

**Planning Commission Minutes  
Community Chambers  
Wednesday, November 12, 2008, 7:00 p.m.**

Commissioners Present: Mark Braly, Ananya Choudhuri, Rob Hofmann , Kris Kordana, Mike Levy (7:16 pm), Terry Whittier

Commissioners Absent: Greg Clumpner

Staff Present: Katherine Hess, Community Development Director; Mike Webb, Principal Planner; Ike Njoku, Planner; Xzandrea Fowler, Planner; Rhys Rowland, Assistant Planner; Lynanne Mehlhaff, Planning Technician

---

**1. Call to Order**

Vice Chairperson Braly called the meeting to order at 7:00 p.m.

**2. Approval of Agenda**

The agenda was approved by consensus.

**3. Staff and Commissioner Comments (No action).**

Mike Webb, Principal Planner, reminded Commissioners of the upcoming Ethics Training session with the City Attorney on Monday, December 1, 2008.

**4. Public Communications**

There were no public communications.

**5. Consent Items**

- A. Planning Commission minutes of May 28, 2008**
- B. Planning Commission minutes of June 25, 2008**
- C. Planning Commission minutes of October 8, 2008**

**Action:** Commissioner Whittier moved approval of the consent items. Mike Webb made a correction to page 3 of the October 8, 2008 minutes under item #B, to add the words “Waiver of Tentative Map #15-07” instead of the words ‘Parcel Map #15-07.’ Commissioner Whittier accepted the changes. Commissioner Choudhuri seconded the motion. Commissioners Choudhuri abstained from the minutes of May 28<sup>th</sup> and June 25<sup>th</sup> and Commissioner Hofmann abstained from October 8<sup>th</sup>, 2008.

The minutes were all approved by consensus.

## **6. Public Hearings**

### **A. PA #27-05, Haussler Subdivision at 2627 E. Covell Boulevard, General Plan Amendment #08-07, Zoning Amendment #03-05, Final Planned Development #04-05, Tentative Map #05-05, Negative Declaration #06-05; (*Rhys Rowland, Assistant Planner*)**

Public Hearing to consider a proposal to demolish an existing single-family residence located on a .80 acre property, swap some land with the city, subdivide the reconfigured properties into five parcels, and amend the zoning and general Plan land use designations for the properties located at 2627 E. Covell Boulevard. Eventual development proposed at the site includes the construction of four two-story single family residential homes with landscaping and a greenbelt to the east.

Commissioner Whittier recused himself due to the site being within 500 feet of his residence.

Rhys Rowland, Assistant Planner, presented the staff report.

Vice-Chairperson Braly opened the public hearing.

Mark Rutheiser, a developer of the property, explained the development of the parcel. He pointed out how other private drives have no streetlights and they are requesting that condition be dropped in the conditions of approval. Also, Condition #10, Covell Bike Path, would like that condition changed due to cost and risking damage to the large trees in that area.

Vice-Chairperson Braly closed the public hearing.

Will Marshall, Assistant City Engineer, said page 28, Condition #5, Street Lighting condition can be deleted. On page 30, modify Condition #25 Project Identification and Street Addresses as follows: *All of these properties will be addressed with a Moore Street address so there will not be a separate private street.* Additionally, revise the condition to state *the applicant shall provide information showing what the house numbers are and that they are adequately visible*

from the street to the satisfaction of emergency services and the Public Works Department. On page 34, Condition #29 Backflow Equipment should be deleted in its entirety. On Condition #32 Fire Department Requirements, this condition will be reviewed by the Fire Department and changes can be made before the application goes before the City Council.

**Action:** Commissioner Choudhuri moved approval of the project as recommended by staff. It was noted additional discussion will be needed for City Council to resolve the alignment of the pathway on the Covell Boulevard frontage as it relates to Condition #10. Commissioner Hofmann seconded the motion.

