

STAFF REPORT

DATE: February 6, 2018

TO: City Council

FROM: Ashley Feeney, Director of Community Development & Sustainability
Katherine Hess, Community Development Administrator

SUBJECT: Nishi Residential Development – Planning Application #14-57: General Plan Amendment #08-14, Rezoning/PPD #06-14.

I. Recommendation

Staff recommends the City Council hold a public hearing on the project applications, with

- a. Staff presentation on applications and public review process;
- b. City Council questions and answers of staff and the applicant;
- c. Public testimony;
- d. Determine that the Addendum to the previously-certified EIR adequately assesses the impacts of the revised projects and there are no changed circumstances or new information requiring recirculation pursuant to Section 15164 of the State of California CEQA Guidelines and approval of the Mitigation Monitoring and Reporting Plan (Resolution, Attachment 2); and
- e. Approval of the following project applications:
 - i. General Plan Amendment (Resolution, Attachment 3)
 - ii. Development Agreement, including provisions for affordable housing and Baseline Project Features as required by Chapter 41 of the Davis Municipal Code (Ordinance, Attachment 5)
 - iii. Rezoning and Preliminary Planned Development (Ordinance, Attachment 6)
 - iv. Determination to place the project on the June 2018 ballot for voter consideration under Measure R (Resolution, Attachment 4)

II. Introduction and Options

The current application is a modification of the previously-considered Nishi Gateway Mixed-Use Innovation District. That earlier application included the 47-acre Nishi property and potential redevelopment of commercial service uses on Olive Drive, west of Richards Boulevard. The entitlements for the Olive Drive properties (amendment to the Gateway / Olive Drive Specific Plan) continue to be valid and are not part of the current entitlement package.

The current proposal is focused on housing oriented toward UC Davis students, with primary vehicle access through a connection to Old Davis Road, on the campus. The proposal was presented to advisory commissions in November and December, and heard by the Planning Commission on January 24, 2018. The Planning Commission unanimously (7-0) recommended approval of the applications.

The current proposal has been shaped by the desire to stay within parameters which would allow an Addendum to the previously-certified Environmental Impact Report. This is the level of environmental review that would give the City Council the ability to place the proposal on the June 2018 ballot. Should the Council so choose, the action would need to be taken at this meeting.

In summary, staff finds the applications are approvable based upon City policies and housing needs. The proposal does not offer the range of benefits, such as jobs and for-sale housing, that would have come from the Nishi Gateway Mixed-Use Innovation District. However, that proposal was denied by the voters in 2016. The current proposal attempts to resolve some of the concerns that were raised as election issues, and still provides benefits to the community and the City. This includes:

- Rental housing in a community with a 0.4 percent vacancy rate;
- Potential for improved bus connectivity between South Davis and the UC Davis campus;
- Modest, but positive, impact on the City's General Fund; and
- Consistency with General Plan policies regarding development of the Nishi property.

The City Council could also, if the developer is willing, explore alternative development patterns including a revisit of the original mixed-use innovation district. It is possible that an Addendum would conclude that there is no need for recirculation of the certified EIR, but this analysis has not been conducted. The likely timeline for this option would lead to a Measure R ballot sometime in 2019.

At this meeting, City Council is expected to take action to call a General Municipal Election on June 5, 2018. Should City Council decide to place a measure on the ballot related to the proposed Nishi project, action must be taken to consolidate the measure with the general election no later than February 6, 2018. A resolution has been provided (Attachment 4) to enable the Council to take action to add a measure to the June ballot. Proposed ballot language has been included in the resolution.

State law allows submission of written arguments in favor or against any measure as well as rebuttals to the written arguments. Priority is given to arguments submitted by the City Council, or any member or members of the City Council authorized by the City Council. Should Council desire to submit a written argument, they should either designate a subcommittee or an individual Councilmember to act on their behalf.

UC Davis Memorandum of Understanding

A major component of the proposal is that vehicle access, with the exception of emergency vehicle¹¹¹¹ and transit access, is via a grade-separated crossing of the Union Pacific Railroad Tracks to Old Davis Road on the UC Davis campus. The City has received a draft Memorandum of Understanding (MOU) from UC Davis regarding that access (Attachment 11). Campus staff reports that they are ready to consider the approval steps for the MOU. UC Davis representatives will be at this City Council meeting to listen to the discussion.

City Council Goals

Goal 5- Promote Community

Objective 1 – Facilitate long-range community planning

Task B: Increase affordable housing options for students, including potential partnership with UC Davis in the development of affordable housing on campus.

Task D: Actively engage with UC Davis on the Long Range Development Plan. Seek opportunities for collaboration and clearly articulate City goals and objectives. Assess impacts on traffic, parking, housing, and city services and recommend possible mitigation measures.

Fiscal Impacts

The Finance and Budget Commission has reviewed the project and concluded that it would have a modest, but positive, impact on the General Fund. Additional detail is contained in the Advisory Commission Review section (page 7) and Attachment 7.e).

This report is organized into the following sections:

- I. Recommendation (page 1)
- II. Introduction and Options (page 1)
- III. Summary Project Description (page 3)
- IV. Background (page 5)
- V. Advisory Commission Review and Comment (page 7)
- VI. Analysis and Recommendations (page 7)
- VII. Planning Commission Recommendation (page 16)
- VIII. Environmental Review (page 16)
- IX. Conclusion (page 20)

III. Summary Project Description

The requested applications would grant land-use entitlements to allow the 47-acre unincorporated Nishi property to be annexed to the City of Davis and developed as residential uses.



