

Section 5 – Constraints to Housing Production

5.0 Governmental Constraints

The analysis of constraints on housing is an important part of the Housing Element. The Housing Element is required by state law to include an analysis of governmental and nongovernmental constraints upon the maintenance, improvement or development of housing for all income levels and for persons with disabilities, including the availability of financing, the price of land, the cost of construction and other nongovernmental constraints. The law also requires that the analysis demonstrate local efforts to remove governmental constraints that hinder the necessary level of housing development within the jurisdiction.

This section of the Housing Element looks at constraints to housing availability and affordability. The constraints on housing are divided into two parts: governmental and nongovernmental. The governmental constraints are policies, standards, requirements or actions imposed by the various levels of government upon land and housing ownership and development. The roles of federal and state agencies relative to governmental constraints are beyond the influence of local governments and are therefore not addressed in this document.

The analysis of governmental constraints in this document refers to the policies and regulations that the city applies to the approval of land use proposals. Growth management policies that may be constraints to housing, such as Measure J and the Phased Allocation Program, are discussed in detail. The governmental constraints analysis also looks at city regulations and development practices, such as permitted residential densities, the inclusionary ordinance, the building code, fees and exactions, development processing fees and development standards to determine their potential impacts on housing availability and affordability. While these regulations were adopted to protect community character, to ensure provision of affordable units, and to fund necessary community services, some may affect housing availability or affordability. Potential effects of local policies are examined further in this section. The analysis in this section includes:

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- A. On Housing Production: Land Use Controls, Codes and Enforcement, On/Off-site Improvements, Fees and Exactions, Processing and Permit Procedures
- B. On Persons with Disabilities: Reasonable Accommodation, Building Code, and Land Use Requirements
- C. Efforts to Remove and Reduce Government and Non-governmental Constraints

5.1 Non-Governmental Constraints

- A. On Housing Production: Construction Financing, Price of Land, Cost of Construction

With the analysis of these governmental and non-governmental constraints, the City has determined that none of these constraints will have impact on the City's ability to fulfill its Regional Housing Needs Allocation (RHNA) for the current planning period. All of the sites

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necessary to comply with the City’s RHNA are currently available for development. Therefore, while it is necessary for the City to assess and consider potential constraints on local housing production, these constraints will not interfere with Davis’s RHNA compliance. The City continues its efforts to balance the principles stated in Section 1 in the development of all new housing units with its intent to accommodate necessary housing production to meet local needs.

5.0 A. Governmental Constraints On Housing Production: Land Use Controls, Codes and Enforcement, On/Off-site Improvements, Fees and Exactions, Processing and Permit Procedures

Land Use Controls

The primary land use controls related to housing development in the City are discussed below. They include: General Plan, Specific Plan, Zoning Ordinance, parking standards, Planned Development zoning, Measure J, Phased Allocation, the City’s 1% Growth Policy, the Affordable Housing Ordinance, the Middle Income Ordinance, and the Visitability/Accessibility Policy.

General Plan and Density Bonus

General Plan Land Use Element policies set forth densities for a mix of all types of housing, including single-family, mobile homes, split-lots, and multi-family units. The General Plan establishes residential density ranges that, together with limits on land to be developed, define the number of housing units to be added. Projects gain credit for additional units, or density bonuses, when they either build affordable or elderly housing units or dedicate land as a provision of affordable housing units. Density bonuses are provided by allowing one additional market rate unit for each affordable or elderly unit provided on-site or through affordable land dedication by the project. With the City’s twenty-five to thirty-five percent affordable housing requirement, the permitted density of a project can increase substantially through the use of their density bonus. An elderly housing project can gain even greater amounts of density bonus if the project is entirely dedicated to elderly housing. The city density bonus results in a higher possible density than the use of the state’s density bonus standards. The city’s program provides a one-to-one bonus, increasing the total allowed market-rate units and effectively lowering the required inclusionary units for that particular development. With the one-to-one density bonus, bonuses effectively go up to the thirty-five percent through the rental housing inclusionary requirement, consistent with state law. This is appropriate, as this is the type of housing that would provide the very low and extremely low income housing units that qualify for a thirty-five percent density bonus under state law. Table 48 shows that the standard density ranges (before and after density bonus) for an ownership housing project and a rental housing project.

Table 48: 2001 General Plan Residential Densities With Density Bonus

Types of Housing	General Plan Densities (before density bonus)	General Plan Densities (with maximum use of density bonus)
Ownership	Low Density: 2.40-4.79 per gross acre and 2.88-5.75 per net acre	Low Density: 3.00-5.99 per gross acre and 3.60-7.19 per net acre
	Medium Density: 4.80-11.20 per gross acre and 5.76-13.44 per net acre	Medium Density: 6.00-14.00 per gross acre and 7.20-16.80 per net acre

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Types of Housing	General Plan Densities (before density bonus)	General Plan Densities (with maximum use of density bonus)
Rental	Medium Density: 4.80-11.20 per gross acre and 5.76-13.44 per net acre High Density: 11.21-20.00 per gross acre and 13.45-24.00 per net acre	Medium Density: 6.48-15.12 per gross acre and 7.78-18.14 per net acre High Density: 15.13-27.00 per gross acre and 18.16-32.40 per net acre
Notes: 1. The inclusionary requirement for ownership housing is 25% and for rental housing is 35%. A one for one density bonus is granted for affordable units either constructed or provided for through land dedication leading to a 25% density bonus for ownership housing and a 35% density bonus for rental housing. 2. Inclusionary housing requirement for ownership housing is limited to low and moderate income housing units, with an average affordability requirement of 100% of Area Median Income. 3. Inclusionary housing requirement for rental housing is limited to very-low and low income housing units, with an average affordability requirement of 70% of Area Median Income. 4. In addition to the density bonus, projects are provided other zoning modifications in order to accommodate affordable housing units.		

The highest density permitted by the General Plan is 30 units per net acre with density bonus. Even with the 30 units per net acre density, the city encourages high quality residential construction throughout, including in the Core Area.

In keeping with General Plan policies regarding the protection of open spaces, particularly agricultural properties, and in accordance with smart growth principles used for the region’s Blueprint project through SACOG, the City continues to promote appropriate densities that maximum opportunity for unit development and utilization of properties within the City while accounting for surrounding neighborhood character and sensitivity. During this planning period, the City has seen increased project densities, including single-family projects with densities closer to 14 units per gross acre (303 Ensenada Drive) and mixed-use projects with densities up to the 30 units per gross acre (435 G Street) rather than 5 units per acre or 15 units per acre from earlier planning periods. With the trends toward increased efficiency of land and energy, the City expects that it will continue to receive and to support applications for projects at these increased densities. The City finds that these land use and density policies do not hinder the production of housing.

Specific Plan

The Specific Plan is used to further define the parameters of development within an area. The plan is always consistent with the General Plan. There are three Specific Plans in the city. They are South Davis Specific Plan, Gateway/Olive Drive Specific Plan and Core Area Specific Plan. These plans establish standards for development within the plan areas. The plans allow residential densities consistent with the General Plan, therefore, are not an impediment to availability and affordability of housing.

Zoning Ordinance

Zoning regulations control development by establishing requirements related to height, density, lot area, yard setbacks and minimum parking spaces. Site development standards are

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comparable to other community requirements and are necessary to ensure a quality living environment for all households and to protect the City’s historic and natural resources. The residential districts in Davis are:

- Residential One-Family District (R-1) – principally permitting single-family dwellings among others. The minimum lot area ranges from 6,000 to 15,000 square feet.
- Residential One and Two Family District (R-2) -- principally permitting up to two single-family dwellings per lot, or a duplex. The minimum lot area is 6,000 square feet. The maximum height is two stories or thirty feet, and maximum lot coverage is forty percent.
- Residential One and Two Family Conservation District (R2-CD) – principally permitting up to two single-family dwellings per lot, or a duplex. The minimum lot area ranges from 5,250 to 6,000 square feet, based on the historical characteristics of the neighborhood. This zoning is used in both the Old North and Old East traditional neighborhoods in Davis.
- Core Area Residential Infill District (C-I) – principally permitting single-family dwellings, a duplex, or two-family dwellings. The minimum lot area is 5,500 square feet.
- Residential Restricted District (R-R) -- principally permitting single-family. The minimum lot area is 8,800 square feet.
- Residential One and Two-family and Mobile Home District (R2-MH) - principally permitting single-family dwellings, a duplex, or two-family dwellings. No minimum lot area is prescribed.
- Single family zoning in the City typically allows for a maximum of thirty feet or two stories in height for the primary structure, limits lot coverage to forty percent, and has minimum setbacks of 20 feet for the front yard, 20 feet for the rear yard (25 feet for second story portions), and varying side setbacks that total 12 feet with minimum side setbacks of 3 to 5 feet (10 feet per side for second story portions). Street side yards require a fifteen foot setback. Adjustments are made in zoning based on the character of varying residential neighborhoods, including historic neighborhoods or those with larger lots. Based on the history of development of single family housing types affordable to low- and moderate-income households as demonstrated in Section 4, these standards do not have a negative impact on the development of housing for lower-income households. Examples of projects that developed without the City providing flexibility in development standards are the Cesar Chavez and Cantrill Dr. Senior Housing Projects. Both of these are affordable multi-family projects; Cesar Chavez had a maximum density of 20 units per acre prior to the application of the density bonus, which allowed it to develop at a density of 24.66 dwelling units per acre and Cantrill Senior Housing was designated at 24 dwelling units per acres but developed at 25.97 dwelling units per acre. Each were developed within the City’s established development standards and without any waivers or exceptions to achieves these densities. Residential Garden Apartment District (R-3) -- principally permitting single-family dwellings, duplexes, or multiple dwellings. The minimum lot area is 7,500 square feet.

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- Residential High Density Apartment District (R-HD) -- principally permitting single-family dwellings, duplexes, or multiple dwellings. The minimum lot area is 7,500 square feet.
- Residential Transitional (R-T)- The purpose of a residential transitional (R-T) district is to provide areas which will tend to separate intense commercial development from residential development. These areas are intended to contain uses which are not detrimental to other uses in the district nor to the uses in areas they separate.
- Interim Residential Conversion (R-C) - To implement policies of core area plan; to preserve and enhance the tree-shaded ambience, and older architectural styles found in the near downtown; to provide for use and retention of existing residences as dwellings or commercial ventures, or both combined; to encourage intermingling or combining of residential and commercial activities; to insure that new construction or substantial remodeling be in harmony with surrounding structures and streetscape character; to provide sufficient flexibility to encourage creative solutions in the reuse of older structures and the utilization of contemporary design in a setting of older structures.
- Central Commercial (C-C)-The purposes of the central commercial district are as follows: To implement the core area plan; to provide for an increased variety and density of commercial activities; to preserve older architectural styles where feasible, and to encourage a harmonious intermingling of other structures; to permit residential uses where feasible; to promote pedestrian use and enjoyment of the core; to provide an area of intensive commercial activity.
- Mixed Use (M-U)- The purposes of the mixed use (M-U) district are as follows: To implement the policies of the core area plan; to preserve the older architectural styles, and to encourage a harmonious intermingling of other structures; to provide for an increased variety and intermixture of residential and commercial activities; to enhance the tree-shaded ambience, the pedestrian usage and character of the district.

Multi-family zoning in the City typically allows for a maximum of three stories or thirty-eight feet, limits lot coverage to forty percent, and has minimum setbacks of twenty to twenty-five feet for the front, twenty to twenty-five in the rear, and six to twelve minimum side yards with a total of eighteen to thirty feet. The variations in setback are based on whether the building is two or three stories. Street side yards require a fifteen foot setback. These setback requirements and height and lot coverage restrictions are significantly reduced in the High Density District, but that zoning only exists in one neighborhood of the City and is not treated as standard multi-family zoning. Standards can be modified with planned development zoning, often used in the City.

- Residential Planned Development Districts -- the city has a significant portion of its residential districts zoned as planned developments. This allows for deviations from the standards of conventional residential districts listed above. In planned development (P-D) districts, the minimum lot areas are often reduced from the minimum of the conventional district. In some city subdivisions with P-D zoning, lot sizes range from

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3,500 to 15,000 square feet. Also, other zoning standards, such as building height, yard setbacks, lot width, open space, and parking requirements are reduced. The P-D district promotes and encourages innovative design, variety and flexibility in housing types that would not otherwise be allowed in conventional districts. It ensures the provision of open space as part of an overall development and provides a greater diversity in housing choices and standards based on the actual context of a project. The densities of P-D districts are required to be consistent with the General Plan.

Parking standards

Parking standards vary by the number of bedrooms in the unit for both single-family and multifamily developments. The city has historically used planned development zoning to reduce the required parking for some projects or allow parking to be provided for within landscape reserves. The parking requirements of the city do not hinder the availability and affordability of housing. Often affordable multifamily projects have received parking requirement reductions. The affordable housing multifamily projects with parking reductions or modified requirements include Homestead (2610 Grambling Court), Twin Pines (3333 F Street), Owendale (3023 Albany Avenue), Pacifico (1752 Drew Circle), Windmere I/II (3030-3100 Fifth Street), Moore Village (2444 Moore Boulevard), and Tremont Green (5663 Marden Street) developments.

The multifamily conventional parking standards are as follows:

Studio Unit	1.00 space per unit
One Bedroom Unit	1.00 space per unit
Two-Bedroom Unit	1.75 space per unit
Three Bedroom or more Unit	2.00 space per unit

In general, the parking requirements under this standard do not provide adequate parking to meet current vehicle ownership standards. Instead of a typical vehicle ownership of one to two cars per household, there tend to be one vehicle per tenant in the many all-student households that occupy a majority of market rate rental housing units in Davis. Additional parking has been provided in new multifamily projects in order to accommodate these heightened parking needs. With the increased planning for these households through additional parking spaces, the City has also required alternative transportation plans in order to address this need. Additional planning has included increased bike parking and shared bicycles, proximity to and promotion of bus options, and apartment parking permit requirements.

