

This EIR section provides a discussion of the existing land use conditions on the proposed project site and the surrounding areas, the regulatory setting, and an impact analysis.

Information in this section is based on information provided by the project applicant, a site visit conducted by De Novo Planning Group in 2019, ground and aerial photographs, and the following reference documents:

- City of Davis General Plan (Amended through January 2007);
- Program EIR for the City of Davis General Plan Update and Project EIR for Establishment of a New Junior High School (2000);
- City of Davis Housing Element (2015); and
- City of Davis Municipal Code (2019).

There were no comments regarding land use submitted during the Notice of Preparation (NOP) comment period for the project.

3.2.1 ENVIRONMENTAL SETTING

PROJECT SITE

The project site consists of approximately 0.45 acres located in the central portion of the City of Davis, north of the Interstate 80 (I-80) Freeway, at 503, 509, and 515 First Street. The project site can be identified by its Yolo County Assessor's Parcel Numbers (APNs) 070-244-004, 070-244-005, and 070-244-006. The project site is located in the Davis Downtown Core Area, near what is considered the historic gateway to the City of Davis.

The project's regional location is shown in Figure 2.0-1 and the project area and site boundary are shown in Figure 2.0-2.

SURROUNDING LAND USES

The project site is bounded by Second Street and existing mixed-use development to the north, D Street to the west, First Street to the south, and E Street and the Natsoulas Gallery to the east. The surrounding land uses consists of a mix of retail, single family, and apartment developments along First Street, D Street, and E Street. Adjacent parcels include a funeral home on D Street and Natsoulas Art Gallery on First Street adjacent to the TX Main House. The project site faces a landscaped buffer and the back of a retail building in a shopping plaza (i.e., Davis Commons) on the south side of First Street.

3.2.2 REGULATORY SETTING

STATE

Government Code

California Government Code §65300 et seq. establishes the obligation of cities and counties to adopt and implement general plans. The general plan is a comprehensive, long-term, and general document that describes plans for the physical development of a jurisdiction and of any land outside its boundaries that, in the jurisdiction's judgment, bears relation to its planning. The general plan addresses a broad range of topics, including, at a minimum, land use, circulation, housing, conservation, open space, noise, and safety. In addressing these topics, the general plan identifies the goals, objectives, policies, principles, standards, and plan proposals that support the jurisdiction's vision for the area. The general plan is a long-range document that typically addresses the physical character of an area over a 20-year period. Although the general plan serves as a blueprint for future development and identifies the overall vision for the planning area, it remains general enough to allow for flexibility in the approach taken to achieve the plan's goals.

The State Zoning Law (California Government Code §65800 et seq.) establishes that zoning ordinances, which are laws that define allowable land uses within a specific district, are required to be consistent with the general plan and any applicable specific plans. When amendments to the general plan are made, corresponding changes in the zoning ordinance may be required within a reasonable time to ensure the land uses designated in the general plan would also be allowable by the zoning ordinance (Government Code, §65860, subd. [c]).

LOCAL

City of Davis General Plan

The City of Davis General Plan articulates the community's vision of its long-term physical form and development. The general plan is comprehensive in scope and represents the city's expression of quality of life and community values. General plans are prepared under a mandate from the State of California, which requires that each city and county prepare and adopt a comprehensive, long-term general plan for its jurisdiction and any adjacent related lands. State law requires General Plans to address seven mandated components: circulation, conservation, housing, land use, noise, open space, and safety. Sections IV and VII contain the bulk of the City's General Plan in the form of goals, policies, standards, and actions for a total of 22 separate topics, which address the State-required components as well as additional issues identified by the City. Each of the 22 chapters within these sections provides background information on a topic and the goals, policies, standards and actions that apply to it. Sections IV through VII include:

- Section IV, Community Form, addresses Land Use and Growth Management; Mobility; Urban Design, Neighborhood Preservation, and Community Forest Management Housing; and Economic and Business Development;

- Section V, Community Facilities and Services, addresses Water; Materials, Solid Waste and Recycling, Computers and Technology; Parks, Recreation, and Open Space; Youth and Education; Human Services; Art and Culture; and Diversity;
- Section VI, Community Resource Conservation, addresses Habitat and Natural Areas; Agriculture, Soils, and Minerals; Historic and Archaeological Resources; and Energy;
- Section VII, Community Safety, addresses Police and Fire, Hazards, Air Quality, and Noise.

