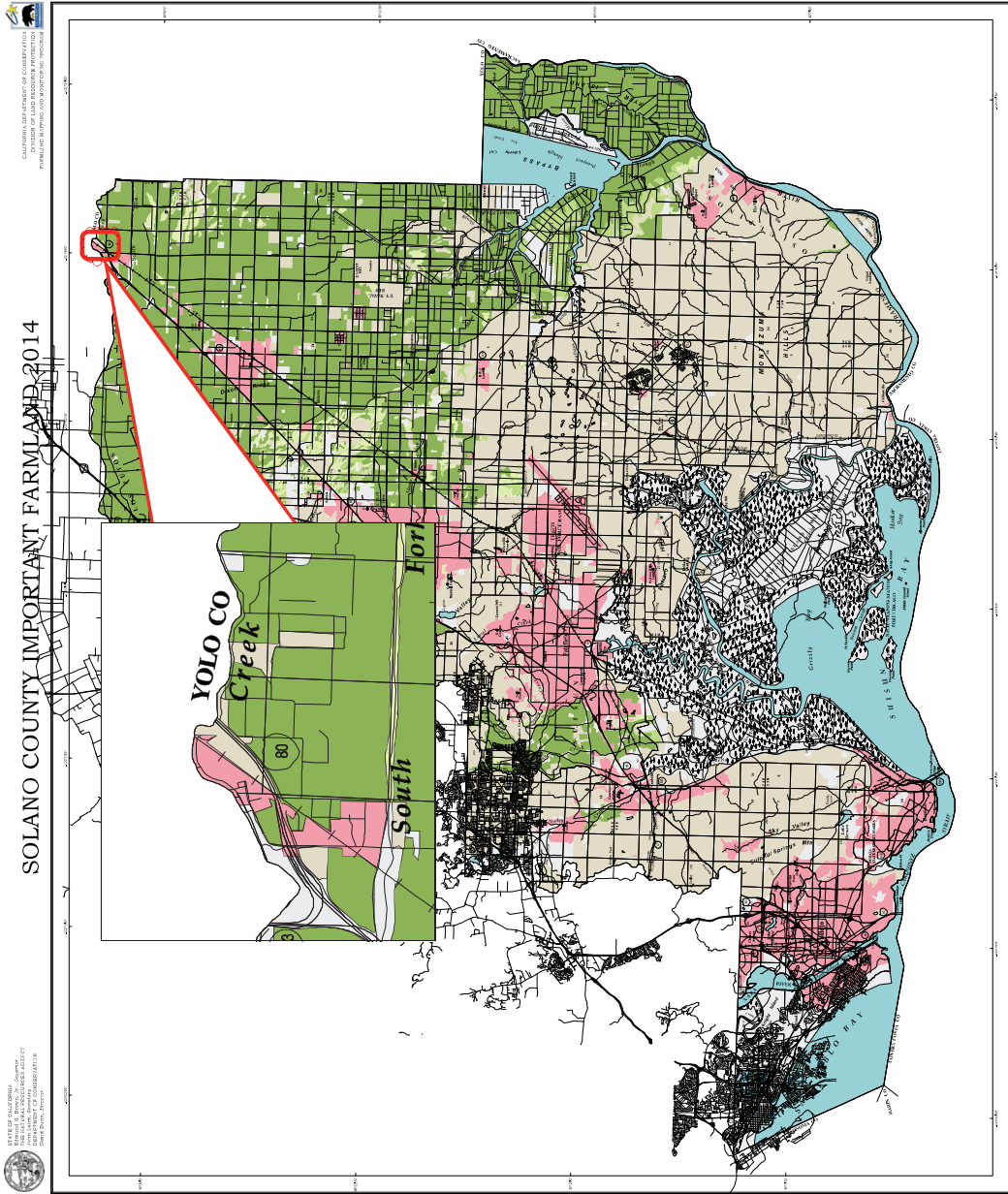
#### **LEED ND PROCESS**

The LEED certification process for v4 ND projects allows for projects to submit the SLL and NPD prerequisites for formal preliminary “Prerequisite Review” if there are doubts as to whether or not project is eligible for certification. This optional review can be a useful official determination before investing further in submission preparation. A SLL and NPD prerequisite review requires projects to be registered with the Green Business Certification Inc. (GBCI) for a fee of \$1,500. In addition, the fee for the Prerequisite Review is \$2,250. The total timeframe for this review process is three to five months, which includes documentation preparation, preliminary review by the USGBC, preparation of project team’s responses to the preliminary review, and final review by USGBC.