The Nishi project includes

- 2,200 residential “beds” in approximately 700 two- and three-bedroom multifamily rental units
- Up to 10,000 square feet of ancillary retail (coffee shop, café, etc.)
- 13.6 acres of open space
 - ◆ 3.3 acres of the Putah Creek Parkway
 - ◆ A 7.1-acre “urban forest” adjacent to Interstate 80
 - ◆ An additional 3.2 acres of stormwater detention at the southern end of the site
- 700 vehicle parking spaces

Vehicular access is proposed through a new grade-separated crossing of the railroad tracks to Old Davis Road on the UC Davis campus. Bicycle/pedestrian access would be provided through the Putah Creek Parkway connections to Olive Drive, South Davis and the UC Davis Arboretum. The Olive Drive connection may also be modified to allow bus access.

The project requires a General Amendment and Rezoning/Rezoning. Because the Nishi property would be re-designated from Agriculture to urban uses, voter approval would be required under Measure J/R (Municipal Code Chapter 41). The proposed Development Agreement establishes Baseline Project Features and provisions for affordable housing.

If the project is approved by the City Council and ratified by the voters, setbacks and other development standards would be established in the Final Planned Development, consistent with the Zoning Ordinance and City practice. The Final Planned Development would return to the Planning Commission with the Site Plan and Architectural Review application for the project, and verified for consistency with the Planned Development and Baseline Project Features.

IV. Background

Development on the Nishi property, either for residential or non-residential uses, has been considered by the City for many years. The 2008 City Council resolution on the recommendations of the Housing Element Steering Committee identified the Nishi site as a “green light” site recommended for housing (with access via UCD only, Attachment 6) or a “yellow light” alternative site, only if needed prior to 2013 (with access via Olive Drive only). The 2012 UC Davis Studio 30 report identified the Nishi Gateway location as an opportunity site for office / R&D / lab development as part of a dispersed innovation strategy.

Applications for a mixed-use development on the Nishi property were approved 5-0 by the City Council in January 2016, subject to voter ratification. Litigation was filed after City Council action, challenging the Environmental Impact Report (EIR) and affordable housing approach. The ballot measure in June 2016 was not approved, invalidating the General Plan Amendment for the project. Earlier this year, the litigation was resolved in the City’s favor, and with the litigant ceding the affordable housing argument. An appeal was filed with Yolo County Superior Court on October 10th, and subsequently dropped.

In October 2017, the property owners submitted a preliminary conceptual site plan and narrative for development on the Nishi property. The proposed concept would be generally consistent with the “Nishi Property – Option with Access Via UCD Only” site recommended for housing in the City Council’s 2008 resolution regarding Housing Element Steering Committee recommendations. The City Council authorized environmental review and directed the proposal be scheduled for Commission review , under a schedule that would allow Planning Commission and City Council hearings in January-February 2018.

V. Advisory Commission Review and Comment

The application was scheduled for advisory commission review in November and December, with the goal of garnering preliminary comments to inform final development of the site plan and Baseline Project Features. A summary of Commissioner comments is below.

Recreation and Park Commission – November 15, 2017

- Residents should have access to a public park
- Preference to not have buses cross Putah Creek Parkway
- Need to consider freeway proximity for open space planning

Natural Resources Commission Nov 27, 2017

- Need to balance environmental impacts and need for housing – people are now commuting from South Woodland (GHG and quality of life)
- Suggest fee for vehicles to enter/exit site
- Support bus access to Olive Drive
- Questions about air quality and disclosure to residents

Open Space and Habitat Commission December 4, 2017

- Link Putah Creek Parkway with stormwater basin for continuous open space/habitat
- Provide valley oak woodland habitat instead of parkland
- Crossing from Olive Drive through Putah Creek Parkway should be grade-separated
- Reduce building footprint and increase height to provide more on-site habitat.

Bicycling, Transportation and Street Safety Commission December 14, 2017

- Consider reduced or remote vehicle parking, de-couple parking costs from rents
- Support emergency vehicle and bus access from Olive Drive
- Explore improvements to West Olive Drive, such as a cycletrack

Social Services Commission December 18, 2017

- The number of affordable beds needs to be increased to as close to 35% as possible
- Staff needs to conduct research on whether other communities have implemented similar proposals—particularly the rent by bed model
- Favor not limiting the target population to students
- Oppose using Lincoln40 as a model
- There was not consensus on whether rental by beds versus rental by units is preferred
- Favor integration whenever possible
- Support providing a parking fee subsidy
- Request to comment on the affordable housing proposal again prior to City Council review

Finance and Budget Commission January 8, 2018

- Any conclusions should be considered preliminary and subject to change
- The initial estimate developed by staff of one-time fiscal benefits from the project of \$13 million in construction tax revenues and development impact fees is generally reasonable given the data currently available.
- Annual ongoing revenues and costs for the city from the project would be modestly net positive over time.
- The FBC or a subcommittee should be provided a timely opportunity to review and comment on the fiscal provisions of the proposed development agreement before its presentation to City Council for approval.
- Any development agreement should include language to deter master leasing of Nishi apartments by the campus because of the potential negative impact on city property tax revenues.

Commission minutes are included in Attachment 7. Planning Commission recommendations are included in Section VII (page 16).

VI. Project Analysis and Recommendations

The main analysis in this staff report is based on comments from advisory commissions, public comment, and staff review of the residential development concept. It is organized by the following topics

1. General Plan consistency (specific language on development of the Nishi site)
2. Suitability of site for development and the proposed use
3. Need for housing and context for student housing development
4. On-site open space and recreational land
5. Air quality concerns
6. Affordable housing
7. Olive Drive connection and Putah Creek Parkway
8. Sustainability
9. Development Agreement provisions
10. Fiscal impacts

1. General Plan consistency (specific language on development of the Nishi site)

The Agricultural section of the General Plan Land Use Element provides guidance for consideration of urban development on the Nishi property.