**AYES:** Choudhuri, Levy, Kordana, Hofmann, Braly  
The motion carried 5 to 0.

- B. PA #77-07, Grande School Site Subdivision, General Plan Amendment #7-07, Rezoning and Preliminary Planned Development #7-07, Development Agreement #4-07, Affordable Housing Plan, Vesting Tentative Map #2-07, Final Planned Development #11-07, and Mitigated Negative Declaration #8-07; (Ike Njoku, Planner)**  
Public Hearing to consider approval of planning entitlement applications to subdivide the Davis Joint Unified School District's vacant 8.83 acre parcel into 41 single-family residential lots. The subdivision includes provisions for greenbelt parcels to the east and west of the site, additional parkland dedication to be added to Covell Park to the south, Grande Avenue improvements and internal public roadway. The proposed 41 units are made up of 27 market-rate lots, 8 affordable lots and 6 middle-income lots.

Commissioner Hofmann recused himself due to the site being within 500 feet of his residence.

Commissioner Whittier returned to the meeting.

Ike Njoku, Planner, presented the staff report.

Vice-Chairperson Braly opened the public hearing.

Tom Lumbrazo, representing the DJUSD, gave the history of the site. He said going to 51 units was a problem because the increase in units would cause the market-rate lots to pay for more affordable units. This causes an economic feasibility problem. The objective of this project for the school district was to satisfy the neighboring properties and make the most money for the District. The neighbors do not want higher density. He stated they were in agreement with staff recommendation except for on page 77, #ii condition. This was an onerous condition to have all the costly landscape improvements put in place first before the first Certificate of Occupancy.

He proposed the condition to be modified to say that by the 21<sup>st</sup> unit, all improvements would be done. He also said they worked with the neighborhood on the westerly bikepath issue and asked that the City work with the neighbors to finalize that plan.

Rob Eagle, President of the Grande Neighborhood Association, said they wanted consistent development with density as well as the greenbelts to match the existing neighborhood. He felt the project was a reasonable compromise. He asked that there be a public process when the final landscape plans are turned in by the developer. Also, he was concerned with the noise mitigation hours of construction and requested the hours of 8 am to 8 pm on weekends be restricted to 6 pm during the evenings of the weekends and weekdays.

Ted Adams, Grande Neighborhood Association Board of Directors, said three years ago the DJUSD considered 33 units which would be closer to neighboring density. Now it is 41 and that was acceptable. Then suddenly in September they heard about 51 units for the first time. Only 5 people out of 90 people there at the meeting supported 51 units. There was strong opposition to the proposed increase in density.

John Reeves, a member of the Grande Neighborhood Association, said 41 units was the way to go and supported the proposal by the school district. He asked that the City support a concept for a bike/pedestrian path that would go all the way from Grande Avenue south down to the connection at Encina Avenue which was originally proposed by the School District.

Ann Johnson, neighbor on Grande Avenue, was encouraged to see the affordable housing proposals. She disagreed and thought it unfair that all the access to the 51 units was from Grande Avenue. All the traffic is corralled on to Grande Avenue instead of having it shared with Fiesta Avenue. If the density is increased then the access should be increased.

John Rogers, neighbor on Catalina, said they need traffic calming on Catalina because all the traffic is going down Catalina to Northstar and Grande Avenue. He requested traffic mitigations on Catalina such as bumps because people were speeding down the street.

Pam Runquist, neighbor on Grande Avenue, requested that the greenbelt on the west side of the project be the same as on the east side so that the impacts are balanced. She would rather there not be a house squeezed in on the west side. She also said people speed down Grande Avenue and would like traffic mitigation on the street.

Tim Taylor, DJUSD Board member, explained the money situation of the DJUSD. He understood the neighbor's needs for 41 units but there also was a need to maximize income for the school district. It was important to make sure there is housing available for School District employees so they can live in this community. The DJUSD stands behind all the guarantees and would be willing to look at some language or way to ensure the greenbelts are finished. He stated that some language could be implemented to satisfy all the parties involved.

Penny Sleuter, resident on Grande Avenue, said the traffic was awful already. There was a stop sign in front of her house and 75% of the people do not stop including the rapid transit buses. She wanted the intersection there looked at closely if 41 houses were to be built.

Vice-Chairperson Braly closed the public hearing.

