

Export of Solar Energy for Developer Profits

The ballot claims that the project's solar system will “supply 85% of electricity used onsite” is also misleading. Instead of delivering the solar generated electricity to the project's tenants as originally intended, the developer now proposes to sell the entire solar electrical output for profit to another wholesale buyer for about \$800,000 PER YEAR. So as now proposed, Nishi tenants will actually receive no direct solar or financial benefit at all from the large solar system.

THE DEVELOPER NOW PROPOSES TO SELL THE ENTIRE SOLAR ELECTRICAL OUTPUT FOR PROFIT FOR ABOUT \$800,000 PER YEAR

And there are otherwise absolutely no other provisions to effectively reduce, offset, or mitigate almost 11,000 metric tons of green-house gas emissions per year that are expected to be produced by the project going forward (that's about 24,000,000 pounds of CO2 annually!). This one project alone functionally destroys the City's Climate Action Plan goals.

Minimum Energy Efficiency Building Standards

Despite glossy claims by the developer and the City about how much more cheaply students could live at the apartments due to the sustainability of the project as a whole, the developer only has to “pursue” LEED Neighborhood Development certification (LEED-ND). But there are NO contractual requirements that the developer must actually attain any LEED-ND level of project certification at all.

And contrary to City boasts of the high level of energy efficiency of the buildings themselves, the developer actually only has to meet the City's current minimum building code requirements for energy efficiency, which is equivalent to only LEED-Silver certification. Meanwhile, the majority of new buildings recently constructed on the UC Davis campus have achieved the much higher energy and sustainability standards of LEED-Platinum or, at minimum, LEED-Gold certification.

**No! on
Measure-A
NISHI**

NO to Unaffordable Housing

NO to Traffic Grid-Lock

NO to Developer Giveaways

PROTECT DAVIS AND OUR PROGRESSIVE VALUES

NoOnNishi.com

No On Measure-A

The Davis City Council is asking for citizen approval of the proposed Nishi mixed-use project in the Davis General Municipal Election ballot on June 7th. The Nishi project will provide 440 multi-family rental units and 210 stacked flat condos. All residential housing will be 5-6 stories. It will also contain 325,000 sq ft of office/R& D space and 20,000 sq ft of commercial/retail space. Because the project is outside the City limits, however, it requires a voter approval under Measure J/R.

On the surface, this project at first appeared to be a desirable in-fill development that had the potential to provide much needed student and affordable housing, financial benefits to the City and local businesses, and minimum contributions to greenhouse gases due to proposed sustainability features.

Unfortunately, however, once the details of this project finally became public it became clear that there were many serious deficiencies in project financing and the affordability of the project to students and low-income people.

The Nishi project will generate substantial developer profits but provide no significant fiscal benefits to our community nor address our need for truly affordable, low income, and sustainable housing. Instead it risks traffic gridlock and jeopardizing the respiratory health of our most vulnerable residents.

These shortcomings are so serious that voters are urged to VOTE NO ON MEASURE A at the ballot and send it back to the City and developer to renegotiate project terms more favorable to UCD student renters, low-income Davis residents, our City finances, and our environment.

No Small Units Suitable for Student or Low-Income Use

The Nishi project was promoted as a solution to the student housing crisis in Davis. Indeed, the City claimed in voter ballot materials that it was “oriented towards students...with small units”. This is grossly misleading. Unfortunately, Nishi is instead an unaffordable high end luxury housing development that will be beyond the rental price-range of almost all students and low-income Davis renters. All of the rental units are very large and sprawling.

***RENT FOR AN AVERAGE 1,100 SQ. FT. 2-BEDROOM, 2-BATH APARTMENT WILL BE OVER \$2,400/MONTH!**

*According to an independent analysis.

Potential for Traffic Gridlock is High

The intersection of Richards Blvd and Olive Dr. leading to the Downtown tunnel underneath the railroad tracks is certainly the most congested intersection in town and will be severely impacted by the Nishi project as well as the new Conference Center project proposed for the corner of Richards and Olive.

During review of the traffic study performed for the Nishi project, the Bicycling, Transportation, and Traffic Safety Commission (BTTSC) heard testimony that 1) pre-existing traffic counts used for analysis were inadequate in that they were only taken during a few hours per day on a single day in 2014, and 2) that the baseline assumptions for traffic flow derived both from the project and from the previously approved Conference Center were artificially low.