Provision for a Variety of Housing Types

Table 49a: Provisions for a Variety of Residential Use Types by Zones

Residential Use Types	Zoning District							
	A	I	R-1	R-2	R2-CD	C-I	R-R	R-2-MH
Ranch/Farm dwellings	PU							
Single family dwelling			PU	PU	PU	PU	PU	PU

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Residential Use Types	Zoning District							
	A	I	R-1	R-2	R2-CD	C-I	R-R	R-2-MH
Group care home (<6 persons)			PU	PU	PU	PU	PU	PU
Group care home (>6 persons)				CU	CU	CU	CU	CU
Secondary dwelling units			PU	PU	PU	PU	PU	PU
Two single family dwellings ¹				PU	PU	PU		PU
Duplex				PU	PU	PU	CU	PU
Multiple dwellings				CU	CU	CU		
Cooperative housing*							CU	
Mobilehome park								CU
Boarding house								
Emergency Shelter		CU	CU	CU	CU	PU	CU	CU
Supportive Housing*								
Single room occupancy*								
Factory-Built Housing/Mobilehome*			PU	PU	PU	PU	PU	PU
Farmworker housing*								

¹ Refers to lots which allow two detached single family homes
 “PU” refers to Permitted Uses and “CU” refers to Conditional Uses

Table 49b: Provisions for a Variety of Residential Use Types by Zones

Residential Use Type	Zoning District					
	R-3	R-HD	R-T	RC	C-C	M-U
Ranch/Farm dwellings						
Single family dwelling	PU	PU		PU		PU
Group care home (<6 persons)	PU	PU	PU	PU	PU	PU
Group care home (>6 persons)	CU	CU	CU	CU	CU	CU
Secondary dwelling units	PU	PU		PU	PU	PU
Two single family dwellings ¹						
Duplex	PU	PU		PU		PU
Multiple dwellings	PU	PU		PU		PU
Cooperative housing*	PU	PU	PU	PU		
Mobilehome park						
Boarding house	CU	PU		PU		
Emergency Shelter	CU	CU	CU	CU	CU	
Supportive Housing*						
Single room occupancy*						
Factory-Built Housing/Mobilehome*						
Farmworker housing*						

¹ Refers to lots which allow two detached single family homes
 “PU” refers to Permitted Uses and “CU” refers to Conditional Uses
 *These categories of housing are processed based on the type of units being proposed (single-family, multi-family, etc.). The unit type is what determines zoning that these categories could be provided within.

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Emergency Shelters: As discussed in Section 3, the Homeless Count methodology includes persons in transitional housing and shelters at the time of the survey so the actual count of unsheltered homeless persons was 33 persons. The existing Fifth Street shelter has capacity for 10 persons and a local Interfaith Rotating Shelter has capacity for 25 persons or greater at some shelter locations. The City also contributes to a countywide shelter at the Yolo Wayfarer Center that provides an additional 73 beds to homeless individuals throughout the county.

Emergency shelters are conditionally allowed in all residential and commercial districts within the city. The review and approval of a conditional use permit (CUP) takes from four to eight weeks. Requests for conditional use permits by shelters are not treated any differently from other conditional use permit applications processed. The process involves the filing of a complete application, the staff review and report writing for the Planning Commission review and determination on the application. Decisions of the Planning Commission may be appealed to the City Council. Thus far, CUPs for current and former locations of the Davis Community Meals shelter were approved in the Core Residential Infill, Mixed Use, and Residential Garden Apartments zoning districts.

Additionally, the City has issued a temporary use permit the past few cold weather seasons for a cold weather shelter that rotates amongst local churches located within a variety of zoning districts. Lastly, the City has existing conditional use permits on two shelters within residential districts that have been in place for more than fifteen years. Conditional use permits within the City are valid for as long as the use is in place and for up to six months after it vacates a site, if assumed by another user.

The city has approved all three conditional use permit applications submitted for emergency shelters. Conditions of approval placed have required neighborhood notice of changes in operations and policies to reduce loitering and inappropriate behavior within the neighborhood, and measures to ensure that the premises are well-maintained.

The typical conditions of approval that the city places on most conditional use permit applications include the following:

- Obtaining building permit prior to occupancy,
- Ensure that the developed project is in substantial compliance with the approved plans,
- The use will not constitute a nuisance and be detrimental to adjacent properties, and
- Other site/project specific conditions may apply to address issues raised due to the project, such as adequate on-site parking, open space and landscaping being provided.

All conditional use permit applications are reviewed subject to the standard of the city Zoning Ordinance, which states:

40.30.030 Considerations in issuing. In considering an application for a conditional use or nonconforming use, the planning commission or city council shall give due regard to the nature and condition of the proposed or existing use

and all adjacent uses and structures. The planning commission or city council may deny an application for a conditional use. In authorizing a conditional use, the planning commission or city council may impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this chapter for the particular use, as the planning commission or city council may deem necessary for the protection of adjacent properties and the public interest.

40.30.080 Issuance.

(a) The planning commission or city council shall issue a conditional use permit provided the planning commission or city council is satisfied that the proposed structure or use conforms to the requirements and intent of this chapter and the city master plan, that any additional conditions and requirements stipulated by the planning commission or city council have been or will be met, and that such use will not, under the circumstances of the particular case, constitute a nuisance or be detrimental to the public welfare of the community.

(b) The planning and building director shall ensure that the development and use is undertaken and completed in compliance with such permit.

Emergency shelters have been considered a “semi-public use” under city code. This use type is defined as a use operated by a private nonprofit educational, religious, recreational, charitable, fraternal or medical institution, association or organization, such use having the purpose primarily of serving the general public. In order to clarify the zoning code, the City will add a definition for “emergency shelters” that distinguishes it from semi-public uses (see Policy 1.3 Action c.).

In an effort to comply with SB 2, the City is committing to amending its existing Industrial Zoning and Planned Development zoning with Industrial underlay zoning to allow emergency shelters of up to 35 beds without a conditional use permit (see Policy 1.3 Action c). This will ensure adequate properties available for existing and future need related to emergency shelter.

Vacant and Underutilized Industrial Properties

There is over 75 acres of vacant and underutilized space that could be utilized through the Industrial zoning change to permit emergency shelter. Most likely, a smaller parcel could accommodate emergency shelter needs. With smaller parcels ranging from 0.80 acres to 1.02 acres, buildable space would result in being about 0.60 to 0.82 acres or approximately 26,000 to 35,000 building square feet that could be developed. The buildable square footage could be doubled or tripled by adding a second and/or third story.

According to a local shelter provider, Davis Community Meals, four beds are typically provided within approximately 120 square feet of bedroom space. Based on this information, staff has determined that adequate space for one shelter bed is approximately 30 square feet, with some additional space needed for common areas. In a 26,000 square foot building, there is ample space to address the 2007 identified 33 bed-gap in local shelter needs, which would require approximately 1,350 square feet. There would be more than enough space for these beds and

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necessary common areas. Thus, even the smaller sites within the Industrial zoning district demonstrate adequate space in which an emergency shelter could be built if needed. With this capacity in the zoning district, the emergency beds and transitional units already provided in the City (as listed in Table 44), and the City's participation in the countywide contract with the Yolo Wayfarer Center in Woodland for its provision of emergency shelter on a countywide basis, ability to address local shelter housing needs is demonstrated.

Transitional Housing: Transitional housing is considered a residential use and is therefore permitted in any residential district, subject to the same development standards of the residential districts. However the City's Zoning Ordinance does not include a definition of transitional housing. Policy Housing 1.3 Action d has been included in the City's implementation schedule to add this zoning definition.

Davis Community Meals currently has nine transitional housing units in single-family and multifamily zoned areas. All were allowed by right with no city planning review.

In recent cold weather seasons the City also received a Temporary Use Permit application for an interfaith rotating shelter group consisting of six host congregations and a seventh site for intake, working together and proposing to provide emergency shelter in a rotating manner at each site for up to one week at a time during the nights from late November to mid March. This permit was processed with community outreach, including neighborhood meetings, and was approved with conditions attached related to fire and building code requirements.

Supportive housing: Supportive housing falls under the category of "group care homes" when it is comprised of six clients or fewer and is permitted in any residential zone including single-family and multi-family without a Conditional Use Permit. Larger supportive housing has been developed within multi-family housing complexes either as a portion of the units or with services to the entire complex. Supportive housing on this larger scale in multi-family housing does not require any additional planning approvals than what is required of a multi-family housing application without supportive services. To clarify where supportive housing is allowed, the City will amend its Zoning Ordinance to include a definition of "supportive housing" in accordance with state law.

Single Room Occupancies (SRO): Single room occupancies (SROs) are permitted within city zoning code under multi-family residential ordinance (Section 40.03). City policies do not distinguish an SRO from any other type of multi-family housing. Rather, it is processed the same as any multi-family residential project. Lower parking requirements within City zoning code promote smaller units, including SROs. To ensure compliance with AB 2634, the City will amend its code to add a definition of single-room occupancy (see Policy 1.3 Action b.).

Second Units: Chapter 1062, Statutes of 2002 (AB 1866), effective July 2003, requires local governments to use a ministerial process for considering second-unit applications for the purpose of facilitating production of affordable housing. AB 1866 does allow cities to establish development standards for second units addressing issues such as building size, parking, height, setbacks and lot coverage. Consistent with California Government Code 65852.2, the City has amended its second-unit ordinance and permitting process to allow approval of second-dwelling units through a ministerial review process in areas that are zoned for single family dwellings.

Approvals are over-the-counter for smaller second units. As described in Section 4, Davis' zoning code allows for two types of second-units; ministerial and discretionary. The second unit must conform to the primary dwelling unit's setbacks, if detached be greater than 15 feet in height, be no larger than 500 square feet, including a maximum of 325 square feet of new living space (325 square foot maximum for detached unit), adhere to lot coverage and floor area ratio standards of the base zone, provide one parking space per bedroom, covered or uncovered, and the units can be either renter- or owner- occupied.

Discretionary units are those that are larger than the maximum allowed for a ministerial unit or if the second unit conflicts with other planning conditions related to lot coverage and floor area ratio maximums for the lot. The city is committed to processing larger second units within 6-8 weeks. Permit approval is subject to a planning staff level review of the site and building plans to ensure compliance with height restrictions, setbacks, maximum floor area, and parking requirements. Building plans are then processed for building permit issuance. Although outreach was completed with the code amendments that allowed for administrative processing of smaller second units, the city plans to provide additional education to the public on what is permitted for developing a second unit. This educational model will be based on Santa Cruz's "Accessory Dwelling Unit Manual". Promoting the construction of second units has been of interest to local commissions and is currently being considered by the City Council.

These standards are all within those allowed by AB 1866 and are established to ensure the City's character and quality of life is preserved. Additionally, the City's development standards and processing procedures for second units do not constrain their development as demonstrated by the historical trends discussed in Section 4. A steady increase in the application and development of second-units has occurred since 1995 and the City's projects a continual increase through the planning period.

Housing for Farmworkers: While there is no code specifically designated for farmworkers, Davis' zoning code offers a wide range of housing types which helps to address the need of agricultural workers including multifamily, single-room occupancy, manufactured housing and second units. In addition, the City allows employee housing, including housing for farmworkers, consistent with Health and Safety Code Section (HSC) 17021.5 and 17021.6. These sections declare that no conditional use permit, zoning variance, or other zoning clearance shall be required of employee housing that serves six or fewer employees as long as it is not required of a family dwelling of the same type in the same zone. In addition to a variety of permanent housing opportunities at both affordable and market rates, the City of Davis works with Yolo County to accommodate seasonal agricultural workers at the Davis Migrant Center just south of city limits (please refer to Section 3).

Factory-Built Housing and Mobile Homes: Factory-built homes are permitted in any residential district where single-family units are permitted, and are subject to the same zoning requirements and planning application processes as single-family residential houses. Existing single family lots would not trigger planning review aside from an administrative plot plan check, even if developed with factory-built housing, as long as they met the standards of 40.26.380 section of code. This section states the standard residential development standards, a permanent foundation (as required by state law), and neighborhood design consistency. A new subdivision that provided new lots and units would be subject to planning application, regardless

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of the type of housing being provided. Mobile homes are specifically allowed under the R-2-MH zoning district in city zoning. The flexibility built into the city's zoning allows for the provision of housing to all income levels. The zoning standards are necessary to ensure appropriate quality of life and the compatibility of new development within existing neighborhoods.

Planned Developments

Summary. The stated purpose of the planned development district in the city's Zoning Ordinance

“is to allow diversification in the relationship of various buildings, structures and open spaces in order to be relieved from the rigid standards of conventional zoning. A planned development district shall comply with the regulations and provisions of the general plan and any applicable specific plan and shall provide adequate standards to promote the public health, safety and general welfare without unduly inhibiting the advantages of modern building techniques and planning for residential, commercial or industrial purposes. The criteria upon which planned development districts shall be judged and approved will include the development of sound housing for persons of low, moderate and high income levels, residential developments which provide a mix of housing styles and costs, creative approaches in the development of land, more efficient and desirable use of open area, variety in the physical development pattern of the city and utilization of advances in technology which are innovative to land development.”

Below is excerpt of the Zoning Ordinance procedure for applying for the P-D district.

