



FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

FOR THE

THETA XI FRATERNITY REDEVELOPMENT
(SCH: 2019029127)

MARCH 2020

Prepared for:

City of Davis
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D e N o v o P l a n n i n g G r o u p

A Land Use Planning, Design, and Environmental Firm



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Section	Page Number
I. Introduction	1
II. General Findings and Overview	2
III. Findings and Recommendations Regarding Significant and Unavoidable Impacts.....	3
IV. Findings and Recommendations Regarding Significant Impacts Which Are Mitigated to a Less than Significant Level	4
V. Findings and Recommendations Regarding Those Impacts Which are Less Than Significant or Less Than Cumulatively Considerable	13
VI. Review and Rejection of Project Alternatives	15
VII. Statement of Overriding Consideration Related to the Theta Xi Fraternity Redevelopment Project Findings	18
VIII. Conclusion.....	22

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FOR THE

THETA XI FRATERNITY REDEVELOPMENT PROJECT

REQUIRED UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
(Public Resources Code, Section 21000 et seq)

I. INTRODUCTION

The California Environmental Quality Act (CEQA) requires the City of Davis (City), as the CEQA lead agency to: 1) make written findings when it approves a project for which an environmental impact report (EIR) was certified, and 2) identify overriding considerations for significant and unavoidable impacts identified in the EIR.

These findings explain how the City, as the lead agency, approached the significant and potentially significant impacts identified in the EIR prepared for the Theta Xi Fraternity Redevelopment Project (project). The statement of overriding considerations identifies economic, social, technological, and other benefits of the project that override any significant environmental impacts that would result from the project.

As required under CEQA, the Final EIR describes the project, adverse environmental impacts of the project, and mitigation measures and alternatives that would substantially reduce or avoid those impacts. The information and conclusions contained in the EIR reflect the City's independent judgment regarding the potential adverse environmental impacts of the project.

The Final EIR (which includes the Draft EIR, comments on the Draft EIR, responses to comments on the Draft EIR, and revisions to the Draft EIR) for the project, examined several alternatives to the project that were not chosen as part of the approved project (the No Project (No Build) Alternative, the Renovation and Preservation Alternative, and the Preservation, Renovation, and New Build Alternative).

The Findings of Fact and Statement of Overriding Considerations set forth below ("Findings") are presented for adoption by the Planning Commission (Commission) as the City's findings under CEQA (Public Resources Code, §21000 et seq.) and the CEQA Guidelines (California Code of Regulations, Title 14, § 15000 et seq.) relating to the project. The Findings provide the written analysis and conclusions of this Commission regarding the project's environmental impacts, mitigation measures, alternatives to the project, and the overriding considerations, which in this Commission's view, justify approval of the project, despite its environmental effects.

II. GENERAL FINDINGS AND OVERVIEW

Procedural Background

The City of Davis circulated an Initial Study and Notice of Preparation (NOP) of an EIR for the proposed project on February 25, 2019 to trustee agencies, the State Clearinghouse (SCH # 2019029127), and the public. A scoping meeting was held on March 18, 2019 in the City of Davis. Those present at the scoping meeting included representatives from the following: the City of Davis, De Novo Planning Group, and the project applicant team. The NOP and comments received during the NOP comment period are presented in Appendix A of the Draft EIR.

The City of Davis published a public Notice of Availability (NOA) for the Draft EIR on July 8, 2019 comment from the general public, agencies, organizations, and other interested parties. The NOA was filed with the State Clearinghouse (SCH # 2019029127) and the County Clerk, and was published in a local newspaper pursuant to the public noticing requirements of CEQA. The Draft EIR was available for public review and comment from July 8, 2019 through August 28, 2019.

The Draft EIR contains a description of the project, description of the environmental setting, identification of project impacts, and mitigation measures for impacts found to be significant, as well as an analysis of project alternatives, identification of significant irreversible environmental changes, growth-inducing impacts, and cumulative impacts. The Draft EIR identifies issues determined to have no impact or a less-than-significant impact, and provides detailed analysis of potentially significant and significant impacts. Comments received in response to the NOP were considered in preparing the analysis in the Draft EIR.

