

July 9, 2009

New Urban Development, LLC
c/o Don Fouts and Steve Sherman
1930 E. Eighth Street, Suite 100
Davis, CA 95616

SUBJECT: Letter of City Council Action: Planning Application # PA #55-07: **Chiles Ranch Subdivision (2411 E. Eighth Street).**

Dear Don & Steve:

On June 30, 2009, the City Council by the vote of 3-2 approved Planning Application; Mitigated Negative Declaration #1-08, General Plan Amendment #5-07, Rezone/Preliminary Planned Development #8-07, Development Agreement #04-08, Tentative Subdivision Map #3-08, Final Planned Development #12-07, Affordable Housing Plan #1-08, Design Review #7-08 for the Chiles Ranch Subdivision. The approval is subject to the following findings and conditions:

I. FINDINGS:

1. PROJECT DEVELOPMENT TIME LIMIT. The property owner can commence substantial construction within eighteen months from the date of the final planned development approval and intends to complete the construction with a reasonable time. (FPD, DR)

2. CONFORMANCE TO REQUIREMENTS.

General Plan. The proposed planned development, with adoption of the proposed General Plan Amendment, will comply with the land use designation of Residential Medium-Density for the parcel currently designated Residential Low-Density General Plan. This allows for a consistent land use designation and zoning for the parcel, which would facilitate the development of the proposed project. (GPA, PPD, FPD, DR)

General Plan Greenbelt Consistency. While the project does not meet the strict General Plan policy requirement for 10 percent greenbelt, the City finds this acceptable in light of the infill nature of the site, the small size of the site, and its location surrounded by existing residential uses. Furthermore, it is impractical for the project to provide the average 100 feet greenbelt width and to design an acceptable residential layout and density project for the site. The project provides, in aggregate, over 25 percent greenbelt/common open space, not including private yards. The project is consistent with General Plan goals to provide linkages, corridors and other connectors to provide an aesthetically pleasing and functional network of parks, open space areas, greenbelts and bike paths throughout the city.

The project would be one of several infill projects recently approved by the City Council that do not provide the General Plan requirement for greenbelt. Furthermore, the city recognizes the unique circumstances and limitations of this site and other infill sites within the city and is in the process of developing policies to allow flexibility for greenbelt requirements for smaller infill projects with which this project would comply.

Zoning. The proposed project, with the adoption of the proposed rezone, will be consistent with the Zoning Ordinance, as the purpose of the planned development district is to allow diversification in the relationship of various buildings and structures and provide relief from the rigid standards of conventional zoning in order to allow for new and compatible housing development with surrounding residential uses. The proposed project will provide for an integrated and harmonious residential environment and creative relationship with adjacent residential uses. It will allow for and encourage architectural variation while maintaining the residential character within the area. (GPA, PPD, FPD, DR)

Infill Guidelines. The proposed development has been shown to comply with the General Interim Infill Guidelines in the analysis of the staff report to the Planning Commission dated May 21, 2009, and as may be amended herein. The public necessity, convenience and general welfare require adoption of the proposed amendment, given that the proposed project is an infill project that will address the housing needs of the city. (GPA, PPD, FPD, DR)

3. **CIRCULATION.** The auto, bicycle and pedestrian traffic system shall be adequately designed to meet anticipated traffic and has been designed to provided the minimum amount of interference with each other in that, the proposed project has considered pedestrian and bicycle circulation in developing the site plan and meets the City's standards for private driveways, circulation, and number of parking spaces. (FPD, TM, DR)
4. **ENVIRONMENTAL.** Mitigated Negative Declaration #1-08 prepared for this project. It declares that impacts associated with the project have been adequately addressed through city standard conditions of approval and mitigation measures recommended for adoption, and that pertinent measures in the General Plan would apply to the development of the subject site. . No environmental impact report (EIR) is needed. (FPD, DR, ND)
5. **ADEQUACY OF THE DEVELOPMENT.** The residential development constitutes a residential environment of sustained desirability and stability in harmony with the character of the surrounding neighborhood. As conditioned, the proposed development is consistent with the requirements of the new Planned Development #8-07 (R-1). The development is appropriate in area, location and overall planning for the purpose intended. (FPD, DR)
6. **COMPATIBILITY.** The proposed project will constitute a residential environment of sustained desirability and stability in harmony with the character of the surrounding neighborhood. The proposed project is suitable for the site as it will comply with the standards in the zoning district, PD #8-07 (R-1), and the scale of the buildings will be consistent with within the district given the applicable development standards. As conditioned, the project will not

have significant adverse effect on surrounding properties in that the plan incorporates standards for the site established as a means to minimize impacts on surrounding properties. (FPD, DR)

- 7. CONSISTENCY WITH THE SUBDIVISION ORDINANCE.** In accordance with Section 36.06.080 of the City's Subdivision Ordinance, the proposed subdivision of land complies with requirements as to area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of the Subdivision Map Act, the City's Subdivision Ordinance, the Municipal Code, and the General Plan. (TM)
- 8. CLIMATE CHANGE & SUSTAINABILITY.** The project, as conditioned, complies with the city's Green Building Ordinance; adopted thresholds for greenhouse gas emission reduction. The project building and site features are consistent with General Plan and city policies to ensure long term sustainability of the project, water and conservation, and greenhouse gas emission reduction. (FPD, DR)
- 9. FINAL MAP.** A subsequent Final Map shall be filed with the City to merge three exiting lots, and subdivide the merged parcel into single family residential lots; condominium parcel; city street; city greenbelt; private drives; and common open space parcels. (TM)
- 10. COMPLIANCE WITH THE AFFORDABLE HOUSING ORDINANCE.** In accordance with Chapter 18.05 of the Davis Municipal Code the project complies with all of the requirements for affordable housing. (AHP)
- 11. APPROPRIATE DESIGN.** The proposed architecture, site design, and landscape are suitable for the purposes of the building and the site and will enhance the character of the neighborhood and community. (FPD, DR)
- 12. COMPATIBLE WITH EXISTING CONTEXT.** The architectural design of the proposed project is compatible with the existing properties and anticipated future developments within the neighborhood in terms of such elements as height, mass, scale and proportion; in that the project does not change the longstanding existing character of the neighborhood. The materials, colors, and architectural elements of the dwelling will be compatible with existing development within the project vicinity. (DR)
- 13. ENVIRONMENTAL CONSIDERATION.** The location, climate, and environmental conditions of the site are adequately considered in determining the use of appropriate construction materials and methods. Sufficient conditions are included with the approval to ensure the long-term maintenance of the project. (DR)

II. CONDITIONS OF APPROVAL:

- 1. APPROVAL.** The entitlements approved for the project are: 1) General Plan Amendment changing the Land Use Designation from "Residential Low-Density" to "Residential

Medium-Density"; 2) Preliminary Planned Development rezoning three vacant parcels (APN #s from a mix of Agriculture (A) and Residential One and Two Family (R-2) to Planned Development #8-07; 3) Tentative Subdivision Map; 4) Final Planned Development; 5) Affordable Housing Plan to govern the affordable housing component of the development; 5) Design Review for site plan and architectural review of proposed building elevations; and 6) Development Agreement between the City of Davis and the Developer.