- a) Application for a planned development district (hereinafter sometimes referred to as P-D) shall be submitted as two separate applications as provided in this article. Such applications are described as the preliminary application and the final application. Except as otherwise provided in this article, an application for a P-D zone shall be treated as any other amendment to this chapter.
- b) When an application for a planned development district is initiated by the city council and/or the planning commission, the following criteria shall apply:
 - 1) The processing of zoning amendments by the city council and/or planning commission shall be treated as if the application has been filed with the planning department by the property owner.
 - 2) The preliminary development plan shall designate land use classifications, development densities and street circulation patterns. Other data required for a preliminary application hereinafter described may be included. Such data normally will be developed in cooperation with the landowner.
 - 3) No fee shall be charged for applications initiated by the city council or planning commission.

According to the Zoning Ordinance, “all uses in a P-D district shall conform to the height, area, lot and yard, parking, loading, and other standards normally required for such uses, except where the total development will be improved by deviation from these standards and such deviations are identified as previously set forth herein.”

Consideration of Impacts. The P-D zoning does not hinder the production of housing. It allows for creative ways to provide housing that would otherwise not be provided under conventional zoning standards. The city has effectively utilized this provision to integrate housing on difficult sites that might not even be possible in cities with more rigid zoning provisions. The General Plan established densities for various residential types apply to the planned development district. Also, as Table 48 shows, the High Density Residential designation in the General Plan can accommodate densities of up to 24 units per net acre exclusive of density bonus. The General Plan densities apply to all P-D districts. Ordinarily, the effect of the P-D zoning is to increase the variety and feasibility of development through reduction in setbacks, flexibility in parking requirements, and similar project benefits.

Entitlement Conditions

The required entitlement applications for the development of residential and commercial land are usually subject to conditions. These conditions of approval are in place to protect community character, or ensure privacy of adjacent neighbors, or for health and safety reasons, or environmental protection, among other reasons. The conditions of approval are usually acceptable to the project proponents. Thus, the conditions of approval are necessary and not believed to impede the availability and affordability of housing.

Measure J Ordinance

Summary. The purpose of the Measure J Ordinance (Ordinance No. 2008) was "to establish a mechanism for direct citizen participation in land use decisions affecting City policies for compact urban form, agricultural land preservation and an adequate housing supply to meet internal City needs, by providing the people of the City of Davis the right to vote, without having to evoke referenda, on general plan land use map amendments that would convert any agricultural, open space, or urban reserve lands, as designated on the Land Use Map of the City of Davis General Plan, dated August 1, 1999, to an urban or urban reserve land use designation and on any development proposal on the Covell Center or Nishi properties.

The purpose of this Article is to ensure that the purposes and principles set forth in the City of Davis General Plan relating to voter approval, land use, affordable housing, open space, agricultural preservation and conservation are fully considered by establishing an expanded land use entitlement process for proposed conversion of properties to urban use that are designated or in agricultural or open space use. This action recognizes that continued conversion of agricultural lands to meet urban needs is neither inevitable nor necessary, and that any land use decision affecting such properties shall be subject to a public vote."

The only dissimilarity with a Measure J type project as compared to a similar project prior to Measure J adoption is the required voter approval. The normal entitlement applications review are done similarly for a Measure J and a pre-Measure J project depending on the types of applications involved. A copy of the Measure J Ordinance can be found on the City's website at

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the following weblink: <http://www.cityofdavis.org/topic/pdfs/ord2008.pdf>. The level of detail required for project exhibits and plans are those identified in Section 40.22.060 of the City’s Zoning Ordinance for any planned development zoning application. This information is available at: <http://www.cityofdavis.org/cmo/citycode/>.

The General Plan and Zoning Ordinance prescribe policies and standards that apply to new residential projects. New residential projects must identify basic features meeting these requirements, such as neighborhood greenbelt, minimum open space, recreational facility (i.e., park land dedication), infrastructure standards, affordable housing, and a host of other features. A Measure J project also will be expected to show how these features will be met or addressed consistent with the city policies and codes just as would be the situation prior to the measure. There are also the components that must be adequately identified for a valid analysis of the potential impacts of a project, under CEQA (see CEQA Guidelines Section 15124).

Historically developers propose a phasing plan that works for their project. A proposed residential development phasing plan is analyzed by the city using a number of factors prior to approval. Some factors that affect city decisions on a phasing plan include: project size, economic viability of the project based on the phasing plan, identified city housing needs, outstanding allocations and the city’s ability to meet its regional housing need allocation. Most large subdivisions in the city have phasing plans, which in some cases were made part of the development agreement between the developer and the city. Measure J does not change this process. The Phased Allocation Plan establishes the policy that project buildout would be allowed within the general plan period or some other reasonable period. Previous projects were approved with buildout of three to four years (Evergreen subdivision), to eight to ten years (Mace Ranch subdivision) The process for review a developer proposed phasing plan remains the same notwithstanding Measure J, which is the right of voter participation in land use decision through voting.

The basis for the statement that Measure J encourages infill can be found in the stated purpose of Measure J. The goal of Measure J is “to establish a mechanism for direct citizen participation in land use decisions affecting city policies for compact urban form, agricultural land preservation and an adequate housing supply to meet the internal city needs, by providing the people of the City of Davis the right to vote, without having to evoke referenda, on general plan land use map amendments that would convert any agricultural, open space, or urban reserve lands, as designated on the Land Use Map of the City of Davis General Plan, dated August 1, 1999, to an urban or urban reserve land use designation and on any development proposal on the Covell Center or Nishi properties.” The conversion of any agricultural, open space, or urban reserve lands, as designated on the Land Use Map of the City of Davis General Plan is what Measure J would impact.

Measure J requirements exempt units needed to meet the Regional Housing Needs Allocation. The measure explicitly provides opportunity for five acres to be designated in the land use element of the General Plan for residential development, or more if the city cannot meet its Regional Housing Needs Allocation. Given that the city will meet its fair share allocation there is no expectation in the law for the city to document how the five acres would be designated. The methodology for designating the sites would depend on a number of factors, which include the type of housing needed to meet the allocation.

Measure J permits project modifications to occur as a project is developed. Section 29-12.4.3(C) of Measure J reads:

“Once the voters have approved a land use map designation or land use entitlement for a property, additional voter approval shall not be required for:

(1) Subsequent entitlement requests that are consistent with the overall approved development project or land use designation and entitlements including the baseline project features and required provision of open space, recreational amenities, design features and public facilities, as specified in the exhibits and plans approved by the voters.

(2) Any requested modification to a land use designation or development project entitlement that does not increase the number of permitted dwellings or units or the intensity of commercial/industrial development and does not significantly modify or reduce the baseline project features and required provision of open space, recreational amenities, design features and public facilities, as specified in the exhibits and plans approved by the voters.”

Measure J defines “significantly” or “significantly changed or modified” to mean that the proposed change or modification of the Measure J project materially alters the essential characteristic of the project or the baseline feature or requirement. With the 2005 processing of the Covell Village application, this provision was addressed with a specific project description and list of features defined as “Baseline Project Features.” Providing a specific list related to this provision ensures consistency with developer and public expectations, while allowing for minor modifications with the long-term build-out period for any large subdivision. The City found this application of the provision to work well and would repeat the same definition of Baseline Project Features as part of future planning processes on projects requiring a resident vote under Measure J. Additionally, the City adopted specific procedures and criteria for modifying Measure J-approved projects with the adoption of Resolution 06-40 on March 7, 2006.

Measure J Process. Any proposal submitted to the voters through Measure J must first be approved by the City Council, after review by the Planning Commission. This process ensures that the proposal must provide the required inclusionary units and comply with City General Plan policies in order to be approved by the city, prior to voters' action. Projects may undergo modification during the initial review process to ensure consistency with community goals, including affordable housing, before being submitted to the voters. The process envisions community outreach for proposed developments, which may include notification through the local newspaper, direct mails, neighborhood meetings, the city web site, and local cable television.

Since adoption of Measure J in 1999, there has been one project that has completed the Measure J review process. This project, Covell Village, was proposed through a formal planning application that resulted in a City Council approval of the project on June 21, 2005. This approval sent the project to the voters of Davis for final action, as required under Measure J. The local vote resulted in denial of the project. The proposed project would have consisted of 1,864 units to be developed over a ten-year timeframe, and likely would have commenced in 2007.

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Consideration of Impacts. As previously stated, the City has the capacity to meet state law and accommodate its allocated regional housing allocation for this period. With ongoing ability to provide sites to meet RHNA and the City’s additional efforts to review and consider sites under its local 1% growth guideline, Measure J has not prohibited any development required by state law or deemed necessary based on local housing needs. Additionally, under Measure J the City could have the ability to annex land for the purpose of affordable housing development or compliance with its RHNA, if ever deemed necessary. To date, the City consistently produces low and very-low income housing units and has had no trouble meeting its regional allocation under state law. In fact, both continue to be exceeded.

Despite Measure J requirements, the City continues to receive development interest from property owners bordering existing city limits. The Housing Element Steering Committee is ranking potential sites for housing, including sites that would require a Measure J vote. And the City is currently processing an application for the Wildhorse Horse Ranch site, a project that would require a Measure J vote.

The Measure J requirement contributes to the city's managed growth system. Measure J encourages compatible infill development, which will provide needed housing, while protecting the region's farmland. It encourages compatible infill development and explicitly excludes infill projects from the requirement for voter approval. Measure J recognizes that through infill, appropriate housing can be provided to address city housing needs. Encouragement of infill development leads to what can be more complicated projects that result in greater city and project resident benefits. For example, the increased reuse of sites leads to more occasions of Brownfield clean-up of toxics or previous environmentally-sensitive uses (e.g. gasoline stations), while connecting residents of the units to existing neighborhoods with shopping and transit opportunities. A focus on infill also promotes mixed-use development that maximizes site potential, and creative use of vacant sites or buildings that a step or two of additional research or demolition. Results of these projects lead to developments with increased community amenities (shopping, transit lines, open space, proximity to community services, etc.) and the reinvestment into the character of surrounding existing neighborhoods.

Measure J could potentially add costs to the development review process and extend the time for approval. However, it is possible that the time and cost associated with a Measure J election could be less than or equal to that of a potential referendum. It is speculative to conclude that election costs will adversely affect the cost or supply of new housing, given the other known factors that affect housing costs and supply. Given that the developers have knowledge of Measure J, it is reasonable to expect that the costs associated with Measure J would be factored into the purchase price of the agricultural land proposed for conversion to residential development. Had Measure J not been approved and a new major residential proposal is proposed but does not require a referendum, then the argument of added costs and time is legitimate. Any major project runs the risk of a referendum challenge, even if vote approval would not otherwise be required. To provide some range of potential costs borne from an election process, the table that follows provides information from various recent elections and measures. The actual cost to be borne by the developer is based on the type of election being held.

Table 50: Sample Election Costs

Type of Measure	Date/Election Type	Cost
Measure X – Covell Village Project	November 2005; Statewide Special/UDEL/ School Election	\$47,666.92
Measure O – Open Space Protection	November 2000; General Election	\$27,995.63
Measure J – Right to Vote, Open Space and Ag land	March 2000; Primary Election	\$30,776.12
Measure M	June 1998; Primary Election	\$29,061.38
UDEL/School District Election	November 1997; UDEL/School District Election	\$37,336.55
Richards Boulevard Corridor Upgrade Project	March 1997; Special Election	\$46,512.95
Measure R – Wildhorse Development Agreement	May 9, 1995; Davis Referendum Election	\$44,305.40

Notes:

The type of election held has direct impact on the cost of the election. It would be speculative to state how much it will cost in the future for a Measure J project.

In a special election that involves a Measure J project only, the applicant would pay the full cost. If there are other measures from the city or other jurisdictions, the cost is shared. If a Measure J project participates in a general election, the developer will share the cost of the elections. The table above contains costs for past elections involving measures. As can be seen from the table the range is from \$27,995.63 to \$47,666.92. Potential election costs for a future Measure J project would depend on several variables, such as the type of election involved and how many other measures and jurisdictions are involved. The costs of the election are minimal compared to other project costs (EIR, planning processing and public outreach, public improvements and fees). Although Measure J may add costs and some processing time to the development of projects, it has not proven to interfere with the City’s ability to meet its Regional Housing Needs Allocation and produce affordable housing units.

Phased Allocation

In the past, the City has used a phased allocation system in order to regulate the amount of building permits issued in any given year. Although the phased allocation system still exists in City Code, it has not been used recently as a means by which to control growth and so has little to no effect on the production of housing. With the current size and amount of vacant lots in the City currently available for the development of housing, use of the Phased Allocation system has not been deemed necessary for the most part since there is not possibility for a large housing development in any given year without review and approval by the City Council through a planning application. Large projects that are currently in application (Lewis Cannery Project, Wildhorse Horse Ranch, etc.) if approved, would include provisions for phasing development with the Development Agreement and would not likely require use of the Phased Allocation system either. In addition, this phased allocation system has been further defined by the City’s 1% Growth Policy discussion in the following section. Under the 1% Growth Policy up to 325 units can be built each year, with exemptions for affordable units, second units, and other projects that Council deems necessary.

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Summary. The City adopted its first "slow growth" General Plan in 1973. The ability to build housing in Davis has been phased since 1975. The Phased Allocation Ordinance has five stated goals, which are:

1. Prevent premature development in the absence of necessary utilities and municipal services.
2. Coordinate city planning and land regulation in a manner consistent with the General Plan.
3. Facilitate and implement the realization of General Plan goals, which cannot be accomplished by zoning alone.
4. Provide significant incentives to developers to include very-low, low and moderate-income housing in their development.
5. Prevent unplanned growth, which has no relationship to community needs and capabilities. (Ordinance No. 1638, adopted May 20, 1992.)

Consideration of Impacts. All active subdivisions in the City have full allocations. Appendix P is a general discussion of the effects the housing allocation system has had on previous housing production in prior planning periods. Following adoption of the 1973 General Plan, a new housing allocation system was adopted. That system has been in place since then.