Commissioner comments:

- Nice to see a collaborative process between the DJUSD, City staff and neighbors.
- Great opportunity for an infill site and wonderful spirit of cooperation.
- Bigger issue here is where to direct more growth in Davis. We need to use our infill wisely. Affordable housing means smaller lots and smaller houses. We have the same problem here with density. We don't have a policy or guideline to follow here on future density. Do we need more market-rate houses here or do we focus on specific housing needs? There are issues of fairness and consistency here and also issues of responsibility on growth.
- The project is a reasonable compromise and didn't think 10 more houses will make that much of a difference here.
- Believe in infill but this site was different because it was a fill in site, 41 units are ok.
- Don't like Lot #9, don't like flag lots or shared driveways.
- Density issue is frustrating; there is no policy for it. But don't want to disrupt two years of work of collaboration between the City and School District.
- Liked the idea suggested by Tom Lumbrazo on carbon mitigation by the developer by helping to reduce the carbon footprint in other facilities.
- Project is good; no real opposition here.
- Neighbors are always going to want lower density, it is a constant problem to try to figure out how to get more density on these sites; we need fresh ideas on how to deal with it.

**Action:** Commissioner Whittier moved the City Council approve the project per staff recommendation. Commissioner Levy seconded the motion and added amendments that staff work with the DJUSD to come up with options for having assurances that the greenbelt will be built without it having to be frontloaded to alleviate the costs. Also staff should review the noise ordinance with the neighbors and find out if the times are adequate. Commissioner Whittier accepted the amendments.

**AYES:** Choudhuri, Kordana, Levy, Whittier, Braly  
The motion passed unanimously 5 to 0.

The Planning Commission recessed at 9:12 p.m.  
The Planning Commission reconvened at 9:22 p.m.

Commissioner Hofmann returned to the meeting.

**C. Lewis (Cannery Park) Site; (Xzandrea Fowler, Planner)**  
Discussion of Lewis (Cannery Park) site land use policy issues.

Xzandrea Fowler, Planner, presented the staff report.

Vice-Chairperson Braly opened for public comments.

Steve Hayes, east Davis resident, pointed out that it was too difficult to develop the Lewis site in harmony with the Covell Village site. Also, developing this site and the Covell Village site would create impacts on Harper Junior High down east Covell Boulevard and that should be considered.

Linda Robinault, neighbor on Cortez Avenue, preferred 2/3's housing and 1/3 business park as planned by Lewis Communities. She said there shouldn't be any buildings on the Covell Village site; it should remain ag land.

Barry Markman, east Davis resident, applauded Lewis Communities for sticking it out for four years and getting community input. He felt it a disservice to the community to now switch to a greater percentage of business park there.

Carol Marquess, east Davis resident, strongly supported the Lewis Cannery project as proposed. It helps provide workforce housing. She didn't support the 2/3's business park proposal or staff recommendation. The community already voiced objections such as truck traffic.

Council Member Sue Greenwald disagreed with the staff report because the focus of the discussion should be on whether there should be a change in zoning on the only large industrial piece of land in the City from high tech to housing in any combination. This is the question to ask. She would like the option of keeping this land a business park on the table and discussed.

Ken Topper, Lewis Planned Communities, gave a history of their outreach efforts. He explained their proposed mix of business park/office and housing. He requested that they be allowed to continue processing their project as proposed. There are competing needs here. They are trying to create a sustainable community by creating a balance of housing and jobs.

Eileen Samitz, served on the Housing Steering Committee, said the best use of this site was housing. The ESG Study didn't look at the actual proposal by Lewis Properties. Staff shouldn't throw out the plan that has been planned for two years now. The site is industrial and things have changed. This site was not in a good location for a large business park; it is not near I-80.

Vice-Chairperson Braly closed the public comment period.