The City received seven comment letters regarding the Draft EIR from public agencies, organizations, and members of the public during the public comment period. In accordance with CEQA Guidelines Section 15088, a Final EIR was prepared that responded to the written comments received, as required by CEQA. The Final EIR document and the Draft EIR, as amended by the Final EIR, constitute the Final EIR.

Record of Proceedings and Custodian of Record

For purposes of CEQA and the findings set forth herein, the record of proceedings for the City's findings and determinations consists of the following documents and testimony, at a minimum:

- The Initial Study, NOP, comments received on the NOP, NOA, and all other public notices issued by the City in relation to the Theta Xi Fraternity Redevelopment Draft EIR.
- The Theta Xi Fraternity Redevelopment Final EIR, including comment letters and technical materials cited in the document.
- All non-draft and/or non-confidential reports and memoranda prepared by the City of Davis and consultants in relation to the EIR.
- Minutes of the discussions regarding the project and/or project components at public hearings held by the City.

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

- Staff reports associated with Planning Commission meetings on the project.
- Those categories of materials identified in Public Resources Code Section 21167.6.

The City Clerk is the custodian of the administrative record. The documents and materials that constitute the administrative record are available for review at the City of Davis Office of the City Clerk at: 23 Russell Boulevard, Suite 1, Davis, CA 95616.

Consideration of the Environmental Impact Report

In adopting these Findings, this Commission finds that the Final EIR was presented to this Commission, the decision-making body of the lead agency, which reviewed and considered the information in the Final EIR prior to approving the Theta Xi Fraternity Redevelopment Project. By these findings, this Planning Commission ratifies, adopts, and incorporates the analysis, explanation, findings, responses to comments, and conclusions of the Final EIR. The Planning Commission finds that the Final EIR was completed in compliance with the California Environmental Quality Act. The Final EIR represents the independent judgment and analysis of the City.

SEVERABILITY

If any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court to be invalid, void, or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the Theta Xi Fraternity Redevelopment Project, shall continue in full force and effect unless amended or modified by the City.

III. FINDINGS AND RECOMMENDATIONS REGARDING SIGNIFICANT AND UNAVOIDABLE IMPACTS

A. CULTURAL AND TRIBAL RESOURCES

1. PROJECT IMPLEMENTATION HAS THE POTENTIAL TO CAUSE A SUBSTANTIAL ADVERSE CHANGE TO A SIGNIFICANT HISTORICAL RESOURCE, AS DEFINED IN CEQA GUIDELINES §15064.5 (EIR IMPACT 3.1-1)
 - (a) Potential Impact. The potential for the project to cause a substantial adverse change to a significant historical resource, as defined in CEQA Guidelines §15064.5 discussed on pages 3.1-15 through 3.1-18 of the Draft EIR.
 - (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.1-1.
 - (c) Findings. Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that:

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

- (1) Effects of Mitigation and Remaining Impacts. Implementation of Mitigation Measure 3.1-1 would require preparation of a Historic Documentation Report, which includes current photographs of each building displaying each elevation, architectural details or character defining features, and overview of the buildings, together with a textual description of the building along with additional history of the building, its principal architect or architects, and its original occupants to the extent that information about those occupants can be obtained. The Report would be deposited with the City of Davis Community Development and Sustainability Department, the Hattie Weber Museum, the State Office of Historic Preservation, and other appropriate organizations and agencies as identified by the Planning Department. Mitigation Measure 3.1-1 also requires that a publicly-accessible memorial or interpretive plaque/display, which identifies the former location of the building, its original owner, and its historic significance, be maintained on the project site.

The Jackson House and Bryson House, both proposed for demolition, are currently listed as significant historical resources under CEQA, having been determined to be eligible for the CRHR based on the statements and conclusions shown in the Historical Effects Analysis and Study (Historical Resource Associates, 2018) and the Historical Resources Analysis Study (Historical Resource Associates, 2016), the project's impacts to historical resources would be significant and unavoidable.