Policy LU O.1 Should the City consider a General Plan Amendment from “Agriculture” to an urban land use category or to the “University of California, Davis” category on the 44-acre Nishi Property located between Interstate 80 and the Union Pacific Railroad west of Olive Drive, the following parameters shall be integrated in the planning for the urban/university use of the property:

1. Land Uses: The potential uses of the site shall be limited to university related uses such as student housing and high technology research uses. The type of uses, the intensity/density of the uses, and the sizing of the infrastructure shall be consistent with the property’s development carrying capacity as limited by the parameters established in this policy and as determined by the results of a development potential study.
2. Access: Any university related uses shall provide primary motor vehicle access from the UC Davis campus and not from Richards Boulevard to avoid impacts on the Richards corridor. Access assumptions and parameters shall include:
 - a. Primary motor vehicle, pedestrian and bicycle access shall connect directly with developed portion of the UC Davis campus via a grade-separated crossing of the railroad. Primary access shall not consist of an at-grade crossing of the railroad tracks.
 - b. Access via the Richards Boulevard corridor is anticipated to limited to pedestrians, bicyclists and emergency vehicles.
 - c. The Putah Creek bicycle underpass facility shall remain a bicycle and pedestrian path (including maintenance access and possibly emergency service access) and shall not be widened to accommodate motor vehicle access to the Nishi Property.
3. Design: Project design shall incorporate and implement state-of-the-art ecological and new urbanism planning and design principles.

The proposed development meets the intent of the Parameter 1, which speaks to student housing as a potential land use. The carrying capacity of the site is limited by roadway capacity, as outlined in the Transportation and Circulation section of the EIR Addendum (Attachment 1).

Parameter 2 calls for primary access to the UC Davis campus, which is part of the current proposal. Although bus access from Olive Drive is being considered with the current application, staff finds the proposal to be generally consistent with the assumptions for motor vehicle access contained in this parameter, and supportive of other General Plan policies calling for providing convenient public transportation services and improving transit line coverage.

Sustainability principles are discussed later in this report. The final site plan and elevations for the residential project have not been developed, but urban design principles will need to be carefully evaluated for the proposed three-story walk-up apartment buildings. Staff believes that the urban forest concept and the on-site drainage area have the potential of providing ecological design features appropriate for the use and the location.

Recommendation: Staff recommends the City Council find general consistency with this General Plan policy, and include a Planned Development condition of approval calling for site plan and architectural review to further consistency with Parameter 3 and new urbanism design principles.

The recommended General Plan Amendment changes the designation of the Nishi property on the General Plan Land Use Map from Agricultural to a combination of Residential Medium High Density and Natural Habitat Area.

The parameters for consideration if development is proposed on the Nishi property contained in the Agricultural land-use classification are proposed for deletion, as they will be rendered obsolete by the recommended re-designation.

2. Suitability of site for development and the proposed use

The 2008 City Council Resolution on the Housing Element Steering Committee Recommendations identified the Nishi property as a “Green-Light” site, recommended for housing, provided vehicular access was from UC Davis only (see Attachment 9). The Steering Committee’s recommendation was for 460-1,000 dwelling units (assuming 15.4 residential acres).

The resolution also included six recommended land use and design considerations:

- A. Needs UC Davis involvement, including access.
- B. Traffic analysis, mitigation, and car management strategies for traffic toward campus.
- C. Noise analysis and mitigation.
- D. Mitigate safety concerns with the adjacent railroad.
- E. Relinquish the existing access easement to Olive Drive.
- F. Access via UC Davis must be explored fully before any consideration of the Site #25 option. (Access via Olive Drive)

The proposed project is consistent with considerations A and F, regarding UC Davis involvement and access. Traffic and noise were addressed in the Environmental Impact Report and its Addendum. A fence along the railroad tracks and closure of the existing at-grade crossing are assumed, improving safety concerns with the adjacent railroad. The potential for bus access from Olive Drive is discussed later in this report.

Similar to the Steering Committee recommendations, staff finds the Nishi location to have multiple advantages for a student-oriented residential development:

- It is adjacent to the UC Davis campus and proximate to downtown shops and services.
- Transit and the Putah Creek Parkway are near the site.
- It has the potential to provide higher-density housing types without impacting existing neighborhoods.

3. Need for housing and context for student housing development

City 1% Growth Cap. Resolution #08-019 of 2008 updated the 1% growth cap guideline established by City Council, which was amended in Resolution #11-077 of 2011. The Resolution establishes a residential growth cap of 1% per year, or approximately 260 “base” units. Affordable housing, units in vertical mixed-use buildings, and accessory dwelling units are exempt from the cap. Additionally, the City Council may approve an infill project that provides for a particular community needs with extraordinary community benefits, even if it would cause an exceedance of the annual growth guideline of 1%.

On March 14, 2017, a Residential Development Status Report staff report was given to City Council

(<http://documents.cityofdavis.org/Media/Default/Documents/PDF/CityCouncil/CouncilMeetings/Agendas/20170314/06-Housing-Element-Progress-Report.pdf>). The report forecasted potential residential development to ensure that the 1% growth cap is not exceeded and to determine if different directions should be taken in terms of amount and types of housing. The report estimated that building permits might be issued for approximately 1,098 total potential residential units in the next five calendar years between 2017 and 2021. This total includes approved and proposed projects being considered, but did not include development on the Nishi site. This estimate of 1,098 potential units over the five calendar years is equal to an annual average of 220 units (i.e., 1,098/5) or an annual average of 0.8% growth. After excluding units that are specifically exempted by the growth cap resolution (i.e., affordable units, units in vertical mixed-use buildings, and accessory dwelling units), the estimate is reduced to 833 units over the five calendar years. This equals to an annual average of 167 units or an annual average of approximately 0.6% growth.