GENERAL PLAN GOALS, POLICIES, AND STANDARDS

General Plan goals, policies, and standards applicable to environmental issues associated with land use are summarized below.

Goal LU 3 Integrate land use, economic development, environmental, and transportation planning.

Policy LU 3.1 Create an efficient system of planning and zoning.

Standard LU 3.1(a). Specific plans or master site plans that indicate land use densities and intensities, building types, building variety, transit provision, bicycle and pedestrian facilities, and open space areas shall be required for major development areas.

Goal UD 1 Encourage community design throughout the City that helps to build community, encourage human interaction and support non-automobile transportation.

Policy UD 1.1 Promote urban/community design which is human-scaled, comfortable, safe and conducive to pedestrian use.

Goal UD 2 Maintain an aesthetically pleasing environment and manage a sustainable community forest to optimize environmental, aesthetic, social and economic benefits.

Policy UD 2.2 Maintain and increase the amount of greenery, especially street trees, in Davis, both for aesthetic reasons and to provide shade, cooling, habitat, air quality benefits, and visual continuity.

Policy UD 2.3 Require an architectural "fit" with Davis' existing scale for new development projects.

Standard UD 2.3(a). There should be a scale transition between intensified land uses and adjoining lower intensity land uses.

Policy UD 2.4 Create affordable and multi-family residential areas that include innovative designs and on-site open space amenities that are linked with public bicycle/pedestrian ways, neighborhood centers.

Standard UD 2.4(a). Multi-family buildings should provide easy pedestrian access to the nearest transit stop and/or neighborhood center.

Standard UD 2.4(b). Multi-family development design should be compatible with adjoining single family areas.

Standard UD 2.4(c). High density housing should be organized around usable common space.

Standard UD 2.4(a). Multi-family housing complexes should be designed, constructed and managed in projects of no more than 150 units, not including any density bonus.

Goal UD 3 Use good design as a means to promote human safety.

Policy UD 3.1 Use good design to promote safety for residents, employees, and visitors to the City.

Policy UD 3.2 Provide exterior lighting that enhances safety and night use in public spaces, but minimizes impacts on surrounding land uses.

Goal HOUSING 1 Promote an adequate supply of housing for people of all ages, income, lifestyles and types of households consistent with General Plan policies and goals.

Policy HOUSING 1.1 Encourage a variety of housing types that meet the housing needs of an economically and socially diverse Davis.

Standard HOUSING 1(a). Housing, including affordable housing, should include a range of unit sizes appropriate to meet Davis housing needs.

Standard HOUSING 1(b). Each new development area should include a mix of housing types, densities, prices and rents, and designs.

Standard HOUSING 1(c). All new housing construction shall meet minimum densities and will have limited number of overly-large homes.

Policy HOUSING 1.2 Strive to maintain an adequate supply of rental housing in Davis to meet the needs of all renters, including students.

Policy HOUSING 1.3 Encourage the construction of housing to meet the needs of single persons and households with children with extremely low, very low, and low incomes.

GENERAL PLAN LAND USE MAP

The Land Use Map portrays the anticipated uses of land in and around Davis through land use designations. The Land Use Map designates areas intended for urban development, parks/recreation, open space, public/semi-public uses, UC Davis and related research park uses, agriculture, urban/agriculture transition, natural habitat, and urban reserve.

The project site is in the Core Area Specific Plan (CASP), which also includes the City of Davis General Plan and its Land Use Map and Zoning. The General Plan land use designations within the boundaries of the CASP are set forth in the CASP. The General Plan designation for the project site is CASP, and the CASP Land Use designation is Retail Stores. The Downtown of the Core Area (the area bounded by First and Third Streets and D Street and the railroad tracks) is intended to provide a concentration of stores and uses that allows each to benefit from the presence of the others. Retail uses at ground floor level with professional and administrative offices and residential units are encouraged for upper stories in this zone within the Core Area. Cultural and entertainment uses are also permitted at ground floor level. Total floor area may reach three times the site area. Parking structures are excluded from the calculations of floor area ratio.

The Davis CASP is discussed in detail below.