- (2) Overriding Considerations. The environmental, economic, social and other benefits of the project override any remaining significant adverse impact of the project associated with impacts related to cultural and tribal resources, as more fully stated in the Statement of Overriding Considerations in Section VII, below.

IV. FINDINGS AND RECOMMENDATIONS REGARDING SIGNIFICANT IMPACTS WHICH ARE MITIGATED TO A LESS THAN SIGNIFICANT LEVEL

A. BIOLOGICAL RESOURCES

1. HAVE A SUBSTANTIAL ADVERSE EFFECT, EITHER DIRECTLY OR THROUGH HABITAT MODIFICATIONS, ON ANY SPECIES IDENTIFIED AS A CANDIDATE, SENSITIVE, OR SPECIAL STATUS SPECIES IN LOCAL OR REGIONAL PLANS, POLICIES, OR REGULATIONS, OR BY THE CALIFORNIA DEPARTMENT OF FISH AND GAME OR U.S. FISH AND WILDLIFE SERVICE? (INITIAL STUDY IMPACT A)
 - (a) Potential Impact. The potential for the project to have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service, is discussed on pages 40 to 42 of the Initial Study.

- (b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measures Bio-1 and Bio-2.
- (c) Findings. There is a variety of raptors and/or birds protected by the Migratory Bird Treaty Act (MBTA) that could utilize this habitat for nesting. Because the site does not contain open fields or grassland type habitats, the project would not eliminate foraging habitat on the project site. However, development of the project would require the removal of some on-site trees. The proposed project would retain some of the on-site trees, which could be used for future nesting habitat, although the presence of the residents would make it a less desirable location for nesting in the retained trees by many species. Construction activities that occur during the nesting season (generally March 1-August 31) could disturb nesting sites if they were present during construction. It is also noted that additional trees would be planted in conjunction with development of the residential structure.

Due to the proposed tree removal, mitigation is required to avoid impacts related to nesting birds. Mitigation Measures Bio-1 is consistent with Avoidance and Mitigation Measure 16 (AMM16) of the Yolo Natural Heritage Program. Mitigation Measure Bio-2 is consistent with the standard industry practices to avoid and/or minimize potential impacts to protected birds.

Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that the impacts to special-status species will be mitigated to a less than significant level as Mitigation Measures Bio-1 requires measures to be implemented during and prior to construction activities to reduce impacts to nesting birds and habitat, and this measure is consistent with Avoidance and Mitigation Measure 16 (AMM16) of the Yolo Natural Heritage Program. Similarly, Mitigation Measure Bio-2 requires preconstruction surveys for protected birds if any project construction activities are to occur during the nesting season for birds protected under the California Fish and Game Code and/or Migratory Bird Treaty Act (approximately March 1-August 31), and this measure is consistent with the standard industry practices to avoid and/or minimize potential impacts to protected birds. Any remaining impacts related to special-status species after implementation of Mitigation Measures Bio-1 and Bio-2 would not be significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

B. CULTURAL AND TRIBAL RESOURCES

1. PROJECT IMPLEMENTATION HAS THE POTENTIAL TO CAUSE A SUBSTANTIAL ADVERSE CHANGE TO A SIGNIFICANT TRIBAL CULTURAL RESOURCE, AS DEFINED IN PUBLIC RESOURCES CODE §21074 (EIR IMPACT 3.1-2)

- (a) Potential Impact. The potential for project implementation to cause a substantial adverse change to a significant tribal cultural resource, as defined in Public Resources Code §21074 is discussed on pages 3.1-18 through 3.1-20 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.1-2.
- (c) Findings. While there are no known tribal resources known to exist on the project site, as with most projects in the region that involve ground-disturbing activities, there is the potential for discovery of a previously unknown cultural resource or tribal cultural resource.

Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that implementation of Mitigation Measure 3.1-2 would require construction to halt in the event that a buried and previously undiscovered cultural or tribal cultural resource is encountered during construction activities so that it can be appropriately evaluated by a qualified professional. Mitigation Measure 3.1-2 would reduce tribal cultural resource impacts to a less than significant level. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

2. PROJECT IMPLEMENTATION HAS THE POTENTIAL TO CAUSE A SUBSTANTIAL ADVERSE CHANGE TO A SIGNIFICANT ARCHAEOLOGICAL RESOURCE, AS DEFINED IN CEQA GUIDELINES §15064.5 (EIR IMPACT 3.1-3)

- (a) Potential Impact. The potential for project implementation to cause a substantial adverse change to a significant archaeological resource, as defined in CEQA Guidelines §15064.5, is discussed on page 3.1-20 of the Draft EIR.

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.1-2.
- (c) Findings. There are no known archaeological resources that have been found or are known to exist on the site. As with most projects in the region that involve ground-disturbing activities, there is the potential for discovery of previously unknown significant archeological resources.

Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that implementation of Mitigation Measure 3.1-2 would require construction to halt in the event that a buried and previously undiscovered archaeological resource is encountered during construction activities so that it can be appropriately evaluated by a qualified professional. Mitigation Measure 3.1-2 would reduce archaeological resources impacts to a less than significant level. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

3. PROJECT IMPLEMENTATION HAS THE POTENTIAL TO DIRECTLY OR INDIRECTLY DESTROY A UNIQUE PALEONTOLOGICAL RESOURCE (EIR IMPACT 3.1-4)

- (a) Potential Impact. The potential for project implementation to directly or indirectly destroy a unique paleontological resource is discussed on page 3.1-21 of the Draft EIR.
- (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.1-2.
- (c) Findings. There are no known paleontological resources that have been found or are known to exist on the site. The project site is not expected to contain subsurface paleontological resources, although it is possible. Damage to or destruction of a paleontological resource would be considered a potentially significant impact under local, state, or federal criteria.

Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that implementation of Mitigation Measure 3.1-2 would require construction to halt in the event that a paleontological resource is encountered during construction activities so that it can be appropriately evaluated by

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

a qualified professional. Mitigation Measure 3.1-2 would reduce paleontological resources impacts to a less than significant level. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

4. PROJECT IMPLEMENTATION HAS THE POTENTIAL TO DISTURB HUMAN REMAINS, INCLUDING THOSE INTERRED OUTSIDE OF FORMAL CEMETERIES (EIR IMPACT 3.1-5)
- (a) Potential Impact. The potential for project implementation to disturb human remains, including those interred outside of formal cemeteries is discussed on pages 3.1-21 and 3.1-22 of the Draft EIR.
 - (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.1-3.
 - (c) Findings. While no human remains were found during field surveys of the project site, implementation of the following mitigation measure would ensure that all construction activities, which inadvertently discover human remains implement state-required consultation methods to determine the disposition and historical significance of any discovered human remains.

Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that implementation of Mitigation Measure 3.1-3 would require construction to halt in the event that human remains are encountered during construction activities. Mitigation Measure 3.1-3 would reduce impacts to human remains to a less than significant level. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

C. GEOLOGY AND SOILS

1. DIRECTLY OR INDIRECTLY CAUSE POTENTIAL SUBSTANTIAL ADVERSE EFFECTS, INCLUDING THE RISK OF LOSS, INJURY, OR DEATH INVOLVING: SEISMIC-RELATED GROUND FAILURE, INCLUDING LIQUEFACTION?; BE LOCATED ON A GEOLOGIC UNIT OR SOIL THAT IS UNSTABLE, OR THAT WOULD BECOME UNSTABLE AS A RESULT OF THE PROJECT, AND POTENTIALLY RESULT IN ON-OR OFF-SITE LANDSLIDE, LATERAL SPREADING, SUBSIDENCE, LIQUEFACTION OR COLLAPSE?; OR BE LOCATED ON EXPANSIVE SOIL, AS DEFINED IN TABLE 18-1-B OF THE UNIFORM BUILDING CODE (1994), CREATING SUBSTANTIAL DIRECT OR INDIRECT RISKS TO LIFE OR PROPERTY? (INITIAL STUDY IMPACTS A.III, C, AND D)
 - (a) Potential Impact. The potential for the project to result in impacts related to seismic-related ground failure, including liquefaction, unstable soils, and expansive soils is discussed on pages 49 and 50 of the Initial Study.
 - (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure Geo-1.
 - (c) Findings. Overall, the project site has a low potential for liquefaction, lateral spreading, subsidence, and landslides. However, given that fill was encountered at the site, and the lack of information on the compaction and placement history of the fill, mitigation is required to reduce this impact.

Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that impacts related to seismic-related ground failure, including liquefaction, unstable soils, and expansive soils will be mitigated to a less than significant level as Mitigation Measure Geo-1 requires a plan-level geotechnical investigation be performed to identify onsite soil conditions and identify any site-specific engineering measures to be implemented during the construction of building foundations, surface improvements, and subsurface improvements.

Any remaining impacts related to seismic-related ground failure, including liquefaction, unstable soils, and expansive soils after implementation of Mitigation Measure Geo-1 would not be significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

2. RESULT IN SUBSTANTIAL SOIL EROSION OR THE LOSS OF TOPSOIL? (INITIAL STUDY IMPACT B)
- (a) Potential Impact. The potential for the project to result in substantial soil erosion or the loss of topsoil is discussed on pages 50 and 51 of the Initial Study.
 - (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure Geo-2.
 - (c) Findings. The project site is currently developed and is not at significant risk of erosion under the existing conditions. Construction activities including grading could temporarily increase soil erosion rates during and shortly after project construction. Construction-related erosion could result in the loss of a substantial amount of nonrenewable topsoil and could adversely affect water quality in nearby surface waters. The RWQCB requires a project specific Storm Water Pollution Prevention Plan (SWPPP) to be prepared for each project that disturbs an area one acre or larger. The SWPPP will include project specific best management measures that are designed to control drainage and erosion. The SWPPP and the project specific drainage plan would reduce the potential for erosion.

Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that impacts related to erosion and loss of topsoil will be mitigated to a less than significant level as Mitigation Measure Geo-2 requires submittal of a Storm Water Pollution Prevention Plan to the Regional Water Quality Control Board. Any remaining impacts related to erosion and loss of topsoil after implementation of Mitigation Measure Geo-2 would not be significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

D. HYDROLOGY AND WATER QUALITY

1. SUBSTANTIALLY ALTER THE EXISTING DRAINAGE PATTERN OF THE SITE OR AREA, INCLUDING THROUGH THE ALTERATION OF THE COURSE OF A STREAM OR RIVER OR THROUGH THE ADDITION OF IMPERVIOUS SURFACES, IN A MANNER WHICH WOULD: (I) RESULT IN SUBSTANTIAL EROSION OR SILTATION ON- OR OFF-SITE; (II) SUBSTANTIALLY INCREASE THE RATE OR AMOUNT OF SURFACE RUNOFF IN A MANNER WHICH WOULD RESULT IN FLOODING ON- OR OFFSITE; (III) CREATE OR CONTRIBUTE RUNOFF WATER WHICH WOULD EXCEED THE CAPACITY OF EXISTING OR PLANNED STORMWATER DRAINAGE SYSTEMS OR PROVIDE

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

SUBSTANTIAL ADDITIONAL SOURCES OF POLLUTED RUNOFF; OR (IV) IMPEDE OR REDIRECT FLOOD FLOWS? (INITIAL STUDY IMPACTS C.I, C.II, C.III, AND C.IV)

- (a) Potential Impact. The potential for the project to substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces is discussed on pages 60 and 61 of the Initial Study.
- (b) Mitigation Measures. The following mitigation measures are hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measures Hydro-1 and Hydro-2.
- (c) Findings. There are no rivers, streams, or water courses located on or immediately adjacent to the project site. As such, there is no potential for the project to alter a water course, which could lead to on or offsite flooding. Drainage improvements associated with the project site would be located on the project site, and the project would not alter or adversely impact offsite drainage facilities. The proposed project would not likely increase the amount of impervious surfaces on the project site compared to the existing condition. The proposed project would require the installation of storm drainage infrastructure to ensure that storm waters properly drain from the project site. Stormwater would be routed to proposed landscaped bio-swales along the First and D Streets landscaping edges.