Programs and policies included in this Housing Element ensure that various types of needed housing, including affordable housing are exempted from any allocation system that has been adopted, and would be adopted, including the City's 1% Growth Policy discussed in the next section. With the 1% Growth Policy allowing up to 325 units to be developed each year and with exemptions for affordable and other units from this cap, a phased allocation system under that policy will not lead to a constraint in the production of housing to meet the City's Regional Housing Needs Allocation of 498 units for the current 7.5-year planning period.

The City's 1% Growth Policy

Summary. In March 2005, the City Council adopted the following growth policy that was clarified further in February 2008 to consist of the following:

1. The City Council finds that an annual average growth parameter for the City is appropriate for future growth management and planning after considering:
 - a. The internal housing needs identified in the "Internal Housing Needs Analysis" report.
 - b. The most recent and likely future fair share housing needs issued by the Sacramento Area Council of Governments (SACOG).
2. The City Council hereby directs staff to:

- a. Prepare draft amendments to the growth management and housing sections of the General Plan and the Phased Housing Allocation Ordinance for City Council review. Base the amendments on the following concepts:

City growth concepts:

- (1) Growth guideline of 1%. Implement an annual average growth guideline of one percent (1%), tied to the 2010 General Plan, based on the following:
 - (a) The total estimated existing number of housing units and dwelling unit equivalents for living groups.
 - (b) 1% currently equals approximately 260 units per year. The number of units allowable based on the 1% guideline shall increase proportionate to city growth.
- (2) Exempted units. The following types of units are exempt and not subject to the 1% growth guideline:
 - (a) Permanently affordable housing units for very low-, low- and moderate-income households including both required units and units provided in excess of standard requirements. This exemption includes permanently affordable housing units for seniors. This exemption does not include middle income units.
 - (b) Approved second units as defined by State law including both ministerial and discretionary units.
 - (c) Residential units within “vertical” mixed use buildings.
- (3) Control peripheral. Strictly control peripheral units to a maximum of 60% of the 1% growth guideline per year. It is recognized that building permits for new peripheral development probably would not occur until at least 2007.
- (4) Manage infill. Manage infill units within the 1% growth guideline per year. Infill may constitute 40% of the total units in a year if peripheral units constitute 60% and infill units may constitute 100% of the total units in a year if peripheral units constitute 0%. Provide flexibility to allow for multi-family rental projects by designating a proportion of the yearly allocation to multi family rental units that can be rolled over and accumulated over several years as needed for the typical apartment complex.
- (5) Allow for extraordinary project. Council shall have the ability to allow an infill project with extraordinary circumstances and which provides for particular community needs with extraordinary community benefits, even if it would exceed the annual growth guideline of 1%.

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Clarification Provided on February 15, 2008:

The City Council provides the following clarifications regarding the city growth concepts above. The one percent growth guideline:

- Is a cap not to be exceeded, except for units that are specifically exempted and allowed by City Council as an infill project with extraordinary circumstances and community benefits.
- Extraordinary typically means that the project is providing features and amenities that go beyond minimum city standards and requirements and would be difficult for the city to obtain without the developer's willingness, even using a development agreement. Extraordinary projects could include projects with an exceptional affordable housing provision, projects that aim to address a local unmet housing need in the community, or projects that provide other items of public benefit including public facilities, funding for community needs, advanced green technology, etc. In addition to qualifying as extraordinary, the project must also be an infill project.
- Is to provide for identified housing needs without compromising City standards for development quality.
- Translates to 260 “base” or non-exempt units. An estimate of the total number of units per year is approximately 25% above the 260 units or a total of 325 units per year including the exempted types of units not subject to the guideline.
- Does not include a mandatory increase (or “catch-up”) provision should building activity not achieve the annual growth guideline in certain years. Conversely, the guideline does not include a mandatory reduction in years following the approval of an infill project with extraordinary community benefits which causes the annual growth guideline to be exceeded.

Growth management system concepts:

- (1) Use development agreements where appropriate. Use development agreements or a metered allocation system to phase peripheral units. Use development agreements where appropriate for large infill projects (such as 100 or more units).
- (2) Use tools to ensure that peripheral and infill development decisions are consistent with growth guidelines. Create a new development status monitoring and reporting system. Use reports in decisions on projects and their timing. Provide annual report and adopt annual resolution to direct prospective developers and staff where the city will consider growth and development in the short term (one to two years) and longer term (three to ten years).
- (3) Study changes to existing allocation ordinance. Study whether changes are needed to the existing phased allocation ordinance. If appropriate, pass a resolution to clarify that formal allocations pursuant to the ordinance will not be required unless / until the Council deems such allocations are needed.

- (4) School impacts. Work with City and DJUSD legal counsel to determine means of mitigating school impacts.
- (5) Study required findings. Study whether growth limitation ordinance findings are required pursuant to State Government Code 65863.6 regarding the public health, safety, and welfare of the city to be promoted by the adoption of the ordinance.

Consideration of Impacts. The City does not find that the 1% Growth policy will have a negative effect on housing production, and specifically the City’s RHNA, for the current planning period. The City’s RHNA is 498 units for this planning period, which the City is more than able to provide for. Even a cap of one percent in growth during the current planning period allows for up to 2,300 new housing units to be built. This capped amount is approximately 1,800 units greater than the RHNA that has been assigned to the City for this planning period.

Additionally, the City’s one-percent growth policy includes very specific exemption categories for second units, affordable housing units, and units in vertical mixed-use developments and also allows the Council to approve “extraordinary projects” above the growth cap based on community needs and benefits. The City finds that this growth cap does not negatively impact the production of housing, it is only used to manage its timing. The exempt categories and placement of the cap do not affect the City’s ability to provide housing to meet local needs and provide sites that can accommodate the City’s Regional Housing Needs Allocation.

Affordable Housing Policy and Ordinance

Summary. The General Plan has a policy that reads:

Policy HOUSING 4.1. Maintain and periodically review the Affordable Housing Ordinance to require the inclusion of affordable housing in all new development areas to the extent feasible.

Standards

- a. Twenty-five percent of all proposed new for-sale residential units should be affordable to very low, low and moderate-income households. The units should be as affordable rental or ownership.
- b. Continue to administer an affordable housing ordinance, which accomplishes the following:

Rental housing developments containing between 5 and 19 units inclusive shall provide, to the maximum extent feasible, 15 percent of the units to be affordable to low-income households (50-80% of the median income) and 10 percent of the units to be affordable to very low income households (less than 50% percent of median income) for a total requirement of 25 percent.

Rental housing developments containing 20 or more units shall provide, to the maximum extent feasible, 10 percent of the units to be affordable to low-income households and 25

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percent of the units to be affordable to very-low-income households for a total requirement of 35 percent.

The city shall review the ordinance at least every five years to confirm its effectiveness."

The Affordable Housing Ordinance, the document used to implement this policy, was initially adopted in 1990, amended in 1993, and amended again in 2005. The ordinance requirements are intended to implement the General Plan policies that require affordable housing for all income categories as stated above, and to meet the city's share of the regional housing need for these impacted households at very low-, low- and moderate- income levels. The ordinance is in compliance with Government Code Section 65589.8 by allowing developers to satisfy all or a portion of the inclusionary requirement by constructing rental housing at affordable monthly rents.

The developer is required to submit an Affordable Housing Plan prior to or at the time of application for the first discretionary approval for a project. The Plan must describe how many and what type of affordable units the project will produce. The guidelines are as follows:

Ownership Developments

- Developments of 5 or more units provide 25 percent of total units for very low-, low- and moderate-income households after City density bonus (one market unit for every affordable unit). Some required affordable units may be rental and some may be for sale. Developments less than five units are exempt.
- Developments of between 5 to 75 units must provide units on-site of project
- Developments of 76 to 200 units must provide land dedication to the City sufficient for that projects designated affordable unit number
- Developments of 201 or more must provide half of the 25 percent on-site and half through land dedication sufficient to build half of the total affordable housing requirement.
- Project individualized programs are also an option where the developer may 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.
- For on-site construction of ownership units, a one-for-one city density bonus is awarded, a mix of two- and three-bedroom units with a minimum of fifty percent of the units as three bedroom units and in combination of unit types as approved within the Affordable Housing Plan through the appropriate review process. Smaller and larger size units can be provided depending on local housing needs and project character. The units will be affordable to moderate-income households, households with incomes ranging from 80% of Area Median Income to 120% Area Median Income, with the average affordability targeted

- Land dedication also receives one-for-one density bonus on the basis of 15 units per acre. Housing build on dedicated land must be permanently affordable. Property is conveyed to third parties who enter into an agreement with the City to produce affordable housing with a certain period of time. Housing types should consist of: resident-controlled housing, mutual housing, community based rental housing, limited equity cooperatives, public housing, land trusts, self-help housing, etc.

Rental Developments

- Multifamily project with 20 or more units must provide at least 25 percent of the total units affordable to low-income households and ten percent affordable to very low-income
- A developer of multifamily rental developments containing between five and nineteen units shall provide fifteen percent of the units to low- income household and ten percent to very low- income households.
- Residential projects consisting of fewer than five market rate units will not be required to produce affordable units. Such housing shall be provided either by the construction of units on-site or by land dedication.
- Affordable rental units shall rent to low- income households at not more than thirty percent of eighty percent (thirty percent of eighty percent is twenty-four percent) of area median income, and to very low- income households at not more than thirty percent of fifty percent of area median income, adjusted for family size. An in-lieu fee is also offered as an option in the downtown area.

Consideration of Impacts. The ordinance has built-in flexibility to allow a "project individualized program", which is an alternative to the standard provisions if the program generates the same or more than the number and level of affordable units that would have been generated under the standard requirements. The ordinance also allows an appeal or modification process for any project that can prove the requirement to be constituted as a "taking" by the City. The City has not received any appeals or arguments of a taking under this provision. The City works with applicants prior to and during planning application submittal to clarify the requirements and identify options for compliance with this ordinance.

Some have argued that provision of affordable housing adds to the costs of the market-rate units, thus, increasing the cost of housing. This argument may be valid to some extent provided the cost of affordable housing contribution is not reflected in the value of land purchased by the developer or the profit made by the subdivider. However, to provide housing for all income segments of the city, it becomes necessary to require inclusion of affordable units in new residential development. The majority of the affordable units come at minimal direct cost to the subdivider, although they may have opportunity costs through reduced profit.

Middle Income Housing Ordinance

The General Plan has a policy that reads:

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Policy HOUSING 4.2. Provide housing opportunities for the local workforce in the Davis area.

Standards

- a. A development with 26 or more residential units for purchase shall provide units that are affordable to middle income households. Middle income households consist of households earning a gross income of no greater than 180 percent of the median income for Yolo County adjusted for household size. The number of middle income units shall be equivalent to 10% for projects totaling 26 to 35 ownership units, 15% for projects totaling 30 to 49 ownership units, and 20% for projects totaling 50 or more ownership units.
- b. Units built under the middle income requirement shall be made affordable to households with gross incomes of 120 percent to 180 percent of the median income for Yolo County, with an average affordability for households at 140 percent of the median income for Yolo County.
- c. No density bonus shall be granted for middle income units.

The Middle Income Housing Ordinance essentially required for-sale developments of more than 25 units to provide 10 to 20 percent of the units as “middle-income” units. Projects of less than 25 units have no middle income requirement. These units are targeted to households earning between 120 and 180 percent of the median income. This program emerged out of a study that showed representation of middle income households at 15 percent of households within the region, but only 12 percent of households within Davis.

Please note: as of May 2009 the Davis City Council suspended the Middle Income Housing Ordinance, citing the economic downturn that has significantly affected the housing market. Council has directed staff to develop report analyzing the requirements and to recommend whether it shall continue or be permanently discontinued. Staff is due to present their finding to the City Council by June 20, 2011. As stated in Policy 1.1 Action f., staff will evaluate the effects of the middle income program on the current housing market by June 2011. Further, as stated in Policy 1.1, Action g., the City will also conduct an analysis of all residential development policies currently adopted by the City to determine if any present constraints to the development of housing for all income levels by July 2010.

Consideration of Impacts. The Middle Income Housing Ordinance, the document used to implement this policy, was initially adopted in December 2005 and went into effect in early 2006. The addition of the middle income housing requirement to the affordable housing requirement results in a total inclusionary requirement of 20% to 45% depending on size of the residential project and whether a density bonus is utilized for the low-moderate housing component. The City Council made findings that this new requirement did not present additional governmental constraint and was justified based on local housing needs, as evidenced in the “Middle Income Housing Analysis: Needs and Impacts” produced for the City by Bay Area Economics.

The findings by the City Council that supported adoption of this requirement included:

1. The middle income ordinance and incentive system ordinance implements existing policies in the General Plan which state: “Require a mix of housing types, prices and rents in each new development area” (Policy LU A.2); and “Encourage a variety of housing types that meet the housing needs of an economically diverse Davis” (Policy Housing 1.1).
2. The amendments do not create a governmental constraint upon the production of housing as identified by Section 65853(a)(4) of the Government Code in that: the middle income housing requirement will provide housing opportunities for the local workforce and a greater mix of housing in general; the requirement will result in reduced opportunity profits for the housing developer but would not require a construction subsidy; and the amendments will not affect the amounts or allowable densities of residential development in the city’s general plan.
3. The City of Davis attempts to balance a wide variety of objectives related to urban growth, many of which are shared by departments of the State government. These include avoiding urban sprawl, preserving prime agricultural land, providing adequate public services of all types, providing a mixture of housing types and prices with sustained affordability through time, providing a reasonable balance of jobs and housing, and avoiding over-dependence on the automobile with excessive air pollution and congested roadways.