Assuming a five-year buildout of the 700 units proposed for the Nishi property, and assuming approximately of 84 units (equivalent 12 percent of the beds) as exempt affordable, Nishi would generate an estimated 123 non-exempt units per year. The total amount of growth, with the Nishi development (totaling approximately 343 total non-exempt units/year), exceeding the 1% growth cap established by Resolution 11-077 in 2011. Because the Nishi project would constitute an infill project providing community benefits, and because development 2006 to 2015 was significantly below the 1% growth cap, staff finds the project is approvable.

The City Council and Planning Commission held a joint meeting on housing in July 2017. At that meeting, staff presented a discussion of apartment vacancy rates and potential City actions. Staff noted the current vacancy rate of 0.2 percent (about 24 units) and the fact that about 4,850 single-family homes are rented, many to students. If the City were to pursue a healthy vacancy rate of 5 percent, and strive to five to ten percent of rented single-family homes for occupancy by families, it might require 816 to 1,059 new apartments to meet existing needs. Rental housing on the Nishi property, along with other projects approved or in consideration, could help improve vacancy rates and possibly provide benefits to the overall rental housing market.

4. On-site open space and recreational land

The revised site plan proposes to increase the existing Putah Creek Parkway natural habitat area of 2 acres to approximately 3.3 acres. In addition, the project contains recreational land within the residential area, 7.2 acres of urban forest open space along Interstate 80, and a 3.4-acre stormwater detention and open space area in the southwestern tip of the site. The detention area is not anticipated to have public access but may provide buffer, tree canopy, or habitat benefit to adjacent open space areas in addition to its primary purpose of reducing offsite stormwater flows. Altogether, 13.9 acres of open space would be provided at the project site in addition to the approximately 4 acres of open spaces within the residential building areas. Open spaces would be privately owned and maintained with easements for public access, where appropriate. The Putah Creek Parkway is located in a similar easement area and maintained by the City. This would be continued under the project. The application does not propose a public park but the Development Agreement does require that an onsite recreational amenity plan be provided at the time of the site plan and design review application.

The General Plan contains a standard of a neighborhood park within 3/8 mile of all dwelling units, and a community park within 1½ miles of all dwelling units. The nearest City park to the Nishi property, Central Park, is a little over a half-mile from the approximate center of the proposed residential areas. Additional nearby open space lands are located in the Putah Creek Parkway and the UC Davis Arboretum.

The Recreation and Park Commission reviewed the proposal and expressed a desire for a public park. Commissioners noted other recent development proposals that did not propose public parks (such as the West Davis Active Adult Community) and expressed concern that emphasis on fiscal matters could lead to a shortage of needed public park and recreational space in new developments.

Recommendation: Staff supports the expansion of the Natural Habitat Area at the north end of the site and encourages opportunities for public access to be provided in the urban forest, and potentially around the stormwater detention basin.

5. Air quality concerns

Development of residential projects adjacent to Interstate 80 has been the subject of community discussion for the Nishi site and other proposed projects. Air quality impacts and suitability of

the Nishi site for residential development were the topic of much discussion at the Planning Commission and City Council hearings for the previous project. As discussed in the Environmental Review section of this report, air quality impacts on future residents are not part of the review of a proposal under the California Environmental Quality Act. However, the suitability of the site for the proposed use is part of the public policy considerations for the requested land use entitlements.

The EIR requires the applicant to implement three separate mitigation measures that will reduce TAC and UFP concentrations within the buildings and on the site. These Mitigation Measures have been agreed to by the applicant for the current proposal, with minor modifications reflecting changes in the proposed use (elimination of the condominiums and business park uses). Mitigation Measure 4.3-5a requires the applicant to locate all residential buildings as far as possible from I-80 with no structures in the southwest portion of the project. Mitigation Measure 4.3-5b requires the establishment of a vegetative barrier that will achieve a certain height within 15 years and further improve outdoor air quality conditions. Mitigation Measure 4.3-5c requires the applicant to include a state-of-the-art air filtration system within all on-site structures that will remove no less than 95 percent of UFP from indoor air. Because of this Measure, interior air quality conditions would be very good.

The Draft EIR for the 2016 SACOG Blueprint acknowledges the health risks associated with Toxic Air Contaminants and placing residential uses and other sensitive receptors near freeways and major roadways (including Interstate 80 through Davis). However, the Blueprint DEIR also notes that “The location and pattern of the proposed MTP/SCS growth is important, because it impacts travel behavior and provides a means to determine the impact of future vehicle emissions in the proposed plan area. A compact growth pattern served by an efficient and diverse transportation system provides the foundation to reduce automotive travel and increase walking, bicycling, and transit use—all of which reduce individual vehicle trips and associated VMT. Reduced VMT and vehicle trips are directly linked.” The Blueprint DEIR further notes that “in order to achieve the greatest VMT reductions from a compact growth pattern, development also must necessarily be in close proximity to public transit and freeway and major roadway corridors.” The Blueprint DEIR proposes mitigation measures, but concludes that impacts are significant and unavoidable even with mitigation.