THIS FORMAL REQUEST FOR A 2ND TRAFFIC STUDY OPINION HAS BEEN COMPLETELY IGNORED BY STAFF AND COUNCIL

As a result, the Commission specifically recommended, among many other transportation-related suggestions, that an independent review of the traffic study for Nishi be performed. This formal request for a 2nd opinion has been completely ignored by Staff and Council and none of the other recommended improvements made by the Commission have made it into the baseline features or the framework of the Development Agreement.

Even with all of the “improvements” the City claims will be made, experts still cannot confirm Nishi-related traffic will not cause gridlock along Richards Blvd. Traveling through the Richards Blvd. tunnel into or out of downtown is unbearable now and this project will make it immeasurably worse.

Air Quality at Nishi is Unfit to Breathe

Further, noted UC Davis professor emeritus of physics and atmospheric sciences, Dr. Tom Cahill, opposes Nishi because of the “Significant and Unavoidable” adverse air quality impacts as noted in the project's Environmental Impact Report. Due to the project's low-lying location between the congested freeway and heavily-used railway, dangerous pollutants can accumulate onsite. Children and expectant mothers are particularly susceptible to permanent respiratory and developmental problems due to long-term exposure to these transportation-related pollutants.

UC DAVIS PROFESSOR EMERITUS OF PHYSICS AND ATMOSPHERIC SCIENCES, DR. TOM CAHILL, OPPOSES NISHI

Huge Economic Give-Aways to the Developer

In addition to the loss of \$10,550,000 to the City's Affordable Housing Trust Fund (equivalent in-lieu fees for not building 154 low income units) and \$800,000 per year in solar energy electricity the developer is now keeping for himself instead of providing to tenants, the City is giving away millions of dollars in other benefits to the developer.

Traffic Impact Fee Rebates of \$1,775,462 to the Developer

Of the approximate \$4,775,464 of roadway impact fees to be paid to the City by the developer, only about about \$3,000,000 will actually be paid because the developer will receive a credit of up to \$1,775,462 for “construction of the Olive Drive and Richards Boulevard Intersection improvements and the bridge over the Putah Creek Parkway”. In other words, the developer is being paid \$1,775,462 for widening Olive Dr. and putting in the bridge to the Nishi property from Olive Dr which improvements are only needed as a direct result of the project itself.

TAXPAYERS WILL PAY THE REMAINDER OF THE COSTS WITHOUT FURTHER FINANCIAL ASSISTANCE FROM THE DEVELOPER

This rebate to allow the developer to put in road improvements and a bridge at City cost for which the developer should be paying anyway is just another huge give-away to the developer by the City. The remaining \$3,000,000 left to the City will be used to pay for the new “tight diamond” freeway off-ramp from westbound I-80, but this amount is expected to only cover about 30 – 40% of that project's estimated \$7,000,000 to \$10,000,000 cost. Taxpayers will pay the remainder of the costs without further financial assistance from the developer. All other improvements along Richards Blvd necessitated by this project will also be paid for by the City instead of the developer.

Give-Away of 22 Acres of Prime Commercial Land to the Developer

As part of the original Pre-Development Agreement executed by the City with the developer in November of 2012, the City was to be given the 22 acres on which the R&D buildings were to be built free of charge.

“B. The Developer and City desire to develop the Property as a mixed-use development with a residential component and a research/business park component....The Developer has proposed to the City that in furtherance of the overall development of the Property, as a term of the proposed Development Agreement, Developer would convey approximately twenty-two acres of the Property to the City for development of the research/business park component of the Proposed Development (emphasis added)...”

Thus, the City was to receive this 22 acres of land at no cost as an inducement for the City to equally share in the pre-development costs of the project. This commitment has not been carried through to the anticipated final Development Agreement, however, as shown below.

*“6. City Option / Right of First Refusal for Office/R&D Parcels
Developer shall give City an option to purchase and a right of first refusal to purchase (emphasis added) any or all office/R&D parcels for a period of eighteen months from completion of backbone infrastructure and recordation of Final Map, whichever is later.”*

So the agreement to convey the 22 acres of land to the City without any further costs somehow morphed into an agreement where the City would end up paying to purchase the land instead. Raw land costs of this 22 acres of prime commercial real estate entitled property could range from \$100,000 to \$200,000 per acre. Thus, giving up potential ownership of this no-cost 22 acres of commercially-zoned land represents an additional net give-away to the developer by the City of about \$2,200,000 to \$4,400,000.

Economic Uncertainties

The City has touted that it will receive “up to \$9,000,000 in one time fees paid to the City” but fail to note these are intended to off-set costs actually created by the project, or that their payment would be delayed five to ten years, if ever. Meanwhile, the taxpayers will pay for most of the local road upgrades required by the project, at a cost of millions.