The City Council also considered that:

1. The middle income requirement will be imposed primarily on developments which propose a conversion from agricultural or other non-residential land in the general plan. This did not and continues not to affect the city’s ability to meet its fair share requirements. The sites listed in the site inventory provided as Table 37 in Section 4 that are needed to fulfill this City’s Regional Housing Needs Allocation are not affected by this requirement.
2. Allowing large supplies of housing with unregulated prices has not worked to solve the problems of the housing shortage for middle income households. The study provided to the City showed that approximately 10.4% of the local households were middle income households, compared to the 13.4% represented in the region.

Based on the information provided above, the City finds that this ordinance does not add a constraint to the production of housing.

Accessible/Visitable Housing Policy

The General Plan has a policy that reads:

Policy HOUSING 1.41. Encourage a variety of housing types that accommodate persons with disabilities and promote aging in place, including a target of one-hundred percent visitability in all new single-family residential units, with an emphasis on first-floor

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accessibility in newly-developed single-family affordable units, to the maximum extent feasible for all projects that require Final Planned Development approval by the Planning Commission and/or any planning approvals by the City Council, unless as result of an appeal to a Planning Commission action. Accessory structures, including secondary dwelling units and guest houses, are not subject to this policy.

Standards

- a. Visitability requirements. Unless waived or modified based on section (e) of this policy, one-hundred percent of all new market rate and middle income single-family residential units shall be developed with visitability.

Visitability requires the following features, as further defined in Chapter 11A of California Uniform Building Code:

- i. One zero threshold entry at ground or primary floor of the unit
 - ii. An accessible exterior path of travel to the zero threshold entry
 - iii. An accessible interior path of travel within the unit on its ground or primary floor (wider hallways and doorways)
 - iv. An accessible half or full bath on the ground or primary floor (with the inclusion of grab bar backing reinforcements to facilitate easy grab bar installation)
 - v. An accessible common room (does not include kitchen)
- b. First-floor accessibility requirements. Unless waived or modified based on section (e) of this policy, all new single-family affordable (low to moderate) residential units shall be developed with first-floor accessibility.

First-floor accessibility requires the following features, as further defined in Chapter 11A of California Uniform Building Code:

- i. One zero threshold entry at ground or primary floor of the unit
- ii. An accessible exterior path of travel to the zero threshold entry
- iii. An accessible interior path of travel within the unit on its ground or primary floor (wider hallways and doorways)
- iv. An accessible full bath on the ground or primary floor (with the inclusion of grab bar backing reinforcements to facilitate easy grab bar installation)
- v. An accessible common room (does not include kitchen)
- vi. An accessible bedroom

- vii. An accessible path of travel throughout the kitchen
- c. Exempt project types. The visitability and first-floor accessibility standards shall be reviewed for each individual project, and shall be acted upon by the Planning Commission or City Council, as required by necessary project approvals. The Planning Commission and City Council recognize that there are inherent constraints of including visitability and first-floor accessibility features in the following types of projects:
 - i. Projects consisting of fewer than 5 units
 - ii. Projects with net densities of 12.5 units/acre or greater (density based on each housing type within large projects with multiple residential subareas)
 - iii. Projects of 15 units or fewer that are developed within the Core Area

Due to the constraints of these projects, features of visitability and first-floor accessibility will not be required, but will continue to be strongly encouraged, particularly the inclusion of zero threshold entries which are recognized as the highest priority of the features.

(Note: Accessible features may be required for buildings with elevators or other features that are subject to accessibility requirements under the California Uniform Building Code.)

- d. Affordable housing projects. The City shall require increased accessibility in all affordable housing projects where the City provides financial assistance or land to the project.
- e. Waivers and modifications. The Planning Commission or City Council can waive or modify the requirements of this policy to the extent required based on topographical characteristics of a project or based on undue financial hardship of a project that result due to the enforcement of this policy. The requirements of this policy will only be waived or modified to the extent necessary for the project to no longer meet one of the findings above. If a project seeks a waiver or modification on the basis of undue financial hardship or topographical characteristics, the Developer of the project has the burden of providing evidence of such hardship.

Actions

- a. Accessibility and visitability in new housing projects. Facilitate the inclusion of accessibility and visitability features in the construction of new housing to the greatest extent possible, including use of incentives.
- b. Policy evaluation. Evaluate the policy in 2010 after it has been applied to a variety of projects. Specifically, review the effectiveness of the policy targets and its categories of exemption, and determine if any modifications should be made including consideration of converting the policy to an ordinance.

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Consideration of Impacts. After outreach to the local development community, architects, buyers, advocates for persons with disabilities and residents, the City Council adopted the above-stated policy in July 2007, after stating a goal for such in September 2006. The costs associated with various features that this policy requires were discussed and analyzed prior to the policy’s adoption. The majority of costs (shown in Table 51 below) associated with accessible and visitable features were deemed negligible and not likely to have significant impact on the cost of construction if planned for early in project development stages. The most notable impacts of these requirements were anticipated to be found in small projects of less than five units, medium and high density projects of 12.5 units/net acre or more, and projects of fifteen units or fewer in the Core Area that typically are planned on smaller lots and at greater density. These impacts were requirements associated with providing a bedroom and full bathroom on the first-floor to provide complete accessibility. As a means of removing this potential impact, these groups were included in the exempt project category.

The City adopted these requirements as a means for providing ownership housing units accessible to persons with disabilities (typically not required by UBC), but has maintained it in policy form so that the need for modifications can be assessed with the consideration of the requirements in 2010. With its list of exempt projects, the ability to waive or modify requirements for projects with topographical or financial hardship, and the City’s plans to assess the policy in 2010 when more information is available, the City does not find this policy to be a constraint on housing production.

Table 51: Potential Costs of Accessible and Visitable Features (continues to following page)

Accessibility Feature	Estimated Cost per Unit from Developers/ Builders
An accessible route that connects a zero threshold entry to the garage, driveway, or sidewalk. (Required in both visitable and accessible housing units.)	It can vary. Making the entry to the garage accessible is likely to be the most cost effective, and may not cost much extra. If a small ramp to the threshold is needed, concrete and forming could cost \$10-20 per square inch or the project could use another material to reduce costs. If the project has an uneven grade, costs of providing an accessible path increase and make the project less feasible.
Zero threshold entry at a minimum of one exterior door that is 34 inches wide. (Required in both visitable and accessible housing units.)	To avoid water entering the unit, a zero threshold entry requires good overhead weather protection. In the garage, access would be adequately covered, but additional overhangs might be necessary if the unit has a front or rear entrance with a zero threshold. Costs of additional overhang would contribute to slight additions in materials and labor costs, but these are likely negligible. Including the wider door with a zero entry threshold is estimated to be a cost of less than \$25.
At least one accessible route to the primary floor bathroom, common use room, kitchen, and bedroom. (Required in both visitable and accessible housing units.)	No additional cost if included in the original unit design, although it could redistribute small amounts of space to the hallway and out of other rooms in the unit. A slight cost could result if there is an increase in the overall unit footprint to accommodate the accessible route rather than redistributing the original unit square footage. Ability to include accessible route needs to be in the design software used for the architectural renderings of the project.
At least one bathroom, consisting of at least a toilet, lavatory, and a bathtub or shower must be provided on the first floor. (Required in accessible housing units.)	Adding a shower/bath where one was not originally planned could add \$3,000. The other costs associated with the inclusion of a full bathroom on the main floor are a matter of limited square footage and space that would be distributed differently than if the unit only included a half bath. Grab bar backing installed in the wall is a negligible cost of only the extra pieces of lumber required.

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Accessibility Feature	Estimated Cost per Unit from Developers/ Builders
One accessible common use room (Required in accessible housing units.)	No additional cost. Upfront design necessary.
One accessible first floor bedroom. (Required in accessible housing units.)	In homes that are greater than two thousand square feet, there is often a bedroom on the first floor, so it is unlikely to result in any additional cost to those units. However, as the housing unit and parcel sizes decrease, the ability to have a bedroom on the main floor becomes more difficult due to the limited square footage of space.
40 inch pathway through the kitchen. (Required in accessible housing units.)	Should be possible without additional cost if planned initially with housing construction. May cause a slight increase in the overall unit footprint.
Single Action Hardware at Accessible Entrance (Required in both accessible and visitable housing units.)	\$50-\$100

The Right to Farm and Farmland Preservation Ordinance

Summary. The May 2001 General Plan has a policy that reads:

"Policy AG 1.1 Action j. In order to create an effective permanent agricultural and open space buffer on the perimeter of the City, immediately upon completion of the General Plan Update, pursue amendments of the Farmland Preservation ordinance to assure as a baseline standard that new peripheral development projects provide a minimum of 2:1 mitigation along the entire non-urbanized perimeter of the project. The proposed amendments shall allow for the alternate location of mitigations for such projects including but not limited to circumstances where the project is adjacent to land already protected by conservation easements or by some other form of public ownership that guarantees adjacent lands will not be developed."

The city adopted an ordinance on November 15, 1995, establishing the Right to Farm and Farmland Preservation requirements. The Right to Farm portion of the ordinance states that properly operated agricultural operations are generally not to be considered a nuisance, and requires that properties within 1,000 feet of agricultural lands carry a deed restriction that notifies owners and buyers of potential inconveniences associated with lawful agricultural operations when they are subjected to any discretionary permit issued by the city. It also requires that lands within 150 feet of an agricultural, greenbelt or habitat area shall be maintained in an agricultural buffer/agricultural transition area. The buffer is to be made up of a 100-foot agricultural buffer without public access, as well as a 50-foot transition area that may include bike paths, trails and other facilities for public access.

The Farmland Preservation portion of the ordinance requires agricultural mitigation by applicants for general plan or zoning changes or any other discretionary entitlement applications that would change the use of agricultural land to non-agricultural uses. Agricultural mitigation is required to be adjacent to the proposed project and must be provided on a 2:1 replacement basis.

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The mitigation may include granting of a farmland conservation easement or similar conservation mechanism for lands not subjected to non-agricultural development or payment of a fee for purchase of farmland rights in another area. Mitigation lands must be within the Davis planning area. A portion of agricultural mitigation lands may be used for habitat mitigation.

Consideration of Impacts. Some have argued that this ordinance and the 2001 General Plan 2:1 requirements may impede housing development. It is anticipated that prospective developers would take into consideration this requirement in making offers for land to be developed that would be required to comply with the requirements. The city's agricultural mitigation policies reflect the public policy tension between affordable housing and agricultural preservation. The city has shown that it can be successful in protecting open space and farmland while meeting fair share housing allocation. Additionally, the adjacency requirement of the agricultural mitigation has not been found to be a constraint because the city continues to receive preliminary applications and proposals that allow for the inclusion of this mitigation onsite without objection from applicants and because the Covell Village proposal that was approved by the City Council and failed in its Measure J vote by the citizens in November 2005, included the 2:1 agricultural mitigation adjacent to its proposed development as well.

Greenbelt and Open Space Policies

Land Use Element policies requiring the provision of greenbelts and other amenities may affect the cost to the developer of constructing housing. This in turn could affect the cost to the purchaser or renter of housing. The city requires that 10% of the land in a residential subdivision be dedicated and improved as neighborhood greenbelt. The greenbelt requirements do not reduce the number of units that may be built on a given parcel of land. Although a portion of the land is required to be built as greenbelt rather than housing, the number of allowed units is determined by the gross acreage of the parcel, including the greenbelt area. The greenbelts will reduce the lot size per unit, however, which may either reduce the market value of the unit or decrease developer profit. Similarly, on-site open space and parking requirements for multi-family developments also act to reduce the amount of land available for building.

Neighborhood greenbelts, like other recreational amenities, add to the cost of producing housing. They also add to the value of housing by increasing the desirability of the unit and the surrounding neighborhood. One of the reasons people want to live in Davis is the availability of bike paths and neighborhood greenbelts. Neighborhood greenbelts, by providing an off-street transportation system, also encourage travel on foot and by bicycle, reducing automobile congestion and assisting in the preservation of air quality. Thus, the costs associated with the greenbelt and open spaces are necessary and do not significantly impede housing provision.

Conclusion

Even though the City has passed many regulations that could potentially constrain development of housing for a variety of income levels, the City diligently pursues funding for affordable projects and is very active in the development of housing for lower-income persons. As such, the policies analyzed above do not unreasonably constrain Davis' housing market. This fact is demonstrated by the City's significant progress toward its regional housing needs allocation. By April 2008, the City had already facilitated the development of 62 percent of its RHNA for the

2006-2013 planning period. This included all of their extremely and very low-income allocations, 29 percent of low-, 18 percent of moderate- and 96 percent of their above moderate-income allocations. *The City will continue to monitor the effects of these policies and regulations to ensure they do not have a negative impact on the development of affordable housing* (see Policy 2.1 Action k).

In May 2009, city staff met with Chamber of Commerce representatives to discuss local housing development requirements and what their cumulatively impact on housing development in Davis may be, particularly with the softening of the housing market in recent years. While the market has softened, local development representatives estimated that a house that sold for \$510,720 in 2004 would still sell for approximately \$518,000 in 2009. While this is a profit loss compared to 2006 sales prices at the peak of the market when the same house sold for \$617,407, it shows that the local market has greater stability compared to the region overall.

Local requirement were also examined in these discussions with the business community. Due, in part, to this information-sharing, the middle income requirement was suspended in an effort to reduce development expenses. Based on feedback and data from the business community, the City now estimates that city requirements cost approximately \$36,500 to 44,900 per unit (not including development impact fees). With development impact fees included, the per unit cost likely increases to \$95,000. Therefore, if the unit sells for the estimated \$518,000, these locally required fees represent approximately 18% of the sales price, including profit losses based on affordability requirements and development impact fees. The City believes that this is not a burdensome impact on development but continues to evaluate its potential impact. Applications for housing construction continue to be submitted and processed with the city planning department. Currently there are approximately 312 units with planning approvals for development that have not been constructed. Developers have indicated that difficulty is in obtaining the necessary construction financing, particularly on ownership housing.