In April 2017, the California Air Resources Board (CARB) issued a Technical Advisory report on Strategies to Reduce Air Pollution Exposure Near High-Volume Roadways. The report noted that infill compact development characterizes many communities located near freeways and other busy traffic corridors, and can have many benefits, including:

- Promoting physical activity by facilitating active transportation (biking and walking) and by shortening the distances that people must travel for their daily activities
- Providing density of development that helps support transit operations.
- Shortening car trips or replacing them by these other modes, reducing greenhouse gas (GHG) emissions reductions.
- Improving people’s quality of life by facilitating community connectivity.

CARB also notes that the more time people spend on roadways, the greater their exposure to emissions that are harmful to their health, and recommends that planners should not push new development farther from urban centers because this could induce longer vehicle trips and thus increased on-roadway exposure.

Strategies recommended by CARB that are incorporated into the Nishi proposal include vegetation for pollutant dispersal and indoor high efficiency filtration. An additional strategy, for streetscape that promotes air flow and pollutant dispersion along street corridors, could be incorporated as a component of design review of the project. This concept could be evaluated as part of sound project design when the Site Plan and Design Review application is considered.

Air quality materials submitted by the applicant are included in Attachment 8.

6. Affordable Housing

The applicant has submitted a project specific affordable housing plan for the Nishi site that would provide 264 of the estimated 2,200 beds to extremely-low and very-low income residents within double-up bedrooms integrated into the overall development. The affordable beds would be split evenly among the two different income categories as defined in Exhibit L of the Development Agreement.

Currently the Municipal Code Section 18.05 requires a developer of rental housing developments containing twenty or more units to provide, to the maximum extent feasible, at least twenty-five percent of the units as affordable housing for low-income households and at least ten percent of the units as affordable housing for very-low income households. The existing ordinance allows a developer to meet the City's affordable housing requirement with a project individualized program that is determined to generate an amount of affordability equal to or greater than the amount that would be generated under the standard affordability requirements. The existing ordinance also acknowledges the Palmer decision, which precluded local governments from requiring a developer to set affordable rent levels for private rental housing. As part of last year's housing legislation package, Assembly Bill 1505 allowed local jurisdictions to impose inclusionary zoning requirements on new rental housing development, effectively overturning the Palmer decision as of January 1, 2018. With this legislation, the City's 35% inclusionary requirement would be applicable to this project.

The City has a several development applications that have been in process with the understanding that Palmer was in effect and that inclusionary housing would be negotiated with the City as consideration for project entitlements. The City Council held a workshop on November 3, 2017 and recognized that the existing inclusionary ordinance requirements should be studied to see if revisions are warranted. City Council also expressed interest in providing for greater flexibility in how to provide inclusionary housing in various development prototypes could be accommodated recognizing a one size fits all approach may not be appropriate given the complexity different rental housing models. The City Council also expressed interest in allowing for original proposals that integrate affordable units/beds into projects inclusive of the potential to serve the student population.

The City has engaged a consultant to prepare a financial analysis to study various rental housing prototypes in an effort to determine what may be an appropriate level of inclusionary housing to be placed on different projects (i.e. traditional multifamily, student serving, vertical mixed use, core infill small, core infill large, etc..) in recognition that housing diversity is important and the inclusionary ordinance may need to have greater flexibility in order to produce a diverse rental housing stock.

Staff and the City Attorney are proposing an ordinance amendment to Article 18.05 that would allow for City Council discretion to approve project specific affordable housing plans for multifamily rental developments subject to considerations specified in the proposed ordinance amendment. The factors include considerations such as addressing identified housing needs, unusual infrastructure obligations, furtherance of other land-use goals, and whether the market-priced housing component provides affordability by design. A draft ordinance was presented to the Social Services Commission on January 22nd for a recommendation to City Council. The majority of the Social Service Commissioners expressed concern about enacting the amendment prior to the completion of the consultant work underway, which will inform staff's ultimate recommendations on a comprehensive update of rental housing inclusionary housing requirements. In response, staff assured Commissioners that the amendment would serve only as a bridge ordinance until a comprehensive update is complete. Staff further noted that the consultant would review every affordable housing proposal and prepare a memorandum assessing the appropriateness of affordability based on the results of their preliminary analysis. Ultimately, the Social Services Commission voted 4-3, recommending that the City Council reject the proposed ordinance amendment. Council action on the ordinance is scheduled as a standalone item for February 6, 2018, which would allow its potential application to the Nishi project.

When the Social Services Commission reviewed the project, the Commission recommended a greater number of affordable housing units, and requesting a refined affordable housing plan return to the Commission before City Council action but did support the concept of integration of the affordable units within the larger development. Staff believes the concept of integrated affordable beds has merit for consideration. This is especially true for the extremely low income level, which is not addressed by the current affordable housing ordinance. In addition, staff supports the concept of providing affordable units/beds, as Student households are generally not eligible to occupy affordable housing financed with state or federal subsidies.

Staff engaged Gruen Gruen + Associates and A. Plescia & Co. to prepare a memorandum that evaluates the economics of the project to test if the amount of affordable beds proposed for the project is an appropriate amount or if additional beds could be achieved while still providing an acceptable return on investment (Attachment 10). The conclusion of analysis is that the proposed project specific affordable housing plan that provides 12% of the beds for affordable housing suggest the developer will obtain a lower return on investment than is typically targeted for new development in Davis.

7. Olive Drive connection and Putah Creek Parkway

The Putah Creek Parkway separates the Nishi property from West Olive Drive and provides a key bicycle/pedestrian connection from South Davis to downtown and to the UC Davis campus, in addition to being an open space amenity connected to the UC Davis Arboretum. The previous Nishi Gateway proposal included full vehicular access from West Olive as well as a connection to the UC Davis campus. The applicant has noted that one of the goals of the project revisions was to reduce vehicle traffic onto Olive Drive, and resulting concern about impacts to the Richards Boulevard corridor. The revised proposal eliminates private vehicle access from Olive Drive. Pedestrian, bicycle, and emergency vehicle access would continue to be provided, similar to existing provisions.