Amazingly, however, the City has not even done a year-by-year cash flow analysis of their potential income and expenditures to see how deep of a financial hole it is digging for itself in the early years of roadway construction expenses but before offsetting fees are paid by the developer.

IN THEIR HASTE TO PUT THE PROJECT OF THE BALLOT AT THE LAST POSSIBLE MOMENT, THIS EXERCISE IN FISCAL SANITY WAS NEVER PERFORMED

Although the City Council indicated it would be desirable to have this information before approval of the project, in their haste to put the project of the ballot at the last possible moment this exercise in fiscal sanity was never performed. If a business owner proposed such an arrangement to its banker while negotiating a loan, the businessperson would be immediately shown to the door. The City must be held to the same standards of financial accountability

No Affordable Housing

An independent analysis by a financial consultant initially showed that the project would essentially break even from the City's perspective. A later analysis, commissioned by the City and done by the City's Finance and Budget Commission, estimated that the project could generate as much as \$1,400,000 in annual revenue for the City after project build-out in 5 to 10 years. There are several questions about the Finance and Budget Commission's estimates, however, in that they are based on several major assumptions, as follows;

1) The Finance and Budget Commission's analysis used dramatically lower estimated costs to provide Fire and Police Department services to the project than did the independent consultant who projected a very modest income/loss to the City, if any. Using such reduced expense estimates would increase projected net income to the City by about \$700,000 per year compared to the independent consultant in projecting City costs. When representatives of the Finance and Budget Commission queried the Fire Captain and Police Chief if they agreed with these new lower estimated costs, both responded emphatically that they did not and wanted the previous cost of service estimates left intact.

2) The Finance and Budget Commission's estimates on tax-sharing of property and sales tax between the City and County would be a 50:50 split. However, the County has negotiated a much higher sharing percentage for themselves in other transactions with other Cities similarly seeking to annex County land for development purposes. There are no assurances at all that the County will agree to the tax-sharing arrangement proposed by the City. If the County demands a higher share, either the project is aborted if the City does not agree or the City accepts a smaller tax-sharing percentage than 50:50 which will dramatically lower the amount of such tax revenue the City may receive each year.

3) Finally, there is no guarantee that the R&D portion of the project will ever be built in a reasonable period of time such that the City can receive fees based on construction completion of these R&D buildings. Delays or failure to receive these monies combined with a potentially smaller tax-sharing percentage could easily cause the City's financial return to break even or even be negative.

The city of Davis Council has Improperly Exempted Nishi from the Davis Affordable Housing Ordinance. There is also absolutely no low-income or affordable housing component in the project because the City Council improperly exempted the developer from the City's Affordable Housing Ordinance that would normally be otherwise required for a project of this size (440 rental unit).

A normal rental development of this size and type in Davis would require 25% of the units be affordable to low income residents and 10% to very low income under the City's Affordable Housing Ordinance. That would result in a total of $440 \times 35\% = 154$ units dedicated for low-income housing use at the Nishi site. In some cases, an in-lieu fee paid by the developer to the City's Affordable Housing Trust Fund may be substituted for the construction of affordable housing units at a rate of \$75,000 per unit. This in-lieu fee payment, if applicable, would thus total \$11,550,000 (154 units \times \$75,000) for the Nishi project.

Unfortunately, the City of Davis has arbitrarily completely exempted the Nishi project from all affordable housing requirements in direct violation of the City's Affordable Housing Ordinance.

The developer recently offered and the City accepted a contribution of \$1 million dollar to the City's Affordable Housing Trust Fund,... However, \$1 million dollars is not nearly enough compensation for the enormous loss of 154 affordable housing rental units as otherwise required by the Affordable Housing Ordinance. Or viewed in another way, it represents the net loss of \$10,550,000 to the City's Affordable Housing Trust Fund compared to if the Nishi project were otherwise paying in-lieu fees equivalent to those imposed on other developers in Davis.

NISHI REPRESENTS THE NET LOSS OF \$10.5 MILLION TO THE CITY'S AFFORDABLE HOUSING TRUST FUND.

Part of justification for the Council not imposing the requirements of the Affordability Housing Ordinance on Nishi was that the units would be affordable by definition because they were going to be constructed as small units with comparatively less expensive rents and because they were going to be very energy efficient and receive solar electricity provided by the 4.9 mw solar energy system to be put in as part of the project.

Promising small affordable units and then delivering large expensive apartments is clearly a "bait and switch" to increase developer profits.