The approval will allow for the development of a 108 unit subdivision; public street, city greenbelt, private open space and private drives on 12.1 (ALL)

2. **SUBSTANTIAL CONFORMANCE.** The project shall be completed in substantial conformance to the plans contained within the staff report and date stamped November 21, 2008, except as modified herein. Design changes that require modifications to uses, elevations or site features shall be submitted for review and approval through the planning review process such as Design Review, or Minor Modification, whichever is applicable. Prior to issuance of Certificate of Occupancy, all conditions of approval and required improvements shall be completed to the satisfaction of the city. (FPD, DR)
3. **TIME LIMITS FOR FINAL PLANNED DEVELOPMENT AND DESIGN REVIEW.** The approval period for Final Planned Development #12-07, Design Review #7-08 shall become null and void after a period of 18 months from the approval date if substantial construction in good faith reliance on the approval has not commenced subsequent to such approval. The Community Development Director may extend the expiration date for one or more periods not exceeding a total of 18 months upon a showing that the circumstances and conditions upon which the approval was based have not changed. A written request for a time extension, application, required exhibits and plans, and applicable fees must be submitted at least thirty days prior to the expiration. (FPD, DR)
4. **RUN WITH THE LAND.** The terms and conditions of this approval shall run with the land and shall be binding upon and be to the benefit of the heirs, legal representatives, successors, and assignees of the property owner. (ALL)
5. **DEVELOPMENT AND MAINTENANCE.** The site shall be developed and maintained in accordance with the approved plans which include site plans, architectural elevations, landscaping and grading on file in the Community Development Department, the conditions contained herein, Municipal Code regulations, and PD #8-07. (PD, FPD, DR)
6. **INDEMNIFICATION.** The applicant shall defend, indemnify, and hold harmless the City of Davis, its officers, employees, or agents to attack, set aside, void, or annul any approval or condition of approval of the City of Davis concerning this approval, including but not limited to any approval of condition of approval of the City Council, Planning Commission, or Community Development Director. The City shall promptly notify the applicant of any claim, action, or proceeding concerning the project and the City shall cooperate fully in the defense of the matter. The City reserves the right, at its own option, to choose its own

attorney to represent the City, its officers, employees and agents in the defense of the matter. (ALL)

- 7. OTHER APPLICABLE REQUIREMENTS.** The project approval is subject to all applicable requirements of the Federal, State and City of Davis, and any other affected governmental agencies. Approval of this request shall not waive compliance with all other applicable sections of the Municipal Code, all other applicable City Ordinances, and applicable Community or Specific Plans or Design Guidelines in effect at the time of building permit issuance. The duty of inquiry as to such requirements shall be upon the applicant. (ALL)
- 8. CONFLICTS.** When exhibits and/or written conditions of approval are in conflict, the written conditions shall prevail. (PPD, FPD, DR)
- 9. APPLICANT'S RESPONSIBILITY TO INFORM.** The applicant shall be responsible for informing all subcontractors, consultants engineers, or other business entities providing services related to the project of their responsibilities to comply with all pertinent requirements herein in the City of Davis Municipal Code, including the requirement that a business license be obtained by all entities doing business in the City as well as hours of operation requirements in the City. (ALL)
- 10. SUBSEQUENT MODIFICATION.** Any proposed subsequent modification of the subject site or structure thereon, including but not limited to the following actions, shall first be reported to the city for a review and determination of consistency with this permit. Actions affecting how people or materials move on, off or around the site; the physical appearance of the site or structures thereon (including but not limited to signing, architecture, landscaping, paving, etc.) the type of activity(ies) on land use(s) pursued thereon; the number of people employed thereon or otherwise involved with on-site activities or land uses; etc shall first be reported to the city for a review and determination of consistency with this permit. (FPD, DR)
- 11. SCHOOL IMPACT FEES.** The owner shall cooperate with the School District to the extent authorized by State law in establishing school funding mechanisms for new subdivisions and in-fill development to ensure that the impacts of such development on school facilities are fully mitigated.. (FPD)
- 12. PROJECT DEVELOPMENT IMPACT FEES.** Payment of project development impact fees; water and sewer connection fees; and Quimby fees shall be payable at Certificate of Occupancy for each unit, in accordance with the provisions of the Development Agreement. (TM).
- 13. PLAN CHECK FEES.** A plan check fee shall be required by the Community Development Department when an application for a building permit is submitted. The plan check hours shall be billed to the building permit application, unless advised otherwise by the applicant/developer. (FPD, DR)

- 14. CONSTRUCTION TIMES AND NOISE.** The developer/applicant shall be responsible for informing all subcontractors and construction crews about construction start and finish times including appropriate ambient noise impacts consistent with city code and of all applicable mitigation measures. (FPD)
- 16. FINAL PLANNED DEVELOPMENT APPROVAL.** The Final Planned Development approval is for a 108 unit residential subdivision providing single family market rate lots and low/moderate income affordable condominium units. A maximum of ten second dwelling units are permitted in the development. The lot layout shall be in substantial compliance with the Final Planned Development Map date stamped November 21, 2008, except as modified herein. (FPD, DR)
- 17. DEVELOPMENT STANDARDS:** The final development standards for the project shall be substantially in compliance with the development standards shown on the Final Planned Development Plan, and detailed in the Chiles Ranch Lot Matrix, date stamped November 21, 2008. Any significant changes to the Final Planned Development shall require an additional discretionary action for approval subject to the determination of the appropriate process by the Community Development Department staff. (FPD, DR)
- 18. FINAL PLANNED DEVELOPMENT SET.** Prior to issuance of building permits the applicant shall submit a reproducible copy of the Final Development Plan set and Chiles Ranch Lot Matrix, with all conditions of approval incorporated or clearly listed on the plans. The plan set shall not be accepted as the Final Planned Development Set until the Community Development Director has signed and dated the set. The applicant shall provide two prints of the signed set to the Community Development Department. Electronic copies are recommended. (FPD)
- 19. LOT / SITE PLAN REVISIONS.** The following changes will be incorporated into the Final Development Plan and Final Map.
- a. The east property line on lots 14, 17, 18, 60, 61, and 88 will be revised from zero to three feet three inches.
 - b. The west property line on lots 1 and 2, and the east property line on lots 3-4 will be revised from zero to three feet three inches.
- The CC&Rs shall incorporate provisions to prohibit structures or debris visible from public view outside the fence on lots located adjacent to the east greenbelt. (PPD, FPD, TM)
- 20. BUILDING HEIGHT / STORIES.** (FPD, DR). Maximum building height shall not exceed 30 feet / two stories, with the following exceptions:
- a. Lots 14 and 17 shall be restricted to single story.
 - b. Lots 1-13 shall be restricted to one and a-half story.
- 21. REQUIRED PARKING.** The number of parking spaces shall be provided in accordance with the requirements of Section 40.25.090 of the Zoning Ordinance. One additional parking on

site parking space shall be provided for a second dwelling unit. Garage, carport and parking space dimensions shall be as shown on the Final Planned Development Plan (FPD, DR)

22. GARAGES. (PPD, FPD, DR)

- a. Garage conversions (partial or whole) shall not be permitted under this Final Planned Development.
- b. Required parking spaces within garages shall remain clear for parking. Enforcement shall be the responsibility of the Homeowners' Association.

23. SECOND DWELLING UNITS. A maximum of ten second dwelling units shall be permitted within the development at time of initial construction. Future second dwelling units shall be prohibited. (FPD, DR)

24. FUTURE CHANGES. No building expansion shall be allowed under this Final Planned Development. The owner of any unit shall disclose this condition to future buyers prior to the sale. (FPD, DR)

25. MAINTENANCE OF EASTERN SIDE YARDS. Structures or debris visible from public view shall be prohibited on side yards located adjacent to the greenbelt. Provisions to ensure compliance shall be incorporated in the project CC&Rs.