Staff and the applicant have explored the option of allowing buses, in addition to bicycle/pedestrian/ emergency vehicles, to access the Nishi property from Olive Drive. Provided this route was served by Unitrans (and possibly Yolo Bus), transit options for Nishi residents would be much better than if residents were required to board on First Street or Richards Boulevard. In addition, this would provide Unitrans an alternative route from South Davis to campus other than through the Richards Underpass (which cannot accommodate double-decker buses) and downtown.

The question of whether to allow bus access from Olive Drive was presented to advisory commissions for review and comment. Members of the Natural Resources Commission and the Bicycling, Transportation, and Street Safety Commission noted the convenience and sustainability benefits the connection. Members of the Recreation and Park Commission, however, expressed concerns over impacts on the Putah Creek Parkway if bus travel was allowed.

Recommendation: Staff recommends that bus access to Olive Drive be allowed as part of project entitlements. The proposed expansion of the Putah Creek Parkways from two to 3.3 acres provides an opportunity to enhance the Parkway. Further, staff recommends a City Council support a Development Agreement requirement that a grade-separated crossing be installed to minimize conflicts between buses and east-west bicycle/pedestrian traffic on the Parkway.

8. Sustainability

The sustainability components of the proposal are informed by the Sustainability Implementation Plan prepared for Nishi Gateway Mixed-Use Innovation District, with modifications reflecting the proposed residential development concept. Highlights of the current proposal include:

- LEED Gold equivalency for all buildings
- Zero Net Energy
- Third-party analysis for photovoltaic maximization
- Water and electric meters or sub-meters for each unit
- VCEA for any required electricity, at the green tier
- Accommodations for bicycle storage and operations

These commitments are reflected in the Development Agreement.

9. Development Agreement Provisions

The Development Agreement is a voluntary contract between the City and a Developer. It provides a vested right for development of the property, and establishes obligations of both parties. The City Council appointed a subcommittee of Mayor Pro Tem Davis and Councilmember Swanson to provide guidance to staff in negotiating a Development Agreement for the project.

For additional discussion of the Development Agreement, see Affordable Housing, Sustainability, and Environmental Review sections of this report. In summary, the draft Development Agreement reflects the following commitments of the City and the Developer:

- ◆ The Developer has a vested right to develop the property in accordance with the entitlements and the Baseline Project Features.
- ◆ Specific commitments to sustainability features, including energy conservation and generation.
- ◆ Affordable housing obligations as approved by the City Council in a project-specific plan.
- ◆ All Mitigation Measures identified in the EIR Addendum, including air quality mitigation measures, will be incorporated into the project.
- ◆ A Development Agreement commitment of 194 maximum weekday pm peak hour auto trips entering or exiting all project parking facilities.
- ◆ Agricultural mitigation will be provided in accordance with the Agricultural Protection Ordinance. Compliance will be verified at the time the mitigation land is identified for preservation, which would be required prior to any construction or conversion of the Nishi property.
- ◆ The Developer commits to a mechanism for offsetting any foregone property tax revenue to the City, Yolo County and Davis Joint Unified School District as a result of purchase or lease of the properties by the University of California.
- ◆ Developer reimbursement of City pre-development costs under the original cost-sharing agreement.
- ◆ Community Enhancements inclusive of a \$200,000 contribution to arts and other City programs.

The Development Agreement also establishes the Baseline Project Features required by Chapter 41 of the Davis Municipal Code. If the project is approved, these Baseline Project Features cannot be removed or significantly modified without subsequent voter approval. These Baseline Project Features are being drafted for City Council review; staff welcomes recommendations from the Planning Commission on which project components should be included in the Baseline.

10. Fiscal impacts

The Finance and Budget Commission has reviewed the fiscal impacts of the proposal, based upon staff analysis and preliminary concept plans. The Commission concurred with staff's conclusion that that annual ongoing revenues and costs for the city from the project would be

modestly net positive over time, and made recommendations to City Council regarding continued review and fiscal provisions to be included in the Development Agreement. (See summary, Attachment 7.e.)

VII. Planning Commission Recommendation

The Planning Commission held a public hearing on the applications on Wednesday, January 24, 2017. The Commission heard extensive public testimony on issues addressed in this report, including air quality, need for student-oriented housing, affordable housing provisions, relationship to UC Davis housing production, and transportation implications.

The Commission voted unanimously (7-0) to recommend certification of the EIR Addendum and approval of the project applications.

Although not part of the official motion, commissioner comments are addressed below:

- Recreational amenities should be identified.
The applicant's revised site plan includes a swimming pool for resident use. An exercise room is anticipated within the main common building. With the internal open space and the urban forest, the proposal provides usable open space exceeding the requirements of the Residential High Density zoning district. The Development Agreement was revised to include a requirement that a recreational amenities plan be provided at the time of the site plan and design review applications.
- Transit access from Olive Drive should be all public transit (including the possibility of YoloBus), not just Unitrans.
- *Staff concurs. The draft Baseline Project Features have been amended.*
- The Olive Drive connection should be in place before occupancy of the site.
The requirement for emergency vehicle access was assumed in the original EIR and the Addendum, and has been incorporated into the Development Agreement.