City of Davis Core Area Specific Plan

The CASP study area is located in the City of Davis, Yolo County, California. The study area encompasses approximately 152 acres which is bounded on the south by First Street, on the north by Fifth Street, on the west by A Street and on the east by the Southern Pacific Railroad tracks east of G Street except between Third and Fifth Streets where it is bounded by the alley west of I Street and between G and H Streets where it is bounded to the north by Eighth Street. The study area also includes the commercial area along G Street between Fifth Street and Eighth Street. The heart of the Core Area, referred to as the Downtown Core in the CASP, is bounded by First and Third Streets and D Street and the railroad tracks. The Downtown Core contains the highest concentration of retail uses in the Core Area.

The CASP was prepared as a means of implementing the City's General Plan for the area covered by the CASP. The purpose of the CASP is to provide a comprehensive set of policies, guidelines and implementation strategies for promoting, guiding and regulating growth in the Core Area of Davis. Adopting and implementing the Core Area Specific Plan will allow the area to continue to function as the City's social, cultural, retail center, and professional and administrative office district in a manner that enhances pedestrian activity. The CASP establishes the strategies which are required for the systematic execution of the City's General Plan for the area covered by the CASP. The City General Plan land use designations within the boundaries of the CASP are set forth in the CASP.

The CASP is currently under review for update. In addition, the zoning for the CASP area is also under review for changes from conventional zoning districts to a form-based zoning district. It is anticipated that the living group use would still be conditionally permitted in the form-based zoning code.

The CASP land use designations for the project site and surrounding lands are described as follows.

Retail Stores. The Downtown of the Core Area (the area bounded by First and Third Streets and D Street and the railroad tracks) is intended to provide a concentration of stores and uses that allows each to benefit from the presence of the others. Retail uses at ground floor level with professional and administrative offices and residential units encouraged for upper stories in this zone within the

Core Area. Cultural and entertainment uses are also permitted at ground floor level. Total floor area may reach three times the site area. Parking structures are excluded from the calculations of floor area ratio.

Retail with Offices. This designation allows for mixed retail and office uses with retail uses dominant at ground floor level and offices encouraged as tenants for upper stories. Uses need not be mixed on individual parcels. Retail uses include stores, restaurants, cultural, entertainment, hotels and commercial recreation (such as recreation centers and athletic clubs). Offices include business, professional, government and medical offices. Apartments and owner-occupied condominiums and town homes may be included and are encouraged as tenants for upper stories. Single-family, two-family and duplexes may also be included.

Total floor area in the Retail with Offices District located along Third Street between University Avenue and B Streets and on the northwest corner of B and 2nd Streets are allowed a floor area ratio (FAR) of up to 2:1 maximum including bonus: commercial only 1:1, mixed use 1:1.5; 0.5 FAR bonus allowed for preservation of designated historic structure, underground parking or "Trees Worth Saving"; 0.2:1 FAR bonus for plaza or preservation of "Trees of Significance." Parking structures are excluded from the calculations of floor area ratio.

Residential – Medium Density. This designation allows for single-family or multi-family residential with densities from 4.2 to 10.0 units per gross acre.

City of Davis Zoning Code

The Davis Zoning Code standards that are applicable to the proposed project are summarized below.

CENTRAL COMMERCIAL DISTRICT

The project site is currently zoned Central Commercial (C-C) by the City of Davis. Section 40.14.030 of the City's Municipal Code sets forth the permitted uses in the C-C district.

The purposes of the C-C 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.

As stated in Section 40.14.030 of the City's Municipal Code, permitted uses in the C-C district shall be as follows:

- (a) Retail stores, shops and offices supplying commodities or performing services such as department stores, specialty shops, banks, and other financial institutions, personal and business service establishments, antique shops, artists' supply stores and similar uses, but not including gasoline service stations.

- (b) Restaurants, including outdoor eating areas and establishments, establishments serving alcoholic beverages, and similar enterprises, but not including formula fast food restaurants.
- (c) Professional and administrative offices. First floor office uses discouraged in the downtown core as defined by the core area specific plan. Offices are not discouraged in C-C zones outside the downtown core.
- (d) Medical clinics.
- (e) Hotels and motels.
- (f) Business and technical schools, and schools and studios for photography, art, music, and dance.
- (g) Any other retail business or service establishment which the planning commission finds to be consistent with the purposes of this article and which will not impair the present or potential use of adjacent properties.
- (h) Group care homes with six or fewer clients, subject to the provisions of Section 40.26.135.
- (i) Family and group day care homes as defined in Section 40.01.010.
- (j) Infill developments containing any of the above uses.
- (k) Auto service stations with frontage on Fifth Street.
- (l) Theaters and movie houses.
- (m) Supportive housing.
- (n) Transitional housing.
- (o) Residential structures and apartments with densities up to those permitted in the Residential High Density Apartment (R-HD) district.