26. VISITABILITY / ACCESSIBILITY. The applicant/developer shall provide visitability / accessibility features consistent with city policies for market rate units. The development would provide 62 first floor only accessible units; 2 single story accessible units, and 11 visitable units. Eleven units within the development will be neither visitable nor accessible due slopes that exceed ADA requirements. (FPD, DR)

The low/moderate condominium units are exempt from the visit ability/accessibility requirement due to exceeding a density threshold of 1.25 units per net acre. However, two condominium units will be visitable and nine condominium units will be accessible. (AHP, FPD, DR)

27. PRODUCT PLACEMENT. The total number of each house plan constructed within the development shall be consistent with that shown on the Final Planned Development. No more than two houses of the same plan shall be permitted to be located side by side. Exterior paint colors shall differ, and where possible exterior materials shall vary. Any plan change proposed on any lot shall be subject to review and approval by the Community Development Director. (FPD, DR)

28. FIRE DEPARTMENT REQUIREMENTS. Prior to the issuance of building permits, the applicant/developer shall obtain approval from the fire department that all necessary public services, including water service and fire hydrants, meet fire department standards. The number and flow capability of the fire hydrants for the subdivision must meet requirements of the California Fire Code for water supply. Hydrant placement may need to be increased

due to the design of the subdivision. Hydrants and water mains shall be equivalent to City of Davis Specifications. (FPD, DR).

- a. Prior to the issuance of the first Certificate of Occupancy in Phase I, a secondary emergency vehicle access, a minimum of 20 feet in width, shall be installed in the northeast portion of the development through the existing easement located off Wellesley Avenue and shall meet the following specific requirements:
 - i. The vehicle access shall support a two axle, 40,000 pound vehicle and shall be surfaced to provide all weather driving capabilities.
 - ii. Final specifications shall subject to review and approval of the Fire Chief, City Engineer, and Community Development Director. The access road shall be all weather surface maintained by Homeowner's Association, except for the portion located in the city greenbelt.
 - iii. It shall be the obligation of the developer/applicant to acquire all necessary access rights of way and/or easements to affect the emergency vehicle access. In the event that the applicant/developer is not able to acquire this right-of-way through negotiation, and upon demonstrating to the City's satisfaction that all reasonable efforts have been made to do so, the applicant may request that the City acquire the right-of-way through eminent domain. If the latter is pursued, the applicant/developer shall be responsible to reimburse the City for all costs of acquisition, including but not limited to all staff, legal, engineering, and appraisal fees.
- b. Vehicle access shall be sufficient to accommodate fire department equipment as follows:
 - i. The minimum public street in the subdivision will be 20 feet.
 - ii. A clear driving width a minimum of 16 feet shall be provided and maintained on all private drives for emergency vehicle access.
 - iii. Parking will be limited to one side of the street only, except for section of street located east of lots 21-24, and west of Lots 15, Lot J, and Lot 20, as shown in the Parking Exhibit submitted to the Community Development Department and date stamped November 21, 2008.
 - iv. Streets or segments of streets that do not provide provisions for parking shall have "No Parking" signs posted in accordance with vehicle code.
 - v. On street parking shall not encroach into the required minimum width required for emergency vehicle access.
 - vi. Parking shall not be permitted on private drives. Enforcement shall be the responsibility of the Homeowner's Association.
 - vii. Maintaining clear access on fire apparatus roads is essential to the emergency operations. It shall be the responsibility the Homeowner's Association to provide a mechanism to enforce parking, 24 hours a day, 7 days a week on private drives. A parking enforcement plan must be provided to the Fire Department for approval to demonstrate how this will be achieved.
- c. Residential sprinklers shall be required on Lot 14.
- d. On building plans that indicate a fence with a gate between the street and front door. The gate must be operable at all times and not removed. The gate must be

distinguishable from the fence. If addresses are not visible from the street additional addressing shall be required to be posted on the gate.

29. POLICE SAFETY REQUIREMENTS. Plans shall be submitted to the Police Department for review and approval prior to issuance of building permits. All new development shall comply with the City Building and Security Ordinance and other safety recommendations and requirements regarding building security as well as employee and patron security, prior to issuance of building permits.

It is recommended that a minimal number of medium growing shrubs be planted well back from bicycle paths. Tree should be selected with canopies that will provide a clear view underneath to allow bicyclist to see clearly for a distance and to reduce areas that restrict visibility. (PPD, DR)

30. RESIDENTIAL EMERGENCY ACCESS. For emergency response purposes, each dwelling unit shall have an identifiable “front” door that has a reasonable connection to the street to which it is addressed. Reasonably connected means a dwelling must have a door visible from (usually in the same plane) as the paved surface adjacent to the building. The Fire Department will determine whether exterior doors and adjacent paved surfaces are reasonably connected. (FPD, DR)

31. RESIDENTIAL ADDRESSING. Each dwelling unit address shall correspond to a street or private drive. No unit shall be addressed to the common area or driving surface that is not a named street or alley. Names for the private drives and addressing shall be subject to the review and approval of the City Engineer. (TM, FPD, DR)

- a. Dwellings unit numbers must be visible from the street.
- b. Dwellings located on private drive shall provide addresses on both the front and rear of the dwelling. Address number shall comply with Section 505 of the California Fire Code, 2007 edition, “Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 0.5 an inch (12.7mm).”
- c. Addresses for all dwellings shall also be shown together on centrally located signage, in such a position that numbers are easily visible to approaching emergency vehicles.
- d.. In locations where end paved areas serve several dwellings, a prominent sign shall be provided at each entrance to the paved areas.
- e. Signs shall display address number of the dwellings on that paved area.
- f. Signage design and location are subject to review and approval of Police and Fire Department and the Community Development Department.

32. TRAFFIC CALMING. The developer/applicant shall work with the City to install up to two traffic calming measures along E. Eighth Street in the project vicinity. Traffic calming measures to be considered are speed box(es) and/or speed table(s). The total cost to the Developer for traffic calming measures shall not exceed \$15,000. Final determination of

method(s) and placement(s) of potential traffic calming measures shall be subject to review and approval of the Public Works Director and/or City Engineer. (TM, FPD, DR)

- 33. STREET GUTTER MODIFICATION.** The Developer shall modify the gutter at the intersection at Mesquite Drive and E. Eighth Street to provide for a potential future bus route on E. Eighth Street. The modifications proposed entail reducing the grade-change to accommodate a bus traversing gutter. The edges of the new gutters will match existing pavement grades, and no other paving modifications are proposed. The Developer obligation shall be limited to gutter modification proposal submitted to the Community Development Department on December 11, 2008, or modifications substantially similar in scope and anticipated Developer costs. The gutter modification is subject to review and approval by the Public Works Department and the City Engineer. (TM, FPD, DR)
- 34. GREEN CONSTRUCTION.** The project shall comply with the city's Green Building Ordinance. (FPD, DR)
- 35. FENCING.** Concurrently with application for the first building permit, developer shall submit a plan showing the location and design details for all fences proposed in the project subject to review and approval of the Community Development Department and Parks and General Services. The developer shall install all fencing within the development consistent with the following requirements. (FPD, DR)
- a. *Greenbelt.* All fencing design, material and construction details adjacent to public or private open space, roads, or bicycle paths, shall subject to review Parks and General Services Director or designee for review and approval. All fencing adjacent to public property shall be placed fully on private property. The property owner will be responsible for maintenance and repair. The Homeowner's Association shall be responsible for ensuring property maintenance of fences through CC&Rs.
 - b. *Greenbelt Fence Modification.* Any future fence or gate modification along a public greenbelt or public street shall be subject to review and approval, in writing, by the Parks and General Services Superintendent designee and shall comply with the city's Park and Greenbelt Gate and Fence Guidelines.
 - c. *Common Area Fencing.* All fencing design, material and construction details for common area fencing shall be subject to review and approval of the Community Development Director or designee. All fencing within the HOA common area shall be located fully on common area property. The Homeowner's Association shall own and be responsible for maintenance and repair of all fencing located in common area(s).
 - d. *Residential Lots.* All fencing design, material and construction details for residential lots shall be subject to review of the Community Development Director or designee. Fencing shall conform to the City of Davis Standard Fence, Wall and Hedge requirements. Residential fencing shall be fully located on private property. The property owner will be responsible for maintenance and repair. The Homeowner's Association shall be responsible for ensuring property maintenance of fencing through CC&Rs.

