

**ORDINANCE NO. 2340**

**REZONING / PRELIMINARY PLANNED DEVELOPMENT ZONING ORDINANCE**

**AN ORDINANCE AMENDING SECTION 40.01.090 OF CHAPTER 40 OF THE CITY OF DAVIS MUNICIPAL CODE REZONING 2411 E. EIGHTH STREET (APN #071-010-15), THE ABUTTING PARCEL TO THE EAST (APN #7-071-401-02) LOCATED WEST OF MESQUITE DRIVE, AND THE ABUTTING PARCEL TO THE SOUTH (APN# 071-401-03) LOCATED NORTH OF E. EIGHTH STREET CONSISTING OF APPROXIMATELY 12.1 ACRES, ZONED AGRICULTURE (A) AND RESIDENTIAL ONE AND TWO FAMILY (R-2), TO PLANNED DEVELOPMENT (P-D) #8-07 (RESIDENTIAL USE) - CHILES RANCH SUBDIVISION**

THE CITY COUNCIL OF THE CITY OF DAVIS DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION 1. ZONING MAP CHANGE**

Section 40.01.090 (Zoning Map) of Chapter 40 of the Code of the City of Davis, as amended, is hereby amended by changing the land use designation of three parcels containing approximately 12.1 acres APN #071-010-15; 7-071-401-02; 071-401-03) located north of E. Eighth Street, south of Regis Drive, east of the Davis Cemetery, and west of Mesquite Drive, attached as Exhibit A, to Planned Development #8-07 (Residential use).

**SECTION 2. PURPOSE.**

The purpose of this preliminary planned development is to:

- a) Provide a portion of the City's need for residential units through infill development;
- b) Stabilize and protect the residential characteristics of the district; and
- c) Promote and ensure that the new residential uses will be in harmony with the existing neighborhood; and respect the privacy of adjacent homes through reasonable setbacks, architectural design and general landscaping plan.

**SECTION 3. USES.**

- A. **Permitted Uses.** The principal permitted uses of land of Planned Development #8-07 are as follows.
  1. Single-family residential units attached or detached.
  2. Family and Group Day Care Homes as defined in Section 40.26.270.
  3. Group care homes subject to the provisions of Sections 40.26.135.
- B. **Accessory Uses.** The accessory uses of this district shall be consistent with the accessory uses in section 40.03.030 of the Zoning Ordinance, as amended from time to time.
- C. **Conditional Uses.** None.
- D. **Prohibited Uses.** Due to the unique nature of this subdivision, the following are explicitly prohibited.

1. *Garage Conversions.* Garage conversions (whole or partial) shall not be permitted.
- E. Development Standards. The development standards for this district shall be consistent with the standards in Sections 40.03.050 and 40.03.060 of the Zoning Ordinance as it is written now and as it may be amended in the future. The exceptions to the zoning standards shall be those shown on the Final Planned Development map. The final planned development approval will establish the final development standards for each lot.
- F. Special Conditions. This district shall comply with special conditions in Section 40.03.070 of the Zoning Ordinance as it is written now and as it may be amended in the future. Additional special conditions are imposed below.
  1. *Second Dwelling Units.* A maximum of ten second dwelling units may be permitted within the development at time of initial construction. Future second dwelling units shall be prohibited.
  2. *Garages.* Required parking spaces within garages shall remain clear for parking. Enforcement shall be the responsibility of the Homeowner's Association
  3. *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.

#### SECTION 4. SPECIAL REQUIREMENTS

The following special requirements are placed on the uses in this P-D district:

1. Park Land. The Subdivider shall pay fees in-lieu of parkland dedication.
2. Greenbelt. Subdivider shall dedicate to the city and install approximately .070 acres of greenbelt. 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. Subdivider shall provide for the design of, and construction drawings for grading, pathway, emergency access road, (including lighting), and landscaping improvements for the greenbelt bicycle and pathway system, subject to the review and approval of the Parks and Community Services Director or designee and the City Engineer. Additional improvements may be required as part of the detailed design of the greenbelt improvements to provide a safe and convenient interface of the bicycle/pedestrian path and the public street. The greenbelt shall be installed in Phase I of the development prior to issuance of first Certificate of Occupancy.
3. Secondary Emergency Access. The enhanced bicycle path / emergency access for the project, beginning in the easement located on Wellesley Place and connecting through the northeast area of the greenbelt shall also be installed in Phase I prior to issuance of first Certificate of Occupancy. The path shall be constructed to the specifications of the Fire Department, subject to review and approval by the Fire Department and Public Works Department.

4. Lot A / Easement. Lot A shall be fully landscaped by the Developer, subject to review and approval of parks and General Services Superintendent and Community Development Director or designee, in Phase I prior to issuance of first Certificate of Occupancy. Concurrently, the developer will execute an agreement with the cemetery district with the option to install an access road within the thirty-five foot easement of Lot A, no sooner than 25 years from the date of the completion of Phase I. The purpose of the road will be for use during funeral processions and not otherwise for public use. The agreement shall include provisions for Lot N ownership, maintenance, and party response for the cost of installation of the access road, prior to the cemetery exercising their option to do so. The city will not own or maintain Lot A or the access road within the easement.
5. Drought Tolerant Landscaping. 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.
6. Affordable Housing Plan. The developer/applicant shall provide the affordable units as approved in the Affordable Housing Plan. Certificates of occupancy will not be provided on the last twenty market rate units in the project, as designated by city staff during the review and approval for the placement of unit types, until all low/moderate units have been issued a Certificate of Occupancy.