As stated in Section 40.14.050 of the City's Municipal Code, conditional uses in the C-C district are as follows:

- (a) Public and semipublic buildings and uses of a recreational, educational, religious, cultural or public services type, but not including corporation yards, storage or repair yards, warehouses and similar uses;
- (b) Infill developments containing any of the above uses;
- (c) On-site grade level parking;
- (d) Nursery schools and day care centers, subject to the provisions of Section 40.26.270;
- (e) Structures exceeding two stories;
- (f) Billiards/pool hall with two or fewer tables that are the sole or principal use or with three or more tables complying with the standards set forth in Section 40.26.055;
- (g) Drive-through facilities, subject to the provisions of Section 40.26.420;
- (h) Formula fast food restaurant. In addition to the considerations established in Section 40.30.080 for the granting of a conditional use permit, the planning commission or city council may consider the following in determining whether or not the use constitutes a nuisance, or is detrimental to the public welfare of the community: litter, odors, exterior design, signage, concentration of like uses, and the extent to which the use enhances the unique characteristics of the core area;
- (i) Group care homes with more than six clients, subject to the provisions of Section 40.26.135;
- (j) Cardrooms, subject to the provisions of Section 40.26.058, Sections 40.25.010 through 40.25.120, and Chapter 8A;

- (k) Drive-through facilities, subject to the provisions of Section 40.26.420;
- (l) Living groups;
- (m) Single room occupancy (SRO) units.

DESIGN REVIEW

Article 40.31 of the City's Municipal Code sets forth the site plan and architectural review process, including the Design Review process. The purpose of the design review process is comprehensive site plan and architectural review so as to determine compliance with Article 40.31 and to promote the orderly and harmonious growth of the city and the stability of land values and investments and the general welfare; and to help prevent the impairment or depreciation of land values and the development by the erection of structures, additions or alterations thereto without proper attention to siting, or of unsightly, undesirable or obnoxious appearance; and to prepare for and help to prevent problems arising affecting the community due to the nature of existing and planned uses of land and structures, such as traffic, public, safety, public facilities, utilities and services, among others.

A site plan and architectural (design review) application shall be approved, conditionally approved, or denied by the community development and sustainability director, planning commission, or city council. Such application may be approved only if the following findings are made:

- (a) 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;
- (b) 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;
- (c) 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;
- (d) The proposed project will not create conflicts with vehicular, bicycle, or pedestrian transportation modes of circulation; and
- (e) 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. (Ord. 2067 § 1, 2001; Ord. 2390 § 2, 2012)

Pursuant to Zoning Ordinance and the Davis Downtown and Traditional Residential Neighborhoods Design Guidelines, a Tier III Design Review approval is required because the project site is within 300-feet of a designated historical resource, Dresbach-Hunt-Boyer Home, the site is within the Conservation Overlay District, involves merger of two or more parcels, requires approval of a conditional use permit, and involves the demolition of primary buildings 45 years of age or older.

According to the Davis Municipal Code, the Conservation Overlay District supports planning policy stipulating that new development and renovation of existing buildings should respect the traditional scale and character found within a defined area. Conservation Overlay Districts are designated

under Chapter 40 of the Code. However, some individual buildings within the Conservation Overlay District are designated Landmarks or Merit Resources in the Davis Register of Historic Resources.

Settlement Agreement and Release of Claims

The fraternity house that is currently located on the project site is a legal nonconforming use, based on a Settlement Agreement and Release of all Claims (the “Settlement Agreement”) entered into by and between the City and Theta Xi in 1995. However, if two of the buildings are demolished and Theta Xi constructs a new fraternity house on the western lot, the new building will not retain the legal nonconforming status under the City’s Zoning Code. Additionally, if the proposed project is approved, the TX Main House parcel will not retain the legal nonconforming status to operate as a fraternity and/or living group. The fraternity house constitutes a “living group” use, which is a conditional use within the Central Commercial District where the project site is located. Theta Xi therefore would need a Conditional Use Permit (“CUP”) for the proposed new fraternity house.