- 36. RESIDENTIAL TREE PLANTING.** Trees shall be a minimum of 15 gallons in size. All trees shall be planted and staked in accordance with Parks and General Services standards. (DR)
- 37. TREE MAINTENANCE.** All trees planted or preserved in Homeowner's Association common area trees and any multi-family zoned property within the subdivision in accordance with this approval shall be trimmed and maintained per guidelines established and approved by the International Society of Arboriculture (ISA). Any pruning of the trees, other than light pruning of no more than 25 percent of the foliage within any one growing season, requires review and approval of a Tree Modification Permit prior to the commencement of the work. Trees planted in the private drive or public access streets or common space lots with the subdivision are to be privately maintained. (DR)
- 38. RESIDENTIAL LANDSCAPING.** The applicant/developer shall install all front yard landscaping and irrigation. Landscaping design shall be reviewed and approved prior to issuance of permits (FPD, DR)
- 39. ACCENT LANDSCAPING.** The applicant/developer shall install common area landscaping and irrigation. Landscaping and irrigation shall be maintained by Homeowner's Association. Landscaping design shall be reviewed and approved prior to issuance of permits. (FPD)
- 40. IRRIGATION SYSTEMS.** All plant materials, including ground cover shall be serviced with an automatic irrigation system. All irrigation systems shall be subject to review and approval by the Community Development Department, Parks and General Services, and/or the Public Works Department prior to issuance of permits. (FPD, DR)
- 41. MAINTENANCE STATEMENT.** The following statement shall be included on the final landscape plan set: "All common space landscaped areas shall be maintained in perpetuity upon completion and kept free from weeds and debris and maintained in a healthy, growing condition and shall receive regular pruning, fertilizing, mowing and trimming. Any damaged, dead, diseased, or decaying plant material or tree shall be replaced within 30 days. Significant trimming or pruning will not be permitted without prior City approval. (FPD, DR)
- 42. APPROVED BUILDING DESIGN.** No substantive deviations from the approved building design may be permitted without another Design Review approval. Minor changes may be approved through the minor improvement application process. (DR)
- 43. COVENANTS CODES AND RESTRICTIONS.** A detailed set of CC&Rs including but not necessarily limited to explicit use, maintenance and repair, replacement of private street, private drives, common area, shared walls and roofs; and utilities if located within the reciprocal access easement; methods and process for allocating and collecting costs associated with the maintenance, repair, and/or replacement of shall be submitted and shall be reviewed and approved by the Community Development Department, City Engineer and/or the City Attorney prior to recordation of the Final Map for the project. The CC&Rs

shall be recorded no later than the first sale of any lot. Issuance of building permits shall not be granted until the CC&Rs have been submitted in a form determined to be adequate by the city based on review by the Community Development Director and the City Attorney. Enforcement of the CC&Rs shall be the responsibility of the Homeowner's Association via private proceedings. (FPD, TM)

- 44. REQUIRED UNITS.** Twenty-two low/moderate affordable income units shall be provided by the project. All units will be developed concurrently with the project's market rate units. Certificates of occupancy will not be provided until on the last twenty market rate units in the project until all low/moderate units have been issued a certificate of occupancy. (FPD, AHP)
- 45. AFFORDABLE UNIT SALE PRICES.** The affordable ownership units shall be sold at prices affordable to low/moderate income households, as defined in Article 18.05.020 and 18.06.060 of the City of Davis Municipal Code. All low/moderate income units shall be advertised and sold in accordance with the City's Buyer Selection Guidelines. A marketing and buyer selection plan shall be submitted to the City's housing staff for review and approval. All low/moderate income units shall have their prices adjusted downward from the City's standard pricing in order to account for the project's monthly Homeowner's Association fees. (AHP)
- 46. INCOME ELIGIBILITY ON AFFORDABLE FOR-SALE UNITS.** Households purchasing the low/moderate income units shall have a gross annual income that is at or below 120% of Area Median Income for Yolo County, adjusted for household size, at the time of purchasing a low-moderate income unit. (AHP)
- 47. AFFORDABILITY REQUIREMENTS.** Required affordable low/moderate income units shall remain affordable over time and continue to ensure affordable housing opportunities for future income eligible households. The following requirements shall be established in a City-provided deed restriction recorded to the low/moderate income units and shall be subject to review and approval by the City Manager's Office prior to sale of the unit: (AHP)

 - a. Owner-Occupancy Requirement, the Project developer agrees to record this requirement to each affordable unit, using the City's standard deed in accordance with Section 18.04 of Davis Municipal Code.
 - b. Resale of the low/moderate income units shall be administered under the City's Right of First Refusal Program. The Right of First Refusal, including the 1% administrative fee for carrying out this right allows the City of Davis the opportunity to either purchase the unit upon resale or present a buyer for the unit within 60 days of a notice from the seller indicating their intent to sell, closing escrow on the unit within 90 days of notice or as agreed upon by buyer and seller. In cases where the city gives up its right or does not provide a buyer in 90 days, the owner of the unit shall also have a 90 day deadline to sell the unit before the Right of First Refusal goes back into effect. Sustained Affordability, in accordance with Section 18.05.050 of the Davis Municipal Code, which should specifically include an appreciation cap through a restriction recorded to the deeds of the affordable units.

- c. Resale Report requirement will be recorded to the deed for each affordable unit, as part of the City's standard deed to be used that all future owners of the affordable units clear the City of Davis resale report prior to the close of escrow in future sells of the unit, in all circumstances where the unit is not exempt from the city's resale inspection. No findings in the city's resale report shall be transferred to the subsequent buyer of the unit.

48. AFFORDABLE HOUSING DISCLOSURE. Developer shall provide written notice to all purchasers of lots or homes within the subdivision of the location and zoning for the affordable housing units until construction on these units is complete. The disclosure shall explicitly note that the affordable housing units are to be developed for low and moderate income households. Wording is subject to review and approval by the Community Development Department prior to occupancy. (AHP)

49. RESALE RESTRICTION. Project developer agrees to record the City's required resale restriction to the deed of each low/moderate income unit upon its initial sale. (AHP)

50. PROPERTY MAINTENANCE. The following statement shall be included on the site plan:
"Applicants are responsible for maintaining all common area landscaping and irrigation, signs, structures, fences, bicycle and pedestrian paths, private drives, and other improvements in such a manner that does not detract from the appearance of the surrounding area. Parking lots shall be maintained in an attractive and suitable fashion with any potholes, significantly cracked or uneven paving and any other significant damage repaired in a timely fashion throughout the life of the project." (DR)

51. PROJECT LANDSCAPING. The developer shall be responsible for installing landscaping and irrigation for the project including east greenbelt, north buffer, common open space, and private front yards in substantial conformance to the conceptual landscape plan dated April 2008. Final landscaping plan including tree and plant selection shall be subject to review and approval of Planning, Parks and General Services and Public Works department prior to issuance of the building permits. Installation of landscape areas within its respective phase shall occur prior to issuance of first Certificate of Occupancy in that phase. Landscape and irrigation plans shall specify the following: (FPD, DR)

- a. Location, size and quantity of all plant materials.
- b. A plant legend specifying species type (botanical and common names) container size, maximum growth habit, and quantity of all plant materials.
- c. Landscaping shall include drought tolerant landscaping features. Landscaping shall be drought tolerant (minimum 50%) and incorporate inactive vegetation to the maximum extent feasible. Use of turf shall be minimized and restricted to areas of passive recreation only to reduce water consumption.
- d. Location of all pavements, fencing, buildings, accessory structures, parking lot light poles, property lines, and other pertinent site plan features;
- e. Planting and installation details and notes including soil amendments;
- f. Existing trees on site shall be identified. Identification shall include species type, trunk diameter at 4'-6" above adjacent grade, and location on site. Trees planned for removal or

relocation shall be marked on the plans, methodology to preserve trees in place shall be provided on the plans;

- g. Details of all irrigation (drip and sprinkler) as well as all equipment such as backflow, controller and controller and meter devices identified.