VIII. Environmental Review

The Nishi Gateway Draft Environmental Impact Report (DEIR) was released September 10, 2015, for a 46-day review period ending October 26, 2015. The DEIR evaluated the development of the Nishi property and the potential redevelopment of properties on East Olive Drive. The DEIR considered two scenarios for vehicular access to the Nishi site: an option with connections to both East Olive Drive and Old Davis Road on the UC Davis campus; and an option with access only to East Olive Drive.

The DEIR identified adverse environmental impacts that may result from development of the project as proposed. It also concludes that many of the identified impacts could be mitigated by specific actions called mitigation measures. However, some of the adverse impacts would be likely to occur even with implementation of identified mitigation. These include impacts in the following areas:

- ♦ Agriculture (Impacts 4.2-1, 4.2-2, and 5.3.2) – Loss of farmland and cumulative loss of farmland (Nishi site)

- ♦ Air Quality (Impact 4.3-5) – Exposing residential receptors to diesel particulate matter and ultra-fine particles (Nishi site)
- ♦ Greenhouse Gas Emissions (Impacts 4.7-2, 4.7-3, and 5.3.7) – contribution to climate change and cumulative contribution to climate change through project-generated greenhouse gases (Nishi site and West Olive Drive); potential inconsistency with greenhouse gas reduction plans (West Olive Drive)
- ♦ Hazards and Hazardous Materials (Impact 4.8-5) – limited emergency access prior to / without connection to Old Davis Road (Nishi site)
- ♦ Noise and Vibration (Impacts 4.11-1 and 4.11-5) – Impacts to residents from construction and railroad noise (Nishi site)
- ♦ Transportation and Circulation (Impacts 4.14-1, 4.14-2, 4.14-6, and 5.3.14) – Impacts to local intersections and intersections within Richards Interchange area, and cumulative delays at local intersections (Nishi site and West Olive Drive); limited emergency access prior to / without connection to Old Davis Road (Nishi site).

The Final EIR (FEIR) document incorporated minor amendments to the DEIR document in addition to the responses to all comments. As part of the final public review, the City removed the mitigation measures and need to override the impacts regarding emergency vehicle access and hazards/evacuation, because the project was modified to require connections to both UC Davis and Olive Drive prior to occupancy of any buildings on the Nishi site.

In January 2016, the City Council certified the EIR as adequately addressing the environmental impacts of the Nishi Gateway Mixed-Use Innovation District. Litigation was filed after City Council action, challenging the Environmental Impact Report and affordable housing approach. The ballot measure in June 2016 was not approved, invalidating the General Plan Amendment for the project. In 2017, the litigation was resolved in the City's favor, and with the litigant ceding the affordable housing argument. An appeal was filed with Yolo County Superior Court on October 10th, and subsequently withdrawn. Therefore, the certification of the original EIR continues to be valid.

In October 2017, in response to the revised project proposal, the City contracted with Ascent Environmental to evaluate the revised proposal and determine whether impacts would be consistent with those analyzed in the original EIR. Ascent prepared an Environmental Checklist comparing the original project with the proposed residential development. The analysis was conducted to determine whether the project was significantly changed, or whether there were significantly changed circumstances or new information, that would require recirculation of the original EIR. All Mitigation Measures identified in the original EIR continue to apply, with minor modifications reflecting revisions to project composition and access.

As evidenced in the discussions included in the Environmental Checklist, none of the changes or revisions to the project or changes in circumstances (including environmental setting and regulatory setting) would result in new or substantially more severe environmental impacts, and an Addendum to the certified Nishi Gateway EIR is the appropriate CEQA document for the Nishi Residential Development Project, consistent with CEQA Section 21166 and State CEQA Guidelines Sections 15162, 15163, 15164, and 15168.

Staff did not hear any comments or new information at the Planning Commission hearing that would justify revisiting the Addendum or its conclusions. Staff has specific comments on the Addendum analysis relating to traffic and to air quality.

Traffic The Addendum analysis was assisted by supplemental analysis from Fehr & Peers, reflecting the revised project description and the vehicle connection from UC Davis only. The resultant calculations showed far fewer vehicle trips than that projected for the original project, and a different distribution of those trips. The revised Nishi Gateway Project would generate 286 fewer vehicle trips during the A.M. peak hour and 269 fewer vehicle trips during the P.M. peak hour, compared to the 2015 Nishi Gateway Project. This represents 68 percent fewer trips during the A.M. peak hour and 58 percent fewer trips during the P.M. peak hour than the 2015 Nishi Gateway Project.

Table 4.14-1 Trip Generation Comparison for Nishi Gateway Projects

Land Use	Quantity	Units ²	Daily Trips	A.M. Peak Hour Trips			P.M. Peak Hour Trips		
				In	Out	Total	In	Out	Total
2015 Nishi Gateway Draft EIR ^{1,2} : Total External Vehicle Trips ³	-	-	4,869	300	123	423	126	337	463
REVISED Nishi Gateway Project: Student Residential Units	2,200	students	2,772	52	85	137	97	97	194
DIFFERENCE: REVISED Project minus 2015 Project			-2,097	-248	-38	-286	-29	-240	-269

Because vehicle access to Olive Drive is not proposed with the current project (other than emergency vehicles and possibly buses), vehicles would leave the site through Old Davis Road. . A large share of the peak hour trips from the 2015 Nishi Gateway Project, in particular those commute trips generated by the research office and market residential units, were forecast to travel to and/from the site via I-80 and State Route 113, using the I-80/Richards Boulevard interchange The residents housed in the proposed Nishi Residential Development Project would have a substantially different trip distribution, with most weekday peak hour trips destined to local employment, shopping, restaurant, and recreational uses and a much smaller share of trips accessing I-80 and State Route 113.