Section 40.28.050 of the Davis Municipal Code provides that nonconforming uses shall not be enlarged, extended, reconstructed, substituted, or structurally altered, unless the use is changed to a permitted use. For the proposed project, the existing nonconforming use on the three parcels (which would be consolidated into two parcels as part of the project) is a single fraternity. If the TX Main House were to operate as a separate fraternity, next to the proposed three-story Theta Xi fraternity building, the result would be two fraternities operating on the property, rather than just one fraternity. This would be considered an enlargement of the use, and is prohibited by Section 40.28.050 of the Municipal Code.

Davis Downtown and Traditional Residential Neighborhoods Design Guidelines

The Davis Downtown and Traditional Residential Neighborhoods Design Guidelines were adopted by the City in July 2001 and updated in June 2007. The Design Guidelines provide guidance to City staff and policy makers in implementing the policies of the General Plan and the CASP within the Downtown and Traditional Neighborhood Overlay District. The Design Guidelines respond to community concerns about the manner in which new investment in the center of Davis can enhance, rather than erode, its valued character. The proposed goals for the design guidelines are as follows:

- Conserve the traditional neighborhood character, fabric and setting while guiding future development, reuse, and reinvestment.
- Discourage the demolition of structures consistent with the district’s historic character by providing incentives for reuse of non-designated contributing structures.
- Plan for new commercial and residential infill construction that is compatible and complementary to the character of existing neighborhood areas within the district.
- Support the unique function of special character areas in balance with community goals.
- Foster reinvestment and economic development in the core that is consistent with historic conservation.

- Provide guidelines to clarify the community's expectations for the type and quality of development within the district.

The Design Guidelines build on existing General Plan and CASP policies.

The proposed project site is located within the Downtown Core Commercial & Mixed-Use area of Central Davis. The Design Guidelines for projects in this part of Central Davis are included in Part 2 of the Davis Downtown and Traditional Residential Neighborhoods Design Guidelines.

3.2.3 IMPACTS AND MITIGATION MEASURES

THRESHOLDS OF SIGNIFICANCE

Consistent with Appendix G of the CEQA Guidelines, the proposed project will have a significant impact on land use and planning if it will:

- Physically divide an established community; and/or
- Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

As discussed in the Initial Study for the proposed project, the project site is located within the Davis city limits and is adjacent to developed land on all sides. The project would result in redevelopment of the site, and the proposed use would not change. Development of the project would not result in any physical barriers, such as a wall, or other division, that would divide an existing community, but would serve as an orderly extension of existing utilities. The project would have **no impact** in regards to the physical division of an established community. Impacts related to this topic will not be discussed further.

IMPACTS AND MITIGATION MEASURES

Impact 3.2-1: Project implementation would not conflict with an applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted to avoid or mitigate an environmental effect (Less than Significant with Mitigation)

Consistency with the Davis General Plan, Davis CASP, and Davis Zoning Code are discussed in detail below.

CONSISTENCY WITH THE CITY OF DAVIS GENERAL PLAN

The General Plan designation for the project site is CASP, and the CASP Land Use designation is Retail Stores. As described above, the project site is in the CASP, which also includes the City of Davis

General Plan and its Land Use Map and Zoning. The land use consistency discussion is discussed under the “Consistency with the Davis CASP” section further below. The following discussion focuses on consistency with the applicable General Plan policies related to land use, including those identified above under the “Regulatory Setting” section.

The project is consistent with Urban Design policies related to land use. Policy UD 1.1 promotes urban/community design which is human-scaled, comfortable, safe and conducive to pedestrian use. Visual Simulations (Figure 2.0-8 in Chapter 2.0 Project Description) illustrates the proposed three-story fraternity building from various viewpoints. As shown in the figure, the project has been designed to be human-scale. The building is setback from the adjacent streets (including First Street and D Street), and the building includes articulations which provide visual relief. One of the project objectives is to address the deficiencies in the structural integrity of the three houses to increase safety for its occupants. The project would increase the comfort and safety of the site structures compared to the existing condition.