52. PARKING LOT SHADING. The project shall comply with the city's the Parking Lot Shading Guidelines for the condominium parcel lot and "Lot O". A parking lot shading plan and related shade calculations shall be submitted to the Community Development Department demonstrating compliance.

53. PRECONSTRUCTION SURVEY AND TREE REPORT. Prior to issuance of grading, disking or building permit, and prior to commencing any improvement activities or construction on the site the developer/applicant shall commission a preconstruction survey of the site and provide a detailed map of trees to be preserved and removed. An arborist report shall be submitted to the Parks and General Services Director or designee for review and approval and shall provide the condition and appraisal value of each tree to be removed.

54. TREE MITIGATION PROGRAM. The project shall include an additional tree mitigation program, which shall be subject to the review and approval of the City's Arborist. The additional tree mitigation program shall be designed to save as many trees as possible, in addition to the trees that are already designated to be saved and/or retained on site. The tree mitigation program shall be completed and approved prior to any grading on the site and the tree relocations shall be completed at the appropriate time prior to grading or otherwise disturbing the additional trees to be saved. The additional trees to be saved shall be deemed healthy by the city's Arborist, or an arborist approved by the city's Arborist, and capable of relocation, and may be retained on site at a different location, or relocated off-site, as set forth in the tree mitigation plan. Fifteen percent (15%) of the \$3,000 supplemental residential fee per market rate unit, provided for in the Development Agreement, may be utilized to offset all, or a portion, of the cost of the additional tree mitigation, not to exceed the actual costs of the additional tree mitigation program.

55. TREE MODIFICATION PLAN. A Tree Modification Permit shall be required for the tree removal proposed for the project (FPD, DR)

56. TREE PROTECTION PLAN. A Tree Protection plan shall be required for any existing trees on the property and any street trees adjacent to the project. The plan shall include a grading plan with the trees plotted on the plan. Compliance with the tree preservation plan is required before and during any site disturbance and construction activity and prior to issuance of building permits. (FPD,DR)

57. CITY STREET/GREENBELT TREES. The developer shall provide an updated list of tree species for the street and greenbelt trees to be planted. Location of street tree easements and tree selection shall be subject to review and approval by Parks and General Services prior to recordation of Final Map.

Pursuant to the applicable provisions of the City of Davis Tree Planting, Preservation and Protection Ordinance and the East Davis Specific Plan, in-lieu fees shall be paid for each single family lot that does not contain a street tree prior to issuance of Certificate of Occupancy for that unit. Section 37.10.020 of the Municipal defines a street tree, as "...any tree planted and/or maintained by the city, or recorded as a street tree, adjacent to a street or within a city easement or right-of-way on private property, within the street tree easement." (TM, FPD, DR)

- 58. AFFORDABLE HOUSING DISTRIBUTION.** Prior to issuance of building permits, the developer shall submit a plan for marketing the affordable units and selecting and qualifying the buyers, subject to review and approval by the City Manager's Office and the City Attorney. Developer shall recognize that any commitments for sale of the units without City approval are invalid and are counter to this affordable housing plan approval. This plan shall be in compliance with the City of Davis Buyer/Tenant Selection Guidelines and the city's "workforce" preference system. (AHP, FPD)
- 59. REVISED PLANS.** Prior to issuance of building permits, revised plans incorporating all conditions of approval for this project shall be coordinated and submitted to the Community Development Department as one package in accordance with plan check requirements. The revised plans shall show any lot modified, herein. All plans including site, grading, landscape, irrigation, mechanical and street improvement plans shall be coordinated for consistency prior to issuance of any permits (such as grading, encroachment, building, etc.) Any changes to the size, elevation, design or location of any structure on site, or other site or landscape improvements shall not be made without prior City approval. (DR)
- 60. EXTERIOR LIGHTING.** Exterior lighting shall be directed so as to not adversely impact adjacent sites or traffic. Light standards shall not exceed 15 feet in total height and shall comply with the provisions of the City's Outdoor Lighting Control Ordinance as well as the City's Security Ordinance. A detailed on-site lighting plan, including a photometric diagram and details of all exterior light fixtures shall be reviewed and approved by the Community Development Department prior to the issuance of permits. (DR)
- 61. SHADING.** South and West facing windows shall generally be shaded from the summer sun by using shade trees on the south and west building exposures. Landscaping shall be planted adjacent to a building face to the landscaping extent possible to help reduce heat and glare. (DR)
- 62. LANDSCAPE WATER CONSERVATION.** The project shall comply with the Landscape and Water Conservation requirements (Section 40.26.190 of the Davis Municipal Code). Verification of compliance with this ordinance shall be to the satisfaction of the Public Works Department and shown on the building permit plans set with the irrigation plan. The plant list shall incorporate native species whenever possible throughout the site. (PPD, PFD, DR)

- 63. LANDSCAPE ARCHITECT VERIFICATION OF WATER CONSERVATION.** The landscape architect for the approved plan shall submit a signed statement to the City upon installation confirming that the landscape irrigation and water conservation measures have been installed consistent with the approved plans and specifications. (DR)
- 64. CONSTRUCTION MANAGEMENT PLAN.** Prior to issuance of any permit or inception of any construction activity on the site, the developer shall submit a construction impact management plan including a project development schedule and “good neighbor” information for review and approval by the Community Development and Public Works Departments. The plan shall include, but is not limited to, public notice requirements for periods of significant impacts (noise/vibration/street or parking lot closures, etc.), special street posting, construction vehicle parking plan, hours of construction activity, noise limits, dust control measures, and security fencing and temporary walkways. Work and/or storage of material or equipment within a City right-of-way may require the separate receipt of an Encroachment Permit. (DR)
- 65. CONSTRUCTION WASTE RECYCLING.** The project shall comply with the city’s Construction and Demolition Ordinance. (DR)
- 66. GOOD NEIGHBOR RELATIONS.** The applicant shall provide e-mail and telephone listing for community concerns, names of persons who can be contacted report concerns and correct problems report concerns. A copy of the contact information shall be provided to the Community Development Department. (DR)
- 67. ENCROACHMENT PERMIT REQUIRED.** All work within the public right-of-way, including but not limited to utilities and grading, shall be explicitly noted with the subdivision plans. The applicant shall receive all necessary encroachment permits from the City of Davis Public Works Department prior to issuance of building permits for such structures or uses requiring to be permitted to encroach within or over the public right-of-way, including, but not limited to, patios, bike racks, water meters, backflow devices, signs and curb/gutter/sidewalk improvements. (TM, DR)

Prior to the Final Map

- 68. EASEMENTS.** The developer shall prepare the necessary easements and/or other documents such as CC&Rs) to provide reciprocal access and use for any portion of any lot to be used by another, including but not necessarily common access, drainage, landscaping, utilities, and shared driveway(s). The language of said easements shall and/or other documents shall be subject to the review and approval of the Community Development Director, City Engineer &/or City Attorney prior to recordation of the Final Map(s) and prior to issuance of building permits. All improvements other than public sidewalk, curb, gutter, street and designated street trees in the public right of way shall be the responsibility of the abutting property owner or Homeowner's Association to maintain (ie landscaping strips, landscaping, trees, bioswales, etc). Provisions for maintenance by abutting property owners and/Homeowner's