While costs of the city's inclusionary requirement are estimated at approximately \$20,000 per unit, these costs are offset by the City's one for one unit density bonuses that provide increased project revenue by allowing development of market rate housing units beyond city density limits. As shown in Implementation Section 07, Table 53a, Action 9, city staff will continue to "evaluate residential development policies (e.g. Middle Income Ordinance, Affordable Housing Ordinance, Accessibility/Visitability Policy, etc.) to determine if any one or combination of these policies constrains housing development." This review will continue to include input from the local development community as well as staff analysis.

Codes and Enforcement

Local Amendments to Uniform Building Code. The City of Davis has adopted the following notable amendments to the State of California's Uniform Building Code, in addition to minor edits mostly related to adapting it for local procedures:

- a. Required inclusion of outlets for electric vehicles in the garages of single-family units.
- b. Physical guard materials for gas-burning appliances to protect from damage.
- c. Physical guard materials for water heaters to protect from damage.

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- d. Provisions for future water softener systems in single-family and duplex units.

Other than these amendments and the adaptations (inserting City of Davis, Building Division, etc.), the City has adopted and enforces the standard Uniform Building Code (UBC). Under state law, this code can be amended by local governments only due to geographical, topological or climatological reasons. The UBC that the city operates under consists of Uniform Building, Plumbing and Mechanical Codes and the amendments made were done so on the basis on the necessary findings stated above. The building code may be considered to increase housing costs above the cost of nonstandard development. However, its benefits, including health and safety benefits, outweigh its disadvantages. The minor amendments made locally do not represent substantial additional costs and are not found to be a constraint on housing production.

Degree or type of enforcement. The City of Davis requires submittal of a building permit application, with project plans, that is reviewed by plan check staff for consistency with Uniform Building Code (UBC). Once the plans are approved and the permit is issued, inspections of the development at identified critical stages are required in order to ensure that the project is built consistent to the approved plans that reflect UBC requirements. A final inspection of all projects is required to complete one last review of the project against the city-approved plans. Final sign-off after this inspection constitutes issuance of Certificate of Occupancy (when applicable) and record of city approval on the project (large or small) that was completed.

Upon the resale of housing units, representatives of the City’s Building Division conduct an inspection to assess any noncompliance with UBC, including any work done to the housing unit without building permit issuance and final building inspection approval. Items identified in a resale inspection report are required to be addressed either by the existing owner selling the unit or by the future owner purchasing the unit. Buyer and seller are able to negotiate who will be responsible for addressing city-identified items. This program assists in providing full disclosure to buyers and ensures maintenance of the city’s housing stock.

In addition to the resale inspection program described above, the City also has a code enforcement program. This program is based on complaints received by the City requiring any code violation throughout the City, including building and zoning codes. The City responds to complaints, and takes the necessary steps to remedy instances where code violations are identified. The city-adopted steps related to noticing and enforcement are adhered to, and notices of code violation include information regarding the City’s appeal process. This program promotes compliance with city codes to ensure the health and safety of the community.

On and Off-site Improvement Requirements

The City of Davis, as is typical in most jurisdictions in the state, has various on- and off-site improvement requirements for residential developments. The city has established minimum standards required to assure orderly development similar to urban settings. The city has historically applied flexibility to the minimum standards in order to accommodate innovative residential projects or affordable housing projects as long as there are no public safety concerns. For instance, a local street right-of-way is a minimum of 50 feet. This width has been reduced in some cases to 36 feet or less in order to accommodate an affordable housing project, or an innovative residential subdivision. Examples where this flexibility standard has been applied

include Village Homes, El Macero Estates 2, Southfield Park 2 and 3, Glacier Place, Oasis Place, and Woodbridge subdivisions. It should be noted that planning values and traffic calming values have often been used as justification for such reductions. The 2001 General Plan update included changes in the traffic congestion level of service standards. These will serve to facilitate infill development projects and potentially reduce costs of mitigating traffic impacts when new development is approved.

The city believes that the on- and off-site standards do not constitute an unreasonable or unnecessary constraint on housing production. The provision of roadway, drainage, water and sewer and all underground utilities needed to deem a lot ready for residential development must be in place before the city accepts any public infrastructure. Also, no building permit will be issued for a lot that does not have infrastructure in place. The city does not approve subdivisions without adequate knowledge that there is sufficient public infrastructure capacity to accommodate the residential development. As stated in previous sections and shown in Appendix L of this Housing Element, there is adequate water, wastewater, and infrastructure to accommodate the City's RHNA for this planning period and up to the City's 1% Growth Cap for this same timeframe.

Processing and Permit Procedures

Historically multifamily discretionary review projects are submitted as part of a larger project. For example, the Wildhorse, Mace Ranch, Evergreen, or El Macero Estates 2 subdivisions contain multifamily General Plan and Zoning Ordinance designated parcels, which were established at the time of preliminary planned development stage. In most residential subdivision projects in the city, the General Plan and Zoning Ordinance land use designations for multifamily parcels are usually established at the preliminary planned development stage. Once this is done the level of entitlement review is far less cumbersome. There have been multifamily project applications requiring discretionary approvals, such as General Plan and Specific Plan amendments and rezoning applications.

The types of discretionary applications processed include:

- Annexation,
- General Plan Amendments,
- Specific Plan and Amendments,
- Preliminary Planned Development, Rezoning and Preliminary Planned Development, or Zoning Ordinance Amendments, and
- Phased Allocation or Development Agreement.

There are several variables that influence the length of processing time for a discretionary project. The factors include

- the type of project proposed and its location;

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- the time it takes the applicant to submit complete application materials;
- the number and nature of deviations requested from the conventional base zoning standards;
- the qualities of the proposed project, such as appealing, innovative, and compatibility with existing surrounding uses and structures;
- the level of controversy associated with the project; and
- the number of entitlements requested.

The typical conditions of approval that the city considers during a discretionary review include the following:

- Obtaining building permit prior to occupancy,
- Ensure that the developed project is in substantial compliance with the approved plans,
- The use will not constitute a nuisance and be detrimental to adjacent properties, and
- Other site/project specific conditions may apply to address issues raised due to the project, such as adequate on-site parking, open space and landscaping being provided.

All conditional use permit applications are reviewed subject to the standard of the city Zoning Ordinance, which states:

40.30.030 Considerations in issuing. In considering an application for a conditional use or nonconforming use, the planning commission or city council shall give due regard to the nature and condition of the proposed or existing use and all adjacent uses and structures. The planning commission or city council may deny an application for a conditional use. In authorizing a conditional use, the planning commission or city council may impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this chapter for the particular use, as the planning commission or city council may deem necessary for the protection of adjacent properties and the public interest.

40.30.080 Issuance.

(a) The planning commission or city council shall issue a conditional use permit provided the planning commission or city council is satisfied that the proposed structure or use conforms to the requirements and intent of this chapter and the city master plan, that any additional conditions and requirements stipulated by the planning commission or city council have been or will be met, and that such use will not, under the circumstances of the particular case, constitute a nuisance or be detrimental to the public welfare of the community.

(b) The planning and building director shall ensure that the development and use is undertaken and completed in compliance with such permit.

The timing of discretionary review can be quite variable depending on the level of public controversy. It is not uncommon for a non-controversial discretionary application to be acted upon within three to four months of the applications' filing. It should be noted that often the developers enter into a development agreement with the city. This negotiated agreement may affect the length of time a project takes before a final action on it. It is also worth noting that even when a project involves multiple discretionary actions, the city attempts to process them concurrently in order to minimize processing times.

Once a multifamily site has been identified in the Preliminary Planned Development Zoning, it typically requires a Final Planned Development and Design Review. If processed concurrently, these applications typically require four to six months but timing will vary with the complexity of the project. At the time of these final applications, there is much predictability in the process, as the Planning Commission and City Council review projects using the specified zoning as the basis for their subsequent decisions.

Most new residential developments in Davis are in a Planned Development zone and very few are subject to a conditional use permit (only in rare cases where it might have been required because of some special situation like an office or industrial district). The CUP process has no stronger relationship to Planned Development zoning districts than any other zoning districts (like conventional districts of R-1, R-2, R-3, etc).

Planned development zoning (as compared to conventional zones) are most frequently utilized by developers and the city because the PD zone allows for flexibility that is advantageous, especially for newer higher density projects and affordable housing projects in terms of setbacks, FAR, lot coverage, and other standards. There is not a separate process for affordable housing projects but since affordable housing sites are established at the time of approval of the PD zone for the larger project consisting of mostly market rate units, they do not need to go through the Preliminary Planned Development (establishment of the basic zoning and uses including affordable housing) stage. They do have to go through the standard Final Planned Development stage which is basically a site plan stage with overlap with design review (if design review even applies). Therefore, the planned development zoning does not negatively affect affordable housing development as most affordable housing sites are already within a PD zone and no additional layer of regulation is placed on the development of the actual affordable units.

For non-discretionary single-family projects, only a site plan review is required, which is an over-the-counter task. Then the process to secure a building permit takes approximately 1 to 2 weeks. For a non-discretionary multifamily projects, noticing and public comment periods plus design review take approximately 4 weeks to process.

Design Review Process

The citywide design review section of the zoning code (40.31, Site Plan and Architectural Approval) applies to multi-family and commercial projects but not single family projects. The guidelines consist of "Principles to be Followed" and "Findings for Approval", which are both

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listed below. These principles and findings are intentionally general and flexible because of the wide variety of projects that are reviewed and their context.

Principles to be Followed:

In carrying out the purposes of this article with respect to the external design of buildings and site plans of all proposed new buildings, structures or uses for which site plans and architectural review is required, the following principles shall be applicable:

- (a) Review of architectural character shall not be so restrictive that individual initiative is stifled in the design of any particular building or site or that substantial additional expense is required. Rather, it is the intent of this article that the review exercised shall be the amount necessary to achieve the overall objectives of this article;
- (b) Good architectural and landscape architectural character is based upon the suitability of a building or site for its purposes; upon the appropriate use of sound materials, good relationship with other structures and the character of the city; and upon the principles of harmony, preparation and design in the elements of the building or site;
- (c) Good architectural and landscape architectural character and site planning design are not, in themselves, more expensive than poor architectural character and poor site planning design, and are not dependent upon the particular styles of architecture; and,
- (d) Review of sign graphics shall be based upon suitability of the sign colors, placement, design to overall building design and adjacent sign themes. The community development department shall consider the extent, design and location of all temporary signs in the review of sign graphics. (Ord. No. 1694, § 1 (part).)

Findings for Approval:

(a) A site plan and architectural (design review) application shall be approved, conditionally approved, or denied by the Planning and Building Director, Planning Commission, or City Council pursuant to the requirements of article 40.39 of this chapter. The Design Review would go to one of these decision makers based on the approval requirements of the accompanying zoning applications. On its own, a design review only requires administrative approval. With a conditional use permit or final planned development, Planning Commission approval is required. If attached to a rezoning or a General Plan amendment then City Council approval is necessary.

Such application may be approved only if the following findings are made:

- (1) The proposed project is consistent with the objectives of the general plan, complies with applicable zoning regulations, and is consistent with any adopted design guidelines for the district within which the project is located;
- (2) 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;

(3) 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;

(4) The proposed project will not create conflicts with vehicular, bicycle, or pedestrian transportation modes of circulation; and

(5) 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.

Actual physical guidelines are not listed in the code except for the downtown area, which includes the Commercial areas and Traditional Residential Neighborhoods. More specific guidelines have been established for the downtown area and the traditional neighborhoods surrounding the downtown. These consist of principles and guidelines consisting of written guidelines supported by illustrations. The design guidelines for the Traditional Residential Neighborhoods have the following guidelines:

- Design a front elevation to be similar in scale to those seen traditionally on the block.
- Minimize the perceived scale of a building by stepping down its height toward the street and neighboring smaller structures.
- The primary building face should not exceed the width of a typical single family building in a similar context.
- Break up the perceived mass of a building by dividing the building front into “modules” or into separate structures that are similar in size to buildings seen traditionally in the neighborhood.
- If a garage door is to be incorporated, design it to minimize its visual impacts.
- Locate doors and windows to respect the privacy of neighboring properties to the extent possible.
- Use building forms that are similar to those seen traditionally.
- Use roof forms that are similar to those seen in the neighborhood.
- Brick, stucco and painted wood are suggested primary building materials.
- Roof materials should appear similar in scale and texture to those found traditionally.
- Adaptive reuse of existing buildings is strongly encouraged.
- An addition should not strongly alter the perceived character of the original building.
- The roof form of the new addition should be in character with that of the original building.

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- For an existing structure that is listed as a historically significant property, design a new addition such that the evolution of the building can be interpreted.
- A new addition should respect the mass and scale of the main building.
- Site the addition to minimize visual impacts on the street and on adjacent properties.
- Locate a secondary structure at the edges of the building lot in a traditional manner while providing adequate.
- Locate doors and windows on a secondary structure in such a way as to respect the privacy of neighboring properties to the extent possible.

The Site Plan and Administrative Review process is governed by Article 40.31 of the Davis Municipal Code. The majority of design review applications are processed administratively. Owners of property within 500’ of the site receive notification, but no public hearing is required unless there is substantive comment that an application should not be approved.

Considerations for granting design review approval are found in Section 40.31.085. These include objective criteria such as compliance with zoning standards, as well as interpretative criteria such as neighborhood compatibility.