Policy UD 2.2 aims to maintain and increase the amount of greenery, especially street trees, in Davis, both for aesthetic reasons and to provide shade, cooling, habitat, air quality benefits, and visual continuity. The project would retain some of the on-site trees. The site currently contains approximately 28 trees, including those located along the frontages of First Street and D Street. Eleven of these trees (all locust trees) are located along First and D Streets. The street trees along First and D Streets would not be removed with redevelopment of the site. The retention of the eleven street trees and proposed landscaping on the redevelopment site would ensure that the amount of greenery along First and D Streets is maintained. Other trees located internal to the site would be removed. The trees surrounding the TX Main House are not anticipated for removal; however, the trees surrounding the Jackson House and Bryson House, which are proposed for demolition, would be removed. The project would landscape the site in conjunction with construction of the proposed three-story building. According to the landscape plan for the project, the completed project site (including all three residential lots) would contain 14 trees on-site. This is a reduction from the current number of trees on the site. As such, the project as proposed is not consistent with Policy UD 2.2.

Mitigation Measure 3.2-1 requires, in conjunction with submittal of improvement plans for the project, that the project applicant submit a final landscape plan to the City of Davis which shows that the project site (including all three residential lots) would maintain or increase the amount of greenery, especially trees, that currently (as of April 2019) exists on-site. In addition, the landscape plan must include a palette of shrubs, perennial ground cover, grasses, etc. that balances the need to maintain or increase greenery while being conscientious of drought tolerance and water conservation within the landscaping. Implementation of Mitigation Measure 3.2-1 would ensure compliance with Policy UD 2.2. It is noted that the project would be subject to the City’s Tree Ordinance. Compliance with the City’s Tree Ordinance would be addressed by a standard City condition of approval, which requires preparation of a Tree Protection Plan for trees being preserved and approval of Tree Modification Permit for trees being removed with standard measures for tree replacement or payment for the appraised value of the trees. The Tree Protection Plan would include measures to ensure that all trees to be preserved would be protected during

construction of the project. For instance, the standard conditions of approval would include the following requirements:

1. Applicant needs to submit a complete tree inventory of all trees 5" in diameter and greater. The Arborist report only has six trees listed with other trees being shown on the site map.
2. Applicant needs to submit a tree protection plan and plan set sheet for tree protection of the trees to remain and the street trees on First and D Streets.
3. Applicant needs to submit the trees to be removed with species and diameters.

Policy UD 2.3 requires an architectural "fit" with Davis' existing scale for new development projects. The project proposes to preserve one on-site building, demolish two of the on-site buildings, and construct a three-story residential building for use by the Theta Xi Fraternity. The proposed three-story building would be constructed at a similar size and scale as existing buildings in the immediate vicinity. For example, the Regency Square office and retail building at the corner of D and Second Streets is three stories tall with limited building setbacks adjacent to the sidewalks. Additionally, several mixed-use buildings along E Street are two to three stories.

Further, as noted above, Tier III Design Review approval is required given that the project site is within 300-feet of a designated historical resource, Dresbach-Hunt-Boyer Home. Tier III Design Review projects are reviewed by staff, the Historical Resources Management Commission, and finally by the Planning Commission. The action of the Planning Commission may be appealed by any party to the City Council. The City's Community Development and Sustainability Department would provide a preliminary review of the applicant-provided final project plans. Preliminary review by the Community Development and Sustainability Department for compliance with the following findings in addition to review for compliance with the guidelines in the DDTRN Design Guidelines:

- (a) Indicate to the applicant major areas of deficiency and good design;
- (b) Instruct the applicant as to sections of the project which are unacceptable or need minor revision; and
- (c) Inform the community development and sustainability department on the scope of the project of the final review stage.

The Design Review application may be approved only if the following findings are made:

- (a) 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;
- (b) 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;
- (c) 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;
- (d) The proposed project will not create conflicts with vehicular, bicycle, or pedestrian transportation modes of circulation; and
- (e) 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.

The Design Review process is an established administrative process that is designed to ensure that proposed buildings “fit” with the existing architectural scale in the project vicinity, although Tier III is not an administrative action design review. The proposed project is subject to the Design Review process and any design revisions required during that process. As such, the project does not conflict with Policy UD 2.3.

Policy UD 2.4 requires creation of affordable and multi-family residential areas that include innovative designs and on-site open space amenities that are linked with public bicycle/pedestrian ways, neighborhood centers. The project would create student housing, which functions like multi-family housing. The tenants would be UC Davis students that are members of the Theta Xi Fraternity.

Additionally, the project includes on-site amenities (including, but not limited to, a Bike Barn, back yard area with gathering spaces, living and study areas, etc.) for Theta Xi Fraternity members. The project site is also located in an area of Davis that is linked with bicycle/pedestrian facilities adjacent to a commercial center (including downtown Davis to the east and the Davis Commons shopping plaza to the south). As such, the project is consistent with Policy UD 2.4.