#### SECTION 5. MITIGATION MEASURES.

The Planned Development District is subject to the mitigation measures in the environmental negative declaration prepared for this project. Other applicable mitigation measures are contained in Mitigated Negative Declaration #1-08. A copy of all mitigation measures for this project are provided in Exhibit B are attached hereto to Planned Development #8-07.

#### SECTION 6. FINDINGS.

The City Council of the City of Davis hereby finds:

1. The proposed project is in conformance with the General Plan, which designates the site Residential-Medium Density.
2. The proposed project is consistent with the Zoning Ordinance, as the purpose of the Planned Development District is to allow for diversification in the relationship of various buildings and structures and provide relief from the rigid standards of conventional zoning. The proposed Planned Development is intended to provide an integrated and harmonious single-family environment by utilizing various common theme concepts that allow for, and encourage architectural variation while maintaining the residential character of the surrounding area.
3. Public necessity, convenience and general welfare require the adoption of the proposed amendment, given that the residential subdivision may be considered an infill development, to serve the housing needs of the city.

4. The project constitutes a residential environment of sustained desirability and stability in harmony with the character of the surrounding neighborhood.
5. The project incorporates sustainability features consistent with General Plan and city policies to ensure long term sustainability of the project, reduce energy consumption, and promote green construction.
6. Mitigated Negative Declaration #1-08 has been prepared for this project and declares that impacts of the project will be less than significant with the mitigation measures adopted; and that pertinent mitigation measures in the General Plan would apply to the development of the subject site.

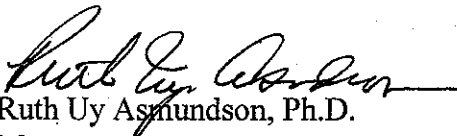
SECTION 7. EFFECTIVE DATE.

This ordinance shall become effective on and after the thirtieth (30<sup>th</sup>) day following its adoption.

INTRODUCED on the 30th of June, 2009, AND PASSED AND ADOPTED by the City Council of the City of Davis on the 7th of July, 2009, by the following vote:

AYES: Greenwald, Saylor, Souza, Asmundson

NOES: Heystek

  
Ruth Uy Asmundson, Ph.D.  
Mayor

ATTEST:

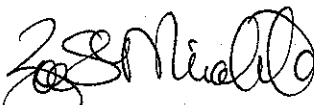
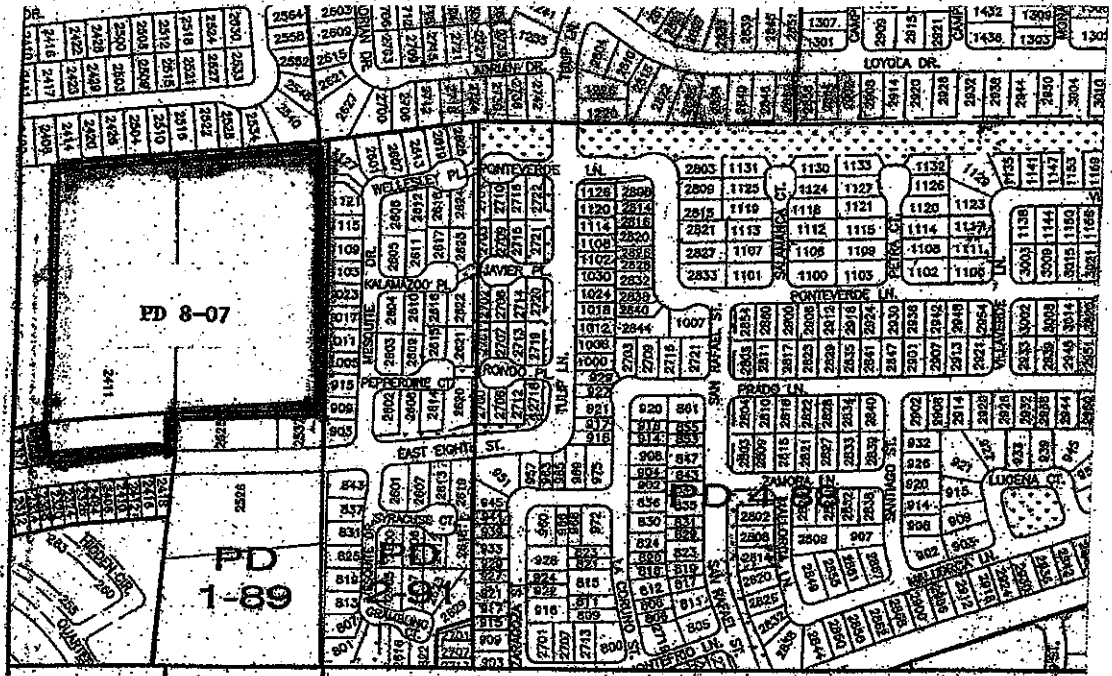
  
Zoe S. Mirabile, CMC  
City Clerk

EXHIBIT A



## EXHIBIT B

**Mitigated Negative Declaration #1-08**  
**Summary of Mitigation Measures****Biological Resources:****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).

### **Summary of 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. Soils shall not be exposed, nor grading occur during high wind conditions with wind speeds greater than 20 mph average over and hour.
12. Vehicle speeds shall not exceed 15 miles per hour on unpaved areas.
13. Construction equipment and engines shall be properly maintained.
14. 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.
15. Construction activities shall utilize new technologies to control ozone precursor emissions, as they become available and feasible.
16. Vehicle idling shall be kept below five minutes.

#### **Cultural Resources:**

17. 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:**

18. 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.
19. 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.
20. All construction activity and equipment shall be in compliance with the City of Davis Noise Ordinance.