Association shall be subject to the approval of Community Development Director City Engineer and/or City Attorney. (TM, FPD, DR)

- 69. GREENBELT.** Subdivider shall dedicate and improve approximately six percent (.70 acres) of the project site as city greenbelt. The greenbelt, currently shown on the tentative map as “Lot C” shall be identified as a new separate parcel. The greenbelt shall be in substantial conformance to the portion of "Lot C" shown on the tentative map and described generally as beginning at the north edge of the emergency access road; continuing south to “Lot R”; west between Lots 15-17 and 13-14 (not including Lot Q), and ending at the back of the public sidewalk north of Lot 12. (TM, PPD, FPD, DR)
- 70. IMPROVEMENT PLANS REQUIRED FOR IMPROVEMENTS TO GREENBELT.** Subdivider shall provide for the design of, and construction drawings for grading, pathway (including lighting), and landscaping improvements for the greenbelt bicycle and pathway system, subject to the review and approval of the Parks and General Services Director and the City Engineer. (TM, PPD, FPD, DR)
- 71. BICYCLE PATH ADVISORY REVIEW.** Bicycle and pedestrian connections from the eastern greenbelt to the public streets shall be reviewed by the Bicycle Advisory Commission. Any review by the commission shall provide opportunity for the neighborhood to participate and comment on the design concepts for the greenbelt/street connections. (TM, PPD, FPD, DR)
- 72. BUFFER.** The northern portion of “Lot C” as shown on the tentative map shall be redrawn to exclude the area acceptable to the city as dedicated greenbelt generally described above as “**GREENBELT.**” The parcel shall be shown on the Final Map as “Homeowner's Association. (TM, PPD, DPS DR)
- 73. BUFFER / FUTURE BICYCLE CONNECTION.** (TM, PPD, FPD, DR). For purposes of providing a potential future bicycle connection from Chiles Ranch through the Cemetery District property, the city would consider accepting the north buffer as city greenbelt under the following conditions:
- a. The successor in interest, (ie. Homeowner’s Association) provides the city with written agreement from the Davis Cemetery District dedicating an easement through their property to northwest portion of the Chiles property for purposes of providing bicycle connectivity into the cemetery road/path system.
 - b. The developer would make an Irrevocable Offer of Dedication to the city for the greenbelt. The IOD would include the area in the northwest corner identified as community garden. The IOD would initially be rejected, offer to open. The offer would not be accepted unless further action by the Cemetery Board, creating an easement/right of way for bicycle/pedestrian purposes, occurred.
 - c. The IOD may be accepted by the city if, and at the time a bicycle/pedestrian path connection is provided through the cemetery.
 - d. The developer (Homeowner's Association) shall develop and maintain this area until and unless the IOD is accepted by the city.

- e. The greenbelt and greenbelt improvements shall be built to city standards or refurbished to city standards prior to City's acceptance of IOD.

74. LOT A. The developer shall prepare the necessary easements and/or other documents such as CCR&s to provide access to a portion of "Lot A" to the Davis Cemetery District for future vehicle access to the south portion of their property. The language of said easements and/or other documents shall include provisions for access, maintenance, repair, and replacement and shall be subject to the review and approval of the Community Development Director or prior to recordation of the Final Map(s) and prior to issuance of building permits. All Provisions for maintenance by abutting property owners and/or Homeowner's Association shall be subject to the approval of Community Development Director City Engineer and/or City Attorney. (PPD, FPD, DR, TM)

The language of said easement shall include the following provisions:

- a. Lot A will be landscaped in Phase I.
- b. After a period of twenty-five years, but not before, the Davis Cemetery District may improve the lot for vehicle access.
- c. Access will be for funerals processions. Vehicle use of the access by the public shall only be during processions.
- d. The cemetery shall install a gate that is similar to the gate located on Pole Line. Gate is to be kept lock at all times except during funeral use.
- e. During the first 25 years, the only acceptable use of the easement would be a bicycle path.

75. LOT N. "Lot N", shown on the tentative map as "Greenbelt" shall be shown with the changes reflected in "Concept A" on the Final Map as "Homeowner's Association." The parcel and all improvements including but not limited to resident garden, landscaping, irrigation, pedestrian paths gathering structure, trees, and other amenities or features located within the parcel shall be owned and maintained by the Homeowner's Association. (TM, FPD, DR)

76. LOT P. "Lot P" shown on the tentative map as "Greenbelt" shall be shown on the Final Map as Homeowner's Association. (TM, FPD, DR)

77. LOT R. "Lot R" improvements, including but not limited to resident garden, landscaping, irrigation, trees, and fences shall be owned and maintained by the Homeowner's Association. (TM, FPD, DR)

78. UTILITY IMPROVEMENT PLAN REVIEW. All sizes, locations and grades of the utilities to serve this project are subject to the review and approval of the City Engineer. (TM, FPD, DR)

79. PUBLIC / ROADWAY IMPROVEMENTS. (TM, FPD, DR)

- a. All curb, gutter and sidewalk improvements shall be monolithic construction except as permitted by the City Engineer.
- b. All existing sidewalk curb, and gutter improvements abutting the subdivision shall be brought up to 'first-class' condition, subject to the review and approval of the city Engineer.

80. PROVISION OF RIGHT OF WAY IMPROVEMENTS. The design and construction of all public improvements to serve the subdivision shall be subject to the review and approval of the City Engineer. (TM, FPD, DR)

81. COMMUNITY FACILITIES DISTRICT. Subdivider shall annex the project into the city's Community Facilities District 1990-1 (East Davis Area of Benefit), prior to, or concurrently with the recordation of the first Final Map for the project. (TM)

Prior to Certificate of Occupancy

82. GREENBELT IMPROVEMENTS. Subdivider shall install greenbelt landscaping, bicycle/pedestrian pathway and fire access improvements (including lighting) to city standards concurrently with the other public improvements to serve the subdivision, subject to the review and approval of the Parks and General Services Director or designee and the City Engineer. The bicycle path shall be Portland Cement Concrete or such other material as may be approved by the City Engineer and constructed to city standards, subject to the review and approval of the Parks and General Services Director or designee and the City Engineer. The greenbelt shall be installed in the first phase of development prior to issuance of the first Certificate of Occupancy (TM, PPD, FPD DR).

83. BUFFER IMPROVEMENTS. The subdivider shall install the north buffer in Phase II of the development prior to the issuance of first Certificate of Occupancy for Phase II. Tree and plant selection shall be provided on the final landscape plan, subject to the review and approval of Planning, Parks and General Services and Public Works. The buffer, including all amenities including but not limited to resident garden, landscaping, irrigation, pedestrian paths and trees shall be owned and maintained by the Homeowner's Association. (TM, PPD, FPD, DR).