Policy UD 3.1 requires the use of good design to promote safety for residents, employees, and visitors to the City. Energy efficiency and sustainable design features would include high levels of envelope insulation, high efficiency HVAC, LED Lighting, solar shading devices, electric vehicle charging outlets, and a low water use landscaping and irrigation system. It is anticipated that the project would target a “LEED Silver” equivalency. The project would improve the safety of the site by constructing a new building that addresses the current deficiencies in the structural integrity. As such, the project is consistent with Policy UD 3.1.

Policy UD 3.3 requires the provision of exterior lighting that enhances safety and night use in public spaces, but minimizes impacts on surrounding land uses. The project design includes improved exterior lighting that would enhance safety in the immediate area while also minimizing impacts on surrounding uses. The proposed LED lighting would result in an improvement of the light spillage compared to the existing condition and would illuminate the adjacent public sidewalk areas. As such, the project is consistent with Policy UD 3.3.

Policy HOUSING 1.1 encourages a variety of housing types that meet the housing needs of an economically and socially diverse Davis. The project would improve the supply of rental housing for the Theta Xi Fraternity members by addressing the structural deficiencies of the existing housing site. Additionally, the TX Main House would be placed on the open market for purchase at a market rate. As such, the project is consistent with Policy HOUSING 1.1.

Policy HOUSING 1.2 strives to maintain an adequate supply of rental housing in Davis to meet the needs of all renters, including students. The TX Main House would be placed on the open market for purchase at a market rate. It is not known if the future purchaser would be an owner occupied or

make the property available for rent. The proposed beds of the Fraternity House would be rented out to Theta Xi Fraternity members, who are members of the student population in Davis. As such, the project is consistent with Policy HOUSING 1.2.

Policy HOUSING 1.3 encourages the construction of housing to meet the needs of single persons and households with children with extremely low, very low, and low incomes. The project would create student housing, which is generally composed of single persons. The Theta Xi Fraternity house is not intended for households with children. The proposed beds of the Fraternity House would be rented out by the bed (and not by room or by unit). The TX Main House would be placed on the open market for purchase at a market rate. It is not known if the future purchaser would be an owner occupied or make the property available for rent. This property is not currently rent restricted, nor is it proposed to be rent restricted. As such, the project does not conflict with Policy HOUSING 1.3.

CONSISTENCY WITH THE DAVIS CASP

The General Plan and CASP Land Use designation of the site is Retail Stores. The CASP provides the following guidance for the Retail Stores designation: “The Downtown of the Core Area (the area bounded by First and Third Streets and D Street and the railroad tracks) is intended to provide a concentration of stores and uses that allows each to benefit from the presence of the others. Retail uses at ground floor level with professional and administrative offices and residential units encouraged for upper stories in this zone within the Core Area. Cultural and entertainment uses are also permitted at ground floor level. Total floor area may reach three times the site area. Parking structures are excluded from the calculations of floor area ratio. As there is a significant need for child-care facilities to be included in private developments, child-care facilities may be appropriate uses within any of the following land-use classifications.”

The CASP encourages retail uses at the ground floor level in the Retail Stores area, with professional and administrative offices and residential units in the upper stories. The CASP does not list allowed, conditionally allowed, or prohibited uses for the Retail Stores land use designation. Additionally, the CASP does not explicitly prohibit ground floor residential uses in the Retail Stores area, and does note that some residential uses exist in the Retail Stores area of the Downtown Core.

As discussed above, the project is consistent with the City’s General Plan. Additionally, because the CASP does not prohibit ground floor residential uses in the Retail Stores area, the proposed residential use, living group, would not conflict with the applicable CASP land use designation. Approval of the living group would not conflict with any other applicable Core Area Specific Plan objectives, policies, standards or actions.