The most significant difference in the number of project only vehicle trips would occur on Richards Boulevard, between Olive Drive and the I-80 EB on-ramp, where the proposed project would add approximately 80–90 percent fewer peak hour vehicle trips than the 2015 Nishi Gateway Project. The only road segment that experiences a measurably greater number of peak hour project vehicle trips with the revised project, compared to the 2015 Nishi Gateway Project, is 1st Street (34 more project vehicle trips in A.M. peak hour, 50–70 more project vehicle trips in P.M. peak hour) in the Davis Core Area. All other road segments either experience a small increase in project trips or a net decrease in project vehicle trips compared to the 2015 Nishi Gateway Project.

The City's General Plan Transportation Element has identified Level of Service "F" as acceptable in the downtown Core Area since 2001. The reasons for allowing LOS F in the Core Area include

- ◆ High LOS standards to achieve low levels of congestion are not necessarily linked to urban vitality and quality of life.
- ◆ The reduced standards would be consistent with community objectives of avoiding road widenings which would be unacceptable in terms of community character.
- ◆ High LOS standards make infill development more difficult because infill uses the capacities of streets and may cause traffic volumes to approach the capacities of streets.
- ◆ Allowing higher levels of congestion may encourage alternative modes of transportation.

Given this policy, increased traffic on First Street does not constitute a significant environmental impact under CEQA.

All Mitigation Measures identified in the original EIR continue to apply, with minor modifications reflecting revisions to project composition and access.

Air Quality. The original EIR analyzed air quality impacts of the Nishi Gateway project, including whether residents of the development would be exposed to diesel particulate matter and ultra-fine particles. The EIR identified mitigation measures relating to placement of buildings and standards for ventilation systems, but concluded that – even after mitigation – impacts would be significant and unavoidable.

Since the certification of the original EIR, the courts have determined that a California Supreme Court decision has resulted in changes to CEQA with regard to the effect of existing environmental conditions on a project's future users or residents. The effects of the environment on a project are generally outside the scope of CEQA unless the project would exacerbate these conditions (see *California Building Industry Association v. Bay Area Air Quality Management District* [2015] 62 Cal.4th 369, 377. Local agencies are not precluded from considering the impact of locating new development in areas subject to existing environmental hazards as a policy matter (see discussion in the "Analysis" section, above), but emissions exposure for future occupants a new project would not be considered an impact under CEQA. However, a discussion of this issue is included in the Addendum analysis for disclosure purposes.

The proposed Nishi Residential Development Project would be constructed on the Nishi site and would include similar uses as the Nishi Gateway project, including residential uses. The proposed project would result in approximately 280 more residents than the previous Nishi Gateway project, but would no longer include the research and development component. The Nishi Gateway project included some for-sale units; residents typically live in residences they purchase longer than those who rent. The proposed Residential Development Project, which will be 100 percent rental units, is expected to be primarily occupied by students, so the amount of time someone would live in these units would be expected to be far less than under the prior proposal, thereby reducing risk of exposure. While risk would be reduced, its location near the freeway and railroad would nevertheless expose residents of the Nishi Residential Development to unacceptable concentrations of UFPs and other TACs. As discussed above, due to a recent California Supreme Court decision, effects of the environment on a project are generally outside

the scope of CEQA; further, the project would not exacerbate the levels of UFP and TAC at the site. This is not, therefore, an environmental impact under CEQA. Nonetheless, the project would include implementation of Mitigation Measures 4.3-5a through 4.3-5c, as previously adopted.

IX. Conclusion

In summary, staff recommends approval of the applications. Staff believes that the project appropriately integrates the City goals for, housing, environmental sustainability, community character, and fiscal responsibility. Specific reasons for staff's recommendations include:

- Staff is comfortable that this proposal, particularly when balanced with a multitude of other policy objectives, appropriately contributes to city sustainability goals and takes the city in the right direction for new development projects.
- Housing on the Nishi property will provide customers for local businesses, particularly downtown merchants.
- Internal open space and bicycle/pedestrian connectivity forms the backbone of the subdivision layout. The project includes a grade-separated connection to the Old Davis road on the UC Davis campus and has the potential to improve Unitrans operations by providing an alternative to the Richards Boulevard undercrossing.
- The provisions of the Development Agreement will address fiscal impact on the General Fund.
- Additional housing, including affordable housing, adjacent to the UC Davis campus will help address extremely low vacancy rates and provide student-oriented housing conducive to alternate modes of transportation.

Attachments

1. Site Plan showing potential building and parking layout
2. Resolution Adopting Addendum to Environmental Impact Report, Making Amended Findings of Fact, and Approving Mitigation Monitoring Plan (the Addendum is at <http://cityofdavis.org/home/showdocument?id=8564>)
3. General Plan Amendment Resolution
4. Resolution Calling for Election Pursuant to Measure R
5. Draft Development Agreement
6. Preliminary Planned Development Ordinance
7. Commission minutes and comments
 - a. Natural Resources Commission
 - b. Social Services Commission
 - c. Open Space and Habitat Commission
 - d. Bicycling, Transportation, and Street Safety Commission
 - e. Fiscal Analysis Summary from Finance and Budget Commission
8. Applicant's air quality materials
 - a. Larry Greene
 - b. Charles Saylock
9. Excerpt from the 2008 City Council resolution on the recommendations of the Housing Element Steering Committee (entire resolution at <http://cityofdavis.org/home/showdocument?id=7312>)
10. Gruen Gruen + Associate/A. Plesia & Co. Economic Analysis Findings Memorandum
11. Draft Memorandum of Understanding with UC Davis
12. Redline Comparison of the proposed Draft Development Agreement to the February 16, 2016 Nishi Mixed