Prior to Issuance of Grading

84. BIOLOGICAL SURVEY REQUIRED. Prior to issuance of a grading, or disking, or any ground disturbance, or building permit or other improvement activities on the site, the applicant/developer shall obtain approval from the City regarding biological survey commissioned by the applicant, which has a 30 day expiration. The study shall be consistent with City Ordinance and shall address whether there are endangered and/or protected species on the site. This study will be a follow up to the study recently conducted for the entitlement applications hearing. (DR)

85. GRADING PLAN. Prior to issuance of a grading, or disking, or any ground disturbance, or building permit or other improvement activities on the site a grading plan of the project shall

be prepared by a registered Civil Engineer, for the review and approval of the City Engineer. (TM, DR)

86. BUILDING PERMIT GRADING PLAN. Prior to issuance of a grading, or disking, or any ground disturbance, or building permit or other improvement activities on the site the applicant shall submit a final grading plan concurrent with the initial building plan check submittal to the Community Development Department. All accessibility features and bicycle access routes are to be clearly shown on the site plan and grading plan. (DR)

87. DRAINAGE PLAN REQUIRED. An on-site drainage plan shall be submitted for review and is subject to the approval of the City of Davis Public Works Department prior to the issuance of permits. (DR)

88. UTILITY PLAN. Prior to issuance of a grading, or disking, or any ground disturbance, or building permit or other improvement activities on the site A utility plan shall be approved by all applicable utility providers. This plan, with an approval stamp from the City of Davis Community Development Department, shall be submitted by the applicant to the utility provider for review. Any necessary changes or deviations from the approved utility location and/or screening shall be reviewed by the Community Development Department prior to installation and may be subject to discretionary Design Review processing and fees by the Community Development Department. (DR)

89. STREET LIGHTING. Final street lighting design, including location and number of fixtures, are subject to the review and approval of the City Engineer. (TM, FPD, DR)

90. ENCROACHMENT PERMIT REQUIRED. All work within the public right-of-way, including but not limited to utilities and grading, shall be explicitly noted with the building plans. The applicant shall obtain all necessary encroachment permits from the City of Davis Public Works Department prior to issuance of building permits for all work and construction that encroach within or over the public right-of-way, including, but not limited to, balconies, fire ladders, water meters, backflow devices, signs and curb/gutter/sidewalk improvements. (DR)

Prior to Construction

91. PRECONSTRUCTION MEETING. Prior to the start of any work on-site, the applicant shall request and attend a preconstruction meeting to include project superintendent, architect, subcontractors, as well as City representatives including Community Development and/or Public Works. (DR, TM)

During Construction Activities

92. UNDEVELOPED SITE MAINTENANCE. The applicant shall be responsible for the ongoing maintenance and upkeep of undeveloped portions of the project site in accordance with the City of Davis Municipal Code. All building pads shall be seeded and irrigated for erosion control. (DR)

- 93. SIDEWALK MAINTENANCE.** Owners shall maintain the sidewalk in clean condition free of litter, spilled food and stains. The sidewalk shall be pressure washed by the owners on a regular basis. (FPD, DR)
- 94. TRASH MAINTENANCE.** The entire site shall be kept free of trash or debris at all times. (FPD, DR)
- 95. BACKFLOW EQUIPMENT.** Backflow prevent valve wheels and stems shall be maintained in a manner which enables inspection in order to determine whether or not the valve is open. (DR)
- 96. NATURAL VENTILATION.** All of the south facing windows on the upper floor(s) of the building(s) shall be operable to allow natural ventilation of units/tenant spaces. Adequate natural ventilation must be demonstrated prior to issuance of occupancy for all units. (DR)
- 97. RECYCLING.** An appropriate recycling storage area and containers shall be provided within each unit in the project to the satisfaction of the Community Development Department. (DR)
- 98. SOILS.** Prior to the issuance of permits, the applicant shall have a soils investigation report prepared and the applicant shall comply with all recommendations contained within the report (DR)
- 99. CONSTRUCTION TIMES AND NOISE IMPACTS/MITIGATION MEASURES.** The developer/applicant shall be responsible for informing all subcontractors and construction crews about construction start and finish times including appropriate ambient noise impacts consistent with city code and of all applicable mitigation measures. (DR)
- 100. THE AIR QUALITY DURING CONSTRUCTION.** The following actions shall be taken during construction to minimize temporary air quality impacts (dust): (DR)
- a. An effective dust control program should be implemented whenever earth-moving activities occur on the project site. In addition, all dirt loads exiting a construction site within the project area should be well watered and/or covered after loading.
 - b. Apply water or dust palliatives on exposed earth surfaces as necessary to control dust emissions. Construction contracts shall include dust control treatment in late morning and at the end of the day, of all earth surfaces during clearing, grading, earth moving, and other site preparation activities. Non-potable water shall be used, where feasible. Existing wells shall be used for all construction purposes where feasible. Excessive watering will be avoided to minimize tracking of mud from the project onto streets.
 - c. Grading operations on the site shall be suspended during periods of high winds (i.e. winds greater than 15 miles per hour).
 - d. Outdoor storage of fine particulate matter on construction sites shall be prohibited.
 - e. Contractors shall cover any stockpiles of soil, sand and similar materials.

- f. Construction-related trucks shall be covered and installed with liners and on the project site shall be swept at the end of the day.
- g. Revegetation or stabilization of exposed earth surfaces shall be required in all inactive areas in the project.
- h. Vehicle speeds shall not exceed 15 miles per hour on unpaved surfaces.

101. OZONE PRECURSORS DURING CONSTRUCTION. In order to minimize the release of ozone precursors associated with construction, the following standard requirements developed by the Yolo/Solano APCD shall be implemented: (DR)

- a. Construction equipment and engines shall be properly-maintained.
- b. Vehicle idling shall be kept below ten minutes.
- c. Construction activities shall utilize new technologies to control ozone precursor emissions, as they become available and feasible.
- d. During smog season (May through October), the construction period shall be lengthened so as to minimize the number of vehicles and equipment operating at the same time.

102. EXCAVATION. If subsurface paleontological, archaeological or historical resources or remains, including unusual amount of bones, stones, shells or pottery shards are discovered during excavation or construction of the site, work shall stop immediately and a qualified archaeologist and a representative of the Native American Heritage Commission shall be consulted to develop, if necessary, further measures to reduce any cultural resource impact before construction continues. (TM, DR)

103. NOISE REDUCTION PRACTICES. The applicant shall employ noise-reducing construction practices. The following measures shall be incorporated into contract specifications to reduce the impact of construction noise. (DR)

- a. All equipment shall have sound-control devices no less effective than those provided on the original equipment. No equipment shall have an un-muffled exhaust.
- b. As directed by the City, the developer shall implement appropriate additional noise mitigation measures including, but no limited to, changing the location of stationary construction equipment, shutting off idling equipment, rescheduling construction activity, notifying adjacent residents in advance of construction work, or installing acoustic barriers around stationary construction noise sources.

104. HOURS OF CONSTRUCTION. During all project construction, hours of construction shall be as follows:

- a. Monday through Friday 7:00a.m. to 5:00 p.m.
- b. Saturday 8:00 a.m. to 3:00 p.m.
- c. Construction activities shall not be permitted Sunday
- d. Construction activities shall not be permitted on Federal Holidays
- e. Construction activities shall not be permitted after 12:00 noon on December 24

Prior to Certificate of Occupancy

- 105. FINAL INSPECTION.** An on-site final inspection of the photometric standards shall be conducted by the electrical engineering consultant to confirm that all lights were correctly installed according to the approved photometric plan. There should be an evening inspection to confirm proper installation. (DR)
- 106. COMPLIANCE WITH CONDITIONS.** Prior to any use of the project site or business activity being commenced thereon, all Conditions of Approval shall be completed to the satisfaction of the City of Davis Community Development Department. The site and buildings shall be inspected for compliance prior to the issuance of a certificate of occupancy. (ALL)
- 107. FENCING.** The applicant/developer shall install all fencing required for Phase I and Phase II prior to issuance of first Certificate of Occupancy for each phase. (FPD, DR).
- 108. LANDSCAPING.** The Developer shall restore/repair all existing landscaping that is damaged due to construction of the project prior to the issuance of a certificate of occupancy. (FPD)

III. ENVIRONMENTAL:

The following mitigation measures and standard conditions apply to the new Planned Development District.

MITIGATED NEGATIVE DECLARATION #1-08

MITIGATION MEASURES:

BIOLOGICAL:

1. Mitigation Measure. Loss of Swainson's Hawk Nesting Habitat

None of the trees proposed for removal by the project currently contain active nests. However, Swainson's hawk nesting has occurred on the site in the past and may support nesting in the future. Swainson's hawks are known to nest within one-quarter mile of the proposed project. Implementation of the proposed project could result in the loss of nesting habitat or lead to the failure of active nests, which would be considered potentially significant. The following mitigation measure would be necessary to reduce the adverse effects to Swainson's hawk nesting habitat to a less than significant level.