CONSISTENCY WITH THE ZONING CODE

The project site is currently zoned C-C. As stated in Section 40.14.030 of the City’s Municipal Code, permitted uses in the C-C district shall be as follows:

- (a) Retail stores, shops and offices supplying commodities or performing services such as department stores, specialty shops, banks, and other financial institutions, personal and

- business service establishments, antique shops, artists' supply stores and similar uses, but not including gasoline service stations.
- (b) Restaurants, including outdoor eating areas and establishments, establishments serving alcoholic beverages, and similar enterprises, but not including formula fast food restaurants.
 - (c) Professional and administrative offices. First floor office uses discouraged in the downtown core as defined by the core area specific plan. Offices are not discouraged in C-C zones outside the downtown core.
 - (d) Medical clinics.
 - (e) Hotels and motels.
 - (f) Business and technical schools, and schools and studios for photography, art, music, and dance.
 - (g) Any other retail business or service establishment which the planning commission finds to be consistent with the purposes of this article and which will not impair the present or potential use of adjacent properties.
 - (h) Group care homes with six or fewer clients, subject to the provisions of Section 40.26.135.
 - (i) Family and group day care homes as defined in Section 40.01.010.
 - (j) Infill developments containing any of the above uses.
 - (k) Auto service stations with frontage on Fifth Street.
 - (l) Theaters and movie houses.
 - (m) Supportive housing.
 - (n) Transitional housing.
 - (o) Residential structures and apartments with densities up to those permitted in the R-H-D district.

According to the City of Davis City Attorney, the fraternity house that is currently located on the project site is a legal nonconforming use, based on a Settlement Agreement and Release of all Claims entered into by and between the City and Theta Xi in 1995. However, as noted previously in the Regulatory Setting, if two of the buildings are demolished and Theta Xi constructs a new fraternity house on the western lot (as proposed), the new building would not retain the legal nonconforming status under the City's Zoning Code. The fraternity house constitutes a "living group" use, which is a conditional use within the Central Commercial District where the project site is located. Therefore, the project would need approval of a Conditional Use Permit (CUP) for the proposed new fraternity house.

Upon approval of the CUP, the proposed project would not conflict with any land use plan, policy or regulation given that the CUP would facilitate consistency for the proposed residential fraternity uses. The project would not require a rezone.

Additionally, as noted above, Tier III Design Review approval is required because the project site is within 300-feet of a designated historical resource, Dresbach-Hunt-Boyer Home, and the site is within the Conservation Overlay District. According to the Davis Municipal Code, the Conservation Overlay District supports planning policy stipulating that new development and renovation of existing buildings should respect the traditional scale and character found within a defined area. Conservation Overlay Districts are designated under Chapter 40 of the Code. However, some

individual buildings within the Conservation Overlay District are designated Landmarks or Merit Resources in the Davis Register of Historic Resources. Compliance with the City's Tier III Design Review process would ensure that the proposed building respect the traditional scale and character found in the project area.

Further, as noted above, the City's Community Development and Sustainability Department would provide a preliminary review of the applicant-provided final project plans. The Design Review application may be approved only if the following findings are made:

- (a) 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;
- (b) 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;
- (c) 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;
- (d) The proposed project will not create conflicts with vehicular, bicycle, or pedestrian transportation modes of circulation; and
- (e) 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.

CONCLUSION

Overall, the project would be generally consistent with the City's General Plan, Davis CASP, and Davis Zoning Code. However, as discussed above, the completed project site (including all three residential lots) would contain 14 trees on-site (which would be a reduction from the current number of trees on the site). Therefore, the project is not consistent with General Plan Policy UD 2.2, which aims to maintain and increase the amount of greenery, especially street trees, in Davis. This is a potentially significant impact.

MITIGATION MEASURE(S)

Mitigation Measure 3.2-1: *In conjunction with submittal of improvement plans for the project, the project applicant shall submit a final landscape plan to the City of Davis which shows that the project site (including all three residential lots) would maintain or increase the amount of greenery, especially trees, that currently (as of April 2019) exists on-site. The site currently (as of April 2019) contains 28 trees, including those located along the frontages of First Street and D Street. In addition, the landscape plan shall include a palette of shrubs, perennial ground cover, grasses, etc. that balances the need to maintain or increase greenery while being conscientious of drought tolerance and water conservation within the landscaping, consistent with the City's Model Water Efficient Landscape Ordinance.*

SIGNIFICANCE AFTER MITIGATION

Implementation of Mitigation Measure 3.2-1 would require submittal of a final landscape plan, which shows that the project would maintain or increase the amount of greenery, including trees, shrubs, perennial ground cover, grasses, etc. The measure calls for consideration of water conservation in addition to the need to maintain or increase greenery.

Subsequently, this mitigation measure would ensure that any potential impact related to General Plan consistency is reduced to a *less than significant* level.

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