The design review process entails the following steps:

- Determination of whether application is complete (must be completed within 30 days)
- Determination of consistency with zoning and other policy documents
- Consultation with other departments and agencies, depending on location (such as Public Works, State Fish and Game)
- Determination of consistency with Design Guidelines for the Downtown and Traditional Residential Neighborhood Design Guidelines, if applicable
- CEQA determination

If project is consistent, it proceeds to the public review process

- Usually, the Community Development Department mails a notice of its intent to approve the application to owners of property within 500 feet of the site. If there are no substantive concerns raised within 10 days, the project is approved.
- If a design review application is being processed concurrently with an application requiring public hearing (such as a rezoning), all entitlements are scheduled together

The Phased Allocation Ordinance, the Affordable Housing Ordinance, and the Middle Income Housing Ordinance were discussed in the sections above. Usually applications that are applicable to a project under these ordinances are filed concurrently with other discretionary applications

like General Plan and Specific Plan amendments, and/or rezoning/zoning amendments applications for a residential subdivision. Affordable Housing Plans under the Affordable Housing Ordinance and Middle Income Housing Ordinance do require review by the Social Services Commission. While there is little to no additional time required for these applications because of the Commission’s accommodation of project applications, there is additional processing that this entitlement requires. This review is not found to negatively impact a project or hold up the processing of an application.

Processing Fees and Exactions

Processing fees. The City Council through ordinances and resolutions establishes fees for building permits and planning and engineering services. These include the full cost of the preparation of environmental impact reports when necessary, and payment based on amount of city staff time spent for plan checking, inspection of improvements and other necessary services. The fees are based on studies that analyze staff time and prevailing fees in the surrounding localities.

State law requires that local permit processing fees charged by local governments must not exceed the estimated actual cost of processing the permit. Table 52 below lists the current fees assessed with the processing of planning and building permit applications. There are two types of fees associated with planning applications: fixed/flat fees and deposit fees. Flat fees provided a standard cost for the processing of its corresponding application without regard to whether the actual project takes more time or less time to process. Deposit fees allows the City to refund projects that are less staff intensive then others and charge projects that require additional time based on the specifics of a project.

The hourly rate in the schedule is applied to the deposit. The deposits were established based on the actual costs of processing using estimated number of hours plus overhead. Upon completion of a project applications review, any remaining amount on the deposit is refunded to the applicant. If there are outstanding balance to be paid the applicant is sent a bill. Fees charged by the Community Development Department are estimated to account for 72% of its total support operations. The remaining operations support funds are derived as follows: 22% from the City of Davis General Fund, and 6% from Construction Tax, Development Impact fees, Grants and Redevelopment funds.

Table 52: City of Davis Planning Division Fee Schedule, Effective July 1, 2007

Application/Fee Type	Fee Amount	Fee Type
Hourly Rates		
Technical Support	\$70.00	Per hour
Junior/Assistant Planner	\$130.00	Per hour
Planner/Management/Supervisor	\$161.00	Per hour
Design Review		
Administrative Approvals-Outside downtown and Traditional Residential Neighborhoods and Design Guidelines. Includes building additions and changes to existing site plans, but not new structures. Includes minor modifications and garage conversions. (Includes categorical exemption fee)	1,100	Fixed fee

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Application/Fee Type	Fee Amount	Fee Type
Design Guideline Areas-Tier II design review	1,000	Deposit
Design Guideline Areas-Tier III design review	2,000	Deposit
Minor Improvements/Design Guideline Areas-Tier I review Project <u>not</u> requiring a categorical exemption	77	Fixed fee
Projects requiring a categorical exemption	231	Fixed fee
Design Review (COA) of Historic Structures- Not Categorically Exempt. (Exempt projects- no fee.)	1,000	Deposit
New Projects –all new buildings	2,000	Deposit
Planning Commission –Additional deposit for referral to Planning Commission	1,000	Deposit
Sign Program	1,000	Deposit
Signs/Facades/Projections – Other than through an approved sign program	403 Includes mailing costs, if fewer than 100 pieces.	Fixed fee
Environmental Review		
Categorical exemption	154	Fixed fee
Negative Declaration	500	Deposit
EIR Preparation	Full payment of cost estimate or contract + 20% administrative fee	
Yolo County- Notice of Determination filing fee	50	Fixed fee
California Department of Fish and Game filing fees Negative Declaration* EIR* *Includes \$50 Yolo County filing fee	\$1,850 \$2,550	Fixed fee due at planning application submittal
Housing/Owner Occupancy		
Affordable Housing Plans Review	\$900	Deposit
In-lieu Housing (Affordable units) Discounts will be given for vertical mixed use projects and projects that include 75% stacked airspace condominiums. Discounts include a \$10,000 reduction of the per unit fee for vertical mixed-use buildings and a \$5,000 reduction of the per unit fee for ownership projects that include 75% or greater of the project’s residential square footage as stacked air space condominium units. Projects that are both vertical mixed-use and predominantly composed of stacked air space condominium units shall receive a \$15,000 total reduction. (Please Note: Vertical mixed-use for the purpose of calculating Affordable Housing In-lieu fees is defined as a multi-story building that incorporates residential units above first floor commercial and/or office space.)	\$37,500	Per unit
Owner Occupancy Declaration	\$204.36	Fixed fee
Exemption	\$196.50	Fixed fee
Phased Allocation Plan	\$2,000	Deposit
Map Applications		

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Application/Fee Type	Fee Amount	Fee Type
Tentative Map (5 or more parcels)	\$3,000	Deposit
Other Maps/Vacation of right of way/Lot Line Adjustment	\$1,000	Deposit
Parking		
In-lieu parking space for all zoning districts, excluding Central Commercial (CC) and Mixed Use (MU)	\$8,000	Per space, Resolution No. 8343, adopted April 22, 1998
Central Commercial (CC) and Mixed Use (MU) zoning districts	\$4,000	Per space, Resolution No. 04-51, 2004 adopted February 17, 2004
Zoning		
Conditional Use Permit: Minor (Second unit, guest house, core area fast food)	\$1,200	Deposit
Major (all other)	\$3,000	Deposit
Final Planned Development & Revised Final Planned Development	\$2,000	Deposit
Home Occupation Permit (Includes categorical exemption fee for environmental)	\$231	Fixed Fee
Minor Modification Not referred to Planning Commission	\$1,100	Fixed Fee
Referred to Planning Commission	\$2,000	Deposit
Prezoning/Rezoning/Preliminary Planned Development	\$5,000	Deposit
Public Convenience or Necessity Determination	\$1,000	Deposit
Temporary Use Permit: Not requiring mailing or environmental review	\$77	Fixed Fee
Requiring mailing	\$1,100	Fixed Fee
Variance	\$1,600	Deposit
Zoning Letter/Determination of permitted use	\$77	Fixed Fee
Zoning Ordinance Amendment	\$4,000	Deposit
Zoning Verification (Planning Commission)	\$500	Deposit
Other Applications		
Annexations	\$3,000	Deposit
Appeals - A flat fixed fee to be paid by the Appellant. Hours will be charged against the project, all costs in excess of the initial \$200 shall be paid by the Applicant/ Developer	\$200	
Development Agreement: Preparation/Implementation	\$8,000	Deposit
Annual Review	\$1,500	Deposit
Amendment	\$2,000	Deposit
General Plan Amendment	\$4,000	Deposit

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Application/Fee Type	Fee Amount	Fee Type
Specific Plan Amendment	\$3,000	Deposit
Grading Permit:		
Biological Survey	\$1,000	Deposit
No survey required	\$308	Fixed fee
Long-range Planning/Community Planning fee *Charged to new residential & commercial projects only	.002 of building permit valuation	Charged at building permit
Pre-application	\$1,500	Deposit
Pre-application meeting (1-one hour mtg)	\$150	Fixed fee
Research	\$500	Deposit
Yolo County Referrals:		
<i>Less than 1 acre</i>	\$500	Deposit
<i>1 Acre or more</i>	\$4,000	Deposit
All other applications	\$500	Deposit
Plan Checking		
Landscape Plans	\$770	Fixed Fee
Plot Plan Review (at building permit)	Actual hourly rate charged at building permit	
Code/Zoning Enforcement		
Administrative Citations		
First violation	100	
Second violation of same Ordinance within one year	200	
Each additional violation of same Ordinance within one year	500	
Notice and Order- Violation of Building/Safety Codes (Infraction)- First violation	100	
Second violation of same Ordinance within one year	500	
Each additional violation of same Ordinance within one year	1,000	
Administrative Citation and Notice and Order Appeal Fee (3 hours of Code Enforcement Coordinator's time) Non-refundable	\$282, or the amount of the fine, whichever is less	
Late payment fees (over 30 days due)	10%	

Notes

- 1) *If the deposit exceeds the final actual cost, the balance will be refunded to the Applicant.*
- 2) *The Community Development Director may reduce deposits if deemed appropriate.*
- 3) *Refund Policy:*
 - *Refund requests must be submitted in writing.*
 - *Fixed fee applications: a refund will not be granted, if the project has been noticed for a public hearing. If the project has not been noticed for a public hearing, the refunded amount will be the original fee paid, less the cost of staff hours worked on the project, less a \$30 administrative processing fee.*
 - *Withdrawn applications: if staff has not completed any work on the project, a refund of the original fee paid, less a \$30 administrative processing fee will be made.*
 - *Deposit applications: any unused deposit fee, after project completion, shall be entirely refunded.*

Development Fees

One effect of Proposition 13 in Davis, as in many California cities, has been an effort to require that new developments pay for themselves. The city has imposed a number of fees on new commercial, industrial, and residential development: Development Impact Fees; Construction Taxes; and Building and Planning Fees. In addition, the city collects a school fee for the Davis Joint Unified School District.

The physical infrastructure needs of the city are identified and defined as capital facility projects in the city conducted Development Impact Fee Study. The study provides detailed information on the expected costs of these facilities, and allocates costs appropriately based on the type of development that trigger the need for the project. State law limits the extent to which local governments can place the burden for new facilities on new development. The law requires that fees show a "reasonable" relationship or nexus between the type of development on which the fee is imposed and the public facilities being financed by the fee revenue.

Residential developers are required to bear much of the cost of the development review and approval process as well as to pay fees to provide services and insure adequate facilities for the residents of new projects. Given strong housing demand, fees and exactions are unlikely to limit the amount of housing built in the city, but they do increase the cost of producing housing. The impact on consumer home prices and rents is likely more influenced by market forces than the costs of production.

The fees collected by the Davis Building Division at the time of permit issuance, which are associated with new residential construction relative to building code, include the following:

- State of California Strong Motion Fee. This is a state-mandated tax for seismic monitoring, and it is applied to residential construction.
- Davis Unified School District Impact Fee. The school impact fee is assessed using the following formula: 1) Residential = sq. ft. x \$2.49. Residential addition over 500 sq. ft. = sq. ft. x \$2.14; 2) Commercial = sq. ft. x \$.34; and 3) Industrial = sq. ft. x \$.27.
- Yolo County Development Impact Fee of \$1,414.60 for new homes (commercial and industrial rate varies) is paid at Yolo County Planning Department in Woodland prior to issuance of building permit.
- Construction Water Fee of \$81.75 is paid for valuation of construction from one dollar up to \$100,000, and scaled for valuations over \$100,000.
- Water Meter and Backflow Preventor Permit Fees of \$106 for residential construction.
- Construction Tax Fee of \$2.16 per square foot for residential and commercial and \$1.72 per square foot for multi family.
- Plan Check Fees are collected for the review of plans for the projects. The fees charged often depend on the level of review involved prior to approval of the plans. Stock plans are charged \$175.00 administrative fee in lieu of the full plan check fee.

Section 5 – Constraints to Housing Production

- Development Impact Fee is approximately \$23,000 to \$24,000 for a new single family dwelling. Development impact fees are enabled by state law to provide funding for capital facilities needed to adequately serve new development. The fees established by the development impact fee resolution adopted by the city are adjusted to account for the following factors: 1) normal cost increases associated with annual changes in the Engineer News Record Construction Cost Index, 2) the share of existing project cost increases and decreases assigned to future development, 3) the share of new project costs assigned by the Public Works Department on a case-by-case basis to future development, and 4) General Plan changes that alter a parcel's expected development potential or densification. Thus, the exact amount of development impact fee will depend on the factors as evaluated in the city resolution establishing a schedule for increasing development impact fees. The City provides fee estimates to developers and based on three recent projects in the City, the following fees are considered “typical”:
- Based on the recently completed New Harmony, total fees for this 69-unit multifamily project were approximately \$2,638,362 total or \$38,237 per unit. This represents approximately 11 percent of the total project cost, which was \$23,422,903.
- Based on the recently built Chiles Ranch-Simmons subdivision, total fees for this 108 units subdivision was approximately \$5,889,806 or \$54,535 per unit.
- Based on another recent project, Cesar Chavez, fees account for approximately 8 percent of the total overall housing development costs.

The City’s development fees are applied to all developments. The fee shown here include all City planning, building and public works fee as well as development impact fees including roadways, drainage, sewer, water, parks, open space, public safety facilities, and general facilities fees. The City does not offer fee waivers but actually provides financial assistance to affordable housing developments that demonstrate the need for this assistance.

Exactions

Typically new housing projects are only required to pay and provide for fees and requirements discussed above—development impact fees, processing fees, affordable housing units, and middle income units. When a project requires a larger degree of entitlements, particularly annexation or a General Plan amendment, the City can consider and determine the merit for additional project exactions through a Development Agreement based on the unexpected change in land use that was not previously planned for. Exactions that have been discussed in previous projects are typically associated with provisions for public safety services for the development, parks services and maintenance, and installation of a city well site. The City has not identified any instance when a project has been withdrawn or left incomplete due to the other exactions negotiated within a Development Agreement. The City does not find these exactions to be an impact on housing development.