Commissioner comments:

- To have land here stated as no preference shows there is no vision by the City for land uses. This is a problem by stating no preference, leaves the City open to be reactive to developers. This underscores a fundamental flaw as no vision. By having a vision, long term plans can begin to be developed and then individual developer proposals can be analyzed in the setting of the bigger plan.
- Concerned with trying to figure this out, what is the correct mix of residential and business.
- There isn't enough information to make a decision on the appropriate mix of business park and residential.
- The proposal by staff was too subjective. Would rather recommend that the Council move the project along, it has been too long.
- The ESG report contradicted itself. Staff was right that a larger part of this site should be zoned for high tech/industrial because of its size. Leaning towards the staff recommendation.
- Common theme is not having a policy on how to figure this out. Agreed that the process should move forward and do the EIR process. Can't agree with staff recommendation – too arbitrary. The EIR process will come up with alternatives.
- The feasibility study was a concern; don't have enough non-residential zoned land. But concerned with this location; to make this all business park, land could sit there. Freeway access and visibility are important.
- Was concerned that staff at this late date wanted to change the process which wasn't fair to the applicant. Would like to see this go forward and do the EIR and look at the alternatives versus the applicants preferred proposal.
- It was unfair to characterize that the process has been too far along. There isn't enough guidance tonight to make a decision.
- Ready to call the question. The real question was that approval or acceptance of this project requires a change of zoning. It comes down to the need to balance housing versus business/industrial business park. The question to be framed to the City Council is, is there a compelling reason to change the existing zoning on what is approximately 50% of the contiguous non-residential land supply in the City. If the answer is no, then we need an explanation as to why because it would mean a major shift than what the city has been encouraging thus far. It raises fairness issues with the developer who has been working on it for four years. If the answer is yes as to changing the zoning, then the project should move forward as proposed by the developer, 20 acres business park and the rest housing.
- The fundamental question: Is there a compelling reason to change the zoning?

**Action:**

Commissioner Kordana moved that the Planning Commission states the key policy question was “Is there a compelling reason to change the zoning on approximately 50% of the contiguous non-residential land supply in Davis?” The City Council should answer that question. If the

answer is yes, the recommendation is to move the project forward as proposed by the applicant. There was no second to the motion.

Commissioner Levy moved to recommend to the City Council to direct staff to move the project forward as proposed by the applicant for appropriate consideration, with no re-design as recommended by staff. Commissioner Choudhuri seconded the motion.

Commissioner Kordana agreed but wanted to be more explicit in the motion that the Commission was not consciously answering the question of whether to change the zoning. Commissioner Hofmann stated that by recommending the project move forward as-is, the project would definitely not be changed in the future because everyone would say the project was too far along to then require land use changes by the applicant. Vice-Chairperson Braly said due to the dubious location of the project, it should be mixed use. The question was how much mixed use. Commissioner Levy agreed that it should be a mixed use project.

Commissioner Kordana moved a substitute motion that the Planning Commission believed there may be a compelling reason to change the zoning on approximately 50% of the contiguous non-residential land supply in Davis given the particulars of the specific location. As such, the Commission recommends to the City Council that they move the project forward to an EIR as it stands. Commissioner Hofmann seconded the motion. Commissioner Kordana clarified that his motion was framing the key question that the City Council needed to answer.

AYES: Choudhuri, Hofmann, Kordana

NOES: Whittier, Levy, Braly

The motion failed 3 to 3.

The original motion as restated by Commissioner Levy was “in lieu of staff recommendation #3, the Planning Commission recommends to City Council to direct staff to continue to process the Lewis Homes proposal as-is.”

AYES: Choudhuri, Whittier, Levy, Braly

NOES: Hofmann, Kordana

The motion passed 4 to 2.

## **7. Business Items**

There were no business items.

## **8. Informational Items**

### **A. Planning Commission Schedule**

Mike Webb, Principal Planner, stated that at the December meeting the newly appointed Planning Commissioner would be sworn in and the selection of Chair and Vice-Chair would be done to take effect in January.

**9. Staff and Commissioner Comments (continued).**

There were no additional staff and commissioner comments.

**10. Public Communications (continued).**

There were no public communications.

**11. Adjournment to the next regular Planning Commission meeting to be held on Wednesday, December 10, 2008 in the Community Chambers (23 Russell Boulevard).**

The meeting was adjourned at approximately 11:43 p.m.