Another available review to ND projects early in the planning stages is a “Letter of Support” review. This optional review is a full review of the all of the prerequisites and credits for projects that have not yet received 100% land entitlements. In addition to the \$1500 registration fee, the project must pay a review fee of \$27,415. The total timeframe for this review process is four to six months, which includes documentation preparation, preliminary review by the USGBC, preparation of project team’s responses to the preliminary review, and final review by USGBC.

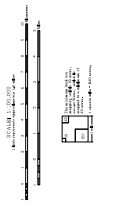
APPENDIX A

**CA Farmland Mapping and Monitoring Program  
Nishi Development Designation**



SOLANO COUNTY IMPORTANT FARMLAND 2014

- PRIME FARMLAND**  
PRIME FARMLAND IS THE MOST PRODUCTIVE AND MOST SCARCITY SENSITIVE OF ALL FARMLANDS. IT IS THE MOST VALUABLE FARMLAND AND SHOULD BE PROTECTED FROM CONVERSION TO OTHER USES. THIS LAND IS THE MOST PRODUCTIVE AND MOST SCARCITY SENSITIVE OF ALL FARMLANDS. IT IS THE MOST VALUABLE FARMLAND AND SHOULD BE PROTECTED FROM CONVERSION TO OTHER USES.
- FARMLAND OF STATEWIDE IMPORTANCE**  
FARMLAND OF STATEWIDE IMPORTANCE IS FARMLAND THAT HAS A STATEWIDE OR NATIONAL SIGNIFICANCE. THIS LAND IS OF HIGH IMPORTANCE TO THE STATE AND SHOULD BE PROTECTED FROM CONVERSION TO OTHER USES.
- UNIQUE FARMLAND**  
UNIQUE FARMLAND IS FARMLAND THAT HAS A UNIQUE CHARACTER OR VALUE. THIS LAND IS OF HIGH IMPORTANCE TO THE COUNTY AND SHOULD BE PROTECTED FROM CONVERSION TO OTHER USES.
- GRAZING LAND**  
GRAZING LAND IS FARMLAND THAT IS USED FOR GRAZING OF LIVESTOCK. THIS LAND IS OF HIGH IMPORTANCE TO THE COUNTY AND SHOULD BE PROTECTED FROM CONVERSION TO OTHER USES.
- URBAN AND BUILT-UP LAND**  
URBAN AND BUILT-UP LAND IS LAND THAT IS USED FOR URBAN OR BUILT-UP PURPOSES. THIS LAND IS OF HIGH IMPORTANCE TO THE COUNTY AND SHOULD BE PROTECTED FROM CONVERSION TO OTHER USES.
- OTHER LAND**  
OTHER LAND IS LAND THAT IS NOT CATEGORIZED AS ANY OF THE OTHER LAND USES. THIS LAND IS OF HIGH IMPORTANCE TO THE COUNTY AND SHOULD BE PROTECTED FROM CONVERSION TO OTHER USES.
- WATER**  
WATER IS LAND THAT IS USED FOR WATER PURPOSES. THIS LAND IS OF HIGH IMPORTANCE TO THE COUNTY AND SHOULD BE PROTECTED FROM CONVERSION TO OTHER USES.



**Important Farmland Map** as created by the Farmland Information Center (FISC) is provided to the public for informational purposes only. It is not intended to be used for legal or regulatory purposes. The map is based on data provided by the California Department of Conservation, Farmland Information Center (CDCE), and is subject to change without notice. The map is not a warranty of any kind. The map is provided as a service to the public and is not intended to be used for legal or regulatory purposes. The map is based on data provided by the California Department of Conservation, Farmland Information Center (CDCE), and is subject to change without notice. The map is not a warranty of any kind. The map is provided as a service to the public and is not intended to be used for legal or regulatory purposes.

**APPENDIX B**

**FEMA 100-Year Floodplain  
Nishi Development Map**

**100 Year Flood Zones**

|  |               |
|--|---------------|
| State Name                             | California    |
| DFIRM ID                               | 06095C        |
| Flood Area ID                          | 11415B1_5491  |
| Flood Zone                             | A             |
| Special Flood Hazard Area - True/False | T             |
| Source Citation                        | 11415B1_FIRM1 |

Zoom to

USDA FSA, DigitalGlobe, GeoEye, Microsoft, CNES/Airbus DS | Federal Emergency M...  
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**Contents**

- CA Farmland Mapping and Monitoring Program
- Federal Emergency Management Agency - 100 Year Flood Zones
- FEMA 100 Year Flood Zones
- 100 Year Flood Zones
- Counties with Flood Data Available
- Imagery

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