5.0 B. Governmental Constraints On Housing for Persons with Disabilities: Reasonable Accommodation, Building Code, and Land Use Requirements

The City could not identify any specific governmental constraints that hinder the provision of housing for persons with disabilities. With recent affordable housing projects, the City has partnered with local housing and supportive services organizations that specialize in providing housing and services to persons with varying types of disabilities. The City of Davis has affordable housing units for households with the following types of disabilities: physical, mental, developmental, and drug/alcohol dependency. The following is a checklist of potential constraints on housing for persons with disabilities:

- The City has an adopted Uniform Building Code with a universal design element. The City has adopted the Reasonable Accommodations Ordinance and the Checklist Ordinance that are related to some standards in Building Code. Both are in Chapter 18 of Code, Housing Chapter
- The City enforces the requirements of SB 2787 and AB 1400 and adopted an ordinance requiring the offer of a checklist of features. The City also requires accessibility and visitability in new single-family units, requires building code accessibility for multi-family units, and for units with funding or land donation from the city increased accessibility is strived for. (policy listed in Draft Housing Element).
- The City has a process for persons with disabilities to make requests for reasonable accommodation. The ordinance is described below. Information about this procedures are make available through the ADA Coordinator by contacting ada@cityofdavis.org or by calling 530 757-5626 Ext. 7355 or TTY at 530 757-5666. The information is also available at the Community Development Department and the City’s website.
- In reviewing zoning laws, policies and practices for compliance with fair housing law, the City removed restrictions during its last Housing Element period related to a maximum number of unrelated adults within a household because it was determined to be out of compliance with such laws
- Parking standards for persons with disabilities are not different, but the city will allow for “parking reserves” (landscaped areas that can act as back-up parking spaces, developed as needed) if a reduced reliance/need for parking spaces can be demonstrated.
- The City’s Land Use Element does not regulate the siting of special housing in relationship to each other.
- The City does not restrict the siting of group homes with six or fewer clients, which are permitted by-right in all residential zoning districts.
- Larger group care homes are a conditionally permitted use in all of the residential zones. The conditions for these homes are no different than the conditions for any other use (as listed in the Section on Processing and Permit Procedures).

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- The City does not have occupancy standards based on family defined as relation by blood, marriage or adoption. Occupancy is only regulated by health code and leases between owners and tenants.
- The City does not have a set of particular conditions or use restriction for group homes with greater than six persons. These would go through the typical conditional use permit process to consider compatibility with adjacent uses.
- Group care homes with greater than six persons requiring a conditional use permit would include a possible neighborhood meeting, a neighborhood comment period, and a public hearing at the Planning Commission, with a 10-day appeal period of the Commission's decision. Appeals would be referred to the City Council. This is typical of the conditional use permit process.
- No particular conditions are set for group homes that provide services on site.

The City of Davis is an entitlement community for federal Community Development Block Grant (CDBG) funds. Each funding cycle of CDBG funds, the City identifies necessary projects in public areas (parks, curbs, sidewalks, and intersections) and city-owned facilities to increase accessibility. For fiscal year 07-08, \$537,581 of the City's \$827,046 total allocation of CDBG funds was set-aside and used for City accessibility projects. Consistent with this year, it is typical that sixty-five percent of CDBG funding be committed to city accessibility projects. Most of these projects are based on items that were identified in the City's Americans with Disabilities Act Self-Evaluation that was completed approximately ten years ago, although projects of great importance identified outside of the evaluation can be considered as well. An updated Self-Evaluation is currently underway by the City's Americans with Disabilities Act Subcommittee of the Social Services Commission. Staff is currently working with the subcommittee is currently collecting information regarding accessibility needs in City programs, facilities, and public areas. Once the information is collected, staff will summarize the needs identified and will provide a report to the Subcommittee, Commission, and City Council. The updated Self-Evaluation is anticipated to be adopted by December 2010.

The City has also encouraged a greater amount of accessibility in all new housing units using the state's checklist of accessibility features. The City will soon complete processing an ordinance requiring the offer of such features in all new ownership housing units. And in 2007 the City adopted the Visitability/Accessibility Housing Policy (described in Section 5.0) that requires projects requesting legislative approval to incorporate first-floor accessibility into low and moderate income units and visitability into all above moderate units. Modifications and exemptions are made for small projects, projects with net densities of 12.5 units/acre or greater, and projects within the City's Core Area (downtown).

Reasonable Accommodation Ordinance

The City has approved variances and minor modifications in the past when it has been asked for a reasonable accommodation. Related to Reasonable Accommodations, the Zoning Ordinance allows deviations in parking requirements to increase dwelling accessibility for individuals with physical disabilities. An application may be submitted by any interested party with the consent

of the property owner. The processing fee is that charged for all administrative design review applications. There is an administrative fixed fee of \$100 for requesting a determination from the Handicapped Access Standards Board of Appeals for building code issues. Any fees that are found to present a hardship to an applicant are further considered and can be reduced or waived by the Community Development Director if found to be a barrier to a reasonable accommodation.

Additionally, the City adopted a reasonable accommodation ordinance in July 2008. The ordinance provides a structure for the processing of reasonable accommodations in the City. As stated in the ordinance “ reasonable accommodation in the land use and zoning context means providing individuals with disabilities or developers of housing for people with disabilities, flexibility in the application of land use and zoning and building regulations, policies, practices and procedures, or even waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities.” A request for a reasonable accommodation can be made by completing the City of Davis Request for Reasonable Accommodation form to the Community Development Departments with the: name and address of individual(s) requesting reasonable accommodation; name, address and telephone number of property owner(s); address of the property for which accommodation is requested; the current actual use of the property; description of the requested accommodation and the zoning code provision, regulation(s), policy or procedure for which the accommodation is requested; the basis for the claim that the individual is considered disabled under the acts; and reason that the requested accommodation is necessary for the individual(s) with the disability to use and enjoy the dwelling.

If the project for which the request for accommodation is made also requires a discretionary approval (conditional use permit, design review, general plan amendment, zoning change, annexation, etc.) the application for that approval must be submitted with the request for accommodation for concurrent review. There is no fee for the reasonable accommodation request alone, but any fees for other discretionary approval still apply for that application. A request for reasonable accommodation in regulations, policies, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual’s obligations to comply with other applicable regulations not at issue in the requested accommodation. If an individual needs assistance in making the request for reasonable accommodation, the City will provide assistance to ensure that the process is accessible.

Requests for accommodation are reviewed by the Community Development Director if no discretionary approval is requested alongside the request for accommodation. The Director must issue a written decision within 45 days either granting the accommodation, granting with modifications or denying the request. The City evaluates the following to determine if the request is reasonable:

- Would impose an undue financial or administrative burden on the City; or
- Would require a fundamental alteration in the nature of a City land use and zoning, building program or State or Federal laws.

The following factors are considered in making a finding on the request:

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- Whether the housing, which is the subject of the request for reasonable accommodation, will be occupied by an individual with disabilities protected under fair housing laws;
- Whether the requested accommodation is necessary to make housing available to an individual with disabilities protected under the fair housing laws;
- Potential impact on surrounding uses and residents
- Potential benefit that can be accomplished by the requested accommodation;
- Physical attributes of the property and structures;
- Alternative reasonable accommodations which may provide an equivalent level of benefit.
- Whether the requested alteration can be removed if the housing unit is not occupied by a person requiring the requested accommodation.

The Community Development Director can impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with these findings.

The City provides notice of the availability of reasonable accommodations as well as the application form at the public information counters in the Community Development Department and it is also posted on the City's web site.

With the combination of these steps and policies, the City continues to adopt policy and create procedures to reduce any barriers to housing for persons with disabilities in Davis.

5.0 C. Efforts to Remove and Reduce Governmental Constraints

The City has shown its ability to meet its RHNA for the current planning period. However, the City recognizes the need to remove constraints to housing and a policy category in Section 6 of this document is devoted to it. In addition to the programs, policies, and actions in Section 6, the City has already adopted the following local efforts to remove potential governmental constraints that might hinder housing availability and affordability:

- The City has exempted all affordable housing and multi-family projects from Phased Allocation Plan requirements under the city's growth management program.
- The City has exempted all affordable housing, second units, and vertical mixed-use projects from the one-percent growth cap.
- The City has granted density bonuses for provision of affordable housing and housing for seniors, consistent with state law and the Affordable Housing Ordinance.
- The City has adopted reduced affordable housing in-lieu fees and parking fees for downtown/Core Area mixed-use development.

- The City has continued to maintain a supply of land adequate to meet its Regional Housing Needs Allocation for housing at all income levels and is currently reviewing potential housing sites for other future city needs.
- The City has developed and implemented guidelines for infill development and offers fee reduction and reduced requirements for in-fill development comprised of mixed-use and/or condominium development.
- The City has provided exempted small projects and rental projects from the City's Middle Income requirements.
- The City has provided exemption categories for small projects (fewer than 5 units), medium and high density projects (12.5 unit/net acre and greater), and small projects (15 units or fewer) in the downtown/Core Area from the Visitability/Accessibility Policy requirements.

Measures taken to reduce governmental constraints on housing for persons with disabilities is detailed in subsection B above.

5.1 Non-Governmental Constraints to Housing: Construction Financing, Price of Land, Cost of Construction

Nongovernmental constraints are those factors limiting the availability of affordable housing over which local government has limited or no control. State law requires that this Housing Element contain an analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction. The nongovernmental analysis includes:

- Availability of construction financing.
- Land costs.
- Construction costs.

5.1 A. Availability of Construction Financing

In spite of continued housing demand and property values locally, financing for new construction has become both more conservative and expensive with the recent mortgage lending issues and the slow economy that is currently impacting all lending branches. Even successful and experienced local for-profit developers have stated that in recent months they are only being offered in the lesser of these following calculations:

- 75% of the total project costs; or
- 65 to 70% of the projected appraised value of the completed subdivision

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There is some ability to increase these percentages up to five percent more if the developer has pre-sold housing units being developed and has deposits from buyers prior to construction start.

Non-profit developers also face a different challenge. Most of their construction costs come from governmental sources. Government funds for affordable housing are limited. Additional funds were set aside with the passing of Proposition 1C in 2007, but there is always greater demand than resources. Non-profit developers face nationwide and statewide competition for these funds. In addition, the city financially assists the non-profits with construction costs. The city offers assistance from its Redevelopment Housing Set-Aside, Housing Trust Fund, HOME and CDBG funds. Even these funds are limited and the Redevelopment Agency had to issue a Housing Bond early last year in order to generate cash on hand for current projects.

For homebuyers, interest rates have a major impact on housing affordability, as discussed in Section 3 of this document. There have been some recent decreases in interest rates, but with the recent mortgage crisis and high percentage of foreclosures, lenders have tightened up qualifying standards more than in the past. This makes silent second and downpayment loans to low and moderate income buyers even more critical. Having cash on-hand (even as a loan) for the transaction decreases lender risk and increases buyer's affordability.

There is no data to indicate that financing is less available in the Davis area than elsewhere in the region or state. Financing is generally available in Davis for new construction, rehabilitation and refinancing. The overall steady housing market of the City adds to the attractiveness for lenders to locate here. During the last planning period and the beginning of this one the City has offered silent second mortgages through the CalHOME Program and plans to continue this program in future affordable housing projects and funding cycles. It should be noted that the City has no control over the financial feasibility of any housing transaction relative to financing. Lenders weigh individual housing transactions on their merit using their individual underwriting standards. The City has been told by buyers of affordable housing units that the California Housing Finance Agency (CalHFA) will not provide mortgage products to the City's units based on the existing affordability requirements. The City began working with CalHFA last year to remedy their concerns in order to gain availability of their loan products in all city affordable housing projects. This is an action item included with the Implementation Plan of this Housing Element.

It is not believed that financing would be an impediment to availability and affordability of housing in Davis because of the many institutions seeking to lend money at the current market conditions. This is based on the attractiveness of Davis to lenders due relative stability of its housing market and values. The City is working with CalHFA to expand availability of their loan products into all affordable housing opportunities.

5.1 B. Land Costs

Many factors and variables influence the cost of land, these include such things as: land scarcity, location, unique on-site features, lot size, accessibility, availability of services, type of financing between buyer and seller, Zoning and General Plan designation. Typically the cost of land is the largest component of housing development costs. While the City can directly control the housing

supply through Measure J and the Phased Allocation growth management program, there is little that it can do to influence the market price of land.

As of early 2008, the cost of an improved, or ready-to-build residential lot ranges from \$210,000 to \$375,000, depending on lot size, location, zoning, and other factors. For instance, locations next to open spaces, such as a golf course, greenbelts, or Putah Creek, demand higher land values, while locations near the freeways (especially I-80) are less valuable, due to noise and traffic concerns.

There has been a slight decrease in land values during the past three years. For a residential lot, or group of lots, the current cost typically ranges from \$35 to \$45 per square foot. In 2005, the same lot might have been sold at a range closer to \$58 to \$68 per square foot. This notable decrease will likely provide additional affordability within opportunities for residential development in Davis.

5.1 C. Construction and Improvements Costs

The costs of construction are based on several factors that include labor, materials, development fees, and land. Construction costs vary depending on the type of development. Generally, single family housing is more expensive as compared to multifamily housing construction costs. As of January 2008, local developers contacted by staff estimate that production-builders' construction cost for home ranges from \$80 to \$95 per square foot. The custom home built by small builders' construction cost is a range of \$125 to \$150 per square foot. Because builders often attempt to maintain a constant ratio of land to building cost, increasing land values can result in increases in proposed unit size and amenities, further increasing the cost of the completed home.

The range of construction costs for affordable multi-family projects in Davis as of February 2008, was \$150 to \$180 per square foot. Affordable multi-family housing projects cost more than market-rate multi-family projects. The range of construction costs for market-rate multi-family projects was \$130 to \$160 per square foot for the same period. Production builders have low construction costs compared to non-production builders in both single-family and multi-family housing projects.