- a) If avoidance of project activity (demolition of existing structures, grading or new construction) during the breeding season is not feasible, a qualified biologist shall conduct a pre-construction survey to determine the nesting status of Swainson's hawk on site and within one-quarter mile of the project site. This shall be a condition of any grading permit. The survey shall be conducted no less than 14 days and no more than 20 days before the beginning of construction (including equipment and materials staging) between the months of April and early September. If no active nests are found during the survey, no further mitigation for nesting Swainson's hawk shall be required.
- b) If during the focused survey active Swainson's hawk nests are identified on-site or within one-quarter mile of the proposed, no construction shall be allowed until a qualified biologist determines that the young have fledged (able to forage independently from

adults), or that the nest has failed and becomes inactive. Any trees containing nests that must be removed as a result of the proposed project shall only be removed during the non-breeding season (September to March). Additional mitigation measures may be necessary in this instance as dictated by the California Department of Fish and Game.

2. Mitigation Measure. Loss of 11.9 Acres of Suitable Swainson's Hawk Foraging Habitat

The Chiles Ranch contains approximately 12.1 acres. As identified above, the project site has a history of Swainson's hawk nesting. Active Swainson's hawk nests occur within one-quarter mile of the site. Swainson's hawks, as well as other raptors, have been observed foraging on the project site. Approximately 0.22 acres of existing structures occur on the proposed site and are considered non suitable habitat for Swainson's hawk foraging. The 11.9 acres associated with the project would result in loss of suitable foraging habitat and would be considered potentially significant. One of the following mitigation measures would be necessary to reduce the adverse effects to Swainson's hawk nesting habitat to a less than significant level.

- i. The Yolo County HCP/NCCP Joint Power Association (JPA) entered into agreement with the California Department of Fish and Game regarding mitigation for impacts to Swainson's hawk foraging habitat. The agreement requires that 1 acre of habitat management lands be acquired for each 1 acre of Swainson's hawk foraging habitat lost. Prior to the issuance of grading permits, the project applicant shall pay the appropriate fee for 11.9 acres of foraging habitat affected; or
- ii. Prior to commencement of construction-related activities for the project including, but not limited to, grading, staging of materials, or earthmoving activities, the project proponent shall place and record one or more Conservation Easements that meet the foraging habitat mitigation acreage requirement. The conservation easement(s) shall be executed by the project proponent and a Conservation operator. The conservation easement(s) shall be reviewed and approved in writing by California Department of Fish and Game prior to recordation for the purpose of confirming consistency. The purpose of the conservation easement(s) shall be to preserve the value of the land as foraging habitat for the Swainson's hawk. The proponent shall provide the City with a copy of the DFG consistency finding, and a receipt of conservation easement acquisition prior to the start of construction.

3. Mitigation Measure - Impacts to Other Potentially Occurring Sensitive Species

White-tailed kites, barn owls, burrowing owls, bats, yellow-billed magpie and western bluebird have been identified to nest or roost on or within the immediate vicinity of the proposed project site. Direct or indirect impacts to nests or individuals of these species may occur as a result of construction, and would therefore be considered potentially significant. The following mitigation measures would be necessary to reduce potential direct and indirect impacts to nesting white-tailed kites, burrowing owl, barn owl, yellow-billed magpie, and western bluebird, or roosting bats to a less than significant level.

- a) If avoidance of project activity (demolition of existing structures, grading, or new construction) during the breeding season is not feasible, a qualified biologist shall conduct pre-construction survey(s) to determine the nesting status of white-tailed kites, barn owls, burrowing owls, yellow-billed magpies and western bluebird, and roosting bats on site and within 250 feet of the project site. This shall be a condition of any grading permit. The survey shall be conducted no less than 14 days and no more than 20 days before the beginning of construction (including equipment and materials staging) between the months of March and early September. If no active nests or roosts are found during the survey, no further mitigation for nesting/ roosting of aforementioned species shall be required.
- b) If during the focused survey(s) active nests or bat roosts are identified on-site or within 250 feet of the proposed, no demolition of existing structures or construction shall be allowed until a qualified biologist determines that the young have fledged (able to forage independently from adults), or that the nest has failed and becomes inactive. In the case of bats roosting in existing structures, exclusion shall be the only option prior to demolition. The existing structures and trees containing nests that must be removed as a result of the proposed project shall only be removed during the non-breeding season (September to March).

STANDARD CONDITIONS:

AESTHETICS:

1. Prior to building permit issuance, a final lighting plan for all exterior lighting, including a photometric plan, shall be submitted to the Community Development Department for review and approval. All exterior lighting shall comply with the city's outdoor lighting control ordinance.

AIR QUALITY:

2. An effective dust control program should be implemented whenever earthmoving activities occur on the project site. In addition, all dirt loads exiting a construction site within the project area should be well watered after loading.
3. Apply water or dust palliatives on exposed earth surfaces as necessary to control dust emissions. Construction contracts shall include dust control treatment in late morning and at the end of the day, of all earth surfaces during clearing, grading, earthmoving, and other site preparation activities. Non-potable water shall be used, where feasible. Existing wells shall be used for all construction purposes where feasible.
4. Grading operations on the site shall be suspended during periods of high winds (i.e. winds greater than 15 miles per hour).
5. Haul trucks shall be equipped with tarpaulins and other effective covers. Public streets shall be swept at the end of the day and cleared of any deposits caused by construction activities.
6. Outdoor storage of fine particulate matter on construction sites shall be prohibited.
7. Contractors shall cover any stockpiles of soil, sand and similar materials.
8. Construction-related trucks shall be covered and installed with liners and on the project site shall be swept at the end of the day.

9. Throughout the construction period, streets adjacent to the project shall be swept at the end of the day and cleared of any deposits caused by construction activities.
10. Revegetation or stabilization of exposed earth surfaces shall be required in all inactive areas in the project.
11. Vehicle speeds shall not exceed 15 miles per hour on unpaved areas.
12. Construction equipment and engines shall be properly maintained.
13. Construction activities shall utilize new technologies to control ozone precursor emissions, as they become available and feasible.
14. 14. Vehicle idling shall restricted to 5 minutes.

CULTURAL RESOURCES:

15. If subsurface archaeological or historic remains, including unusual amounts of bones, stones, shells or pottery shards, are discovered during excavation or construction of the site, work shall stop immediately and a qualified archaeologist and a representative of the Native American Heritage Commission shall be consulted to develop, if necessary, further mitigation measures to reduce any archaeological impact to a less than significant level before construction continues.

NOISE:

16. All windows and sliding glass doors should be weather stripped or mounted in low air-infiltration design frames meeting ANSI air infiltration standards. Standard energy-conserving building practices will satisfy this requirement.
17. Noise insulation features shall be incorporated into building construction and site improvement as may be necessary to ensure interior noise levels on greater than 45 dBA and a maximum exterior noise level of 60 dBA.
18. All construction activity and equipment shall be in compliance with the City of Davis Noise Ordinance.

If you have any questions regarding this action or the process please contact me at (530) 757-5610 or ccamacho@cityofdavis.org

Sincerely,

Cathy Camacho
Planner

Attachments

1. Resolution of Intent to Amend General Plan
2. Rezone Preliminary Planned Development #11-04 Ordinance
3. Development Agreement Ordinance and Agreement

c: Mark Wood, Chief Building Official
Tim Annis, Fire

Donna Silva, Parks & General Services

Steve Pierce, Police

Will Marshall, Public Works