The proposed project will be required to comply with the Phase II Small MS4 General Permit (see Article 30.02 and 30.04 of the City of Davis Municipal Code). The proposed project must meet the guidelines and requirements set forth in the “Phase II Small MS4 General Permit, 2013-0001-DWQ,” dated February 5, 2013, adopted by the City of Davis. Permittees must implement a post-construction stormwater management program, as specified in Section E.12 of the Phase II Small MS4 General Permit

In order to meet the guidelines and requirements set forth in the “Phase II Small MS4 General Permit, 2013-0001-DWQ,” permanent storm water control measures would be incorporated into the project in order to mitigate the impacts of pollutants in storm water runoff from the proposed project. The proposed project would incorporate site design measures, source control measures, and treatment control measures.

Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that impacts associated with the potential for the project to substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces will be mitigated to a less than significant level as Mitigation Measure Hydro-1 requires the applicant to submit a plan identifying the stormwater control measures that would be implemented. Mitigation Measures Hydro-2 requires documentation that the stormwater runoff from the site is treated per the standards

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

in the California Stormwater Best Management Practice New Development and Redevelopment Handbook and Section E.12 of the Phase II Small MS4 General Permit. Any remaining impacts related to alteration of the existing drainage pattern of the site or area after implementation of Mitigation Measures Hydro-1 and Hydro-2 would not be significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

E. LAND USE

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 (EIR IMPACT 3.2-1)
 - (a) Potential Impact. The potential for the project to 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 is discussed on pages 3.2-10 through 3.2-17 of the Draft EIR.
 - (b) Mitigation Measures. The following mitigation measure is hereby adopted and will be implemented as provided by the Mitigation Monitoring Program: Mitigation Measure 3.2-1.
 - (c) Findings. Overall, the project would be generally consistent with the City's General Plan, Davis Core Area Specific Plan (CASP), and Davis Zoning Code. However, 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.

Based upon the EIR and the entire record before this Planning Commission, this Planning Commission finds that impacts associated with the potential for the project to 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 will be mitigated to a less than significant level as Mitigation

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

Measure 3.2-1 requires 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. Any remaining impacts related to land use conflicts after implementation of Mitigation Measure 3.2-1 would not be significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the project, or required as a condition of project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the FEIR. The City further finds that the change or alteration in the project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

V. FINDINGS AND RECOMMENDATIONS REGARDING THOSE IMPACTS WHICH ARE LESS THAN SIGNIFICANT OR LESS THAN CUMULATIVELY CONSIDERABLE

Specific impacts within the following categories of environmental effects were found to be less than significant as set forth in more detail in the Initial Study, Draft EIR, and Final EIR.

Aesthetics: The following specific impacts were found to be less than significant or have no impact: A, B, C, and D.

Agriculture and Forestry Resources: The following specific impacts were determined to have no impact: A, B, C, D, and E.

Air Quality: The following specific impacts were found to be less than significant: A, B, C, and D.

Biological Resources: The following specific impacts were found to be less than significant or have no impact: B, C, D, E, and F.

Energy: The following specific impacts were found to be less than significant: A and B.

Geology and Soils: The following specific impacts were found to be less than significant: A.I, A.II, A.IV, E, F.

Greenhouse Gases and Climate Change: The following specific impacts were found to be less than significant: A and B.

Hazards and Hazardous Materials: The following specific impacts were found to be less than significant: A, B, C, D, E, F, and G.

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

Hydrology and Water Quality: The following specific impacts were found to be less than significant: A, B, D, and E.

Land Use and Planning: The following specific impact was found to have no impact: A.

Mineral Resources: The following specific impacts were found to have no impact: A and B.

Noise: The following specific impacts were found to be less than significant or have no impact: A, B, and C.

Population and Housing: The following specific impacts were found to be less than significant or have no impact: A and B.

Public Services: The following specific impact was found to be less than significant or have no impact: A.

Recreation: The following specific impacts were found to be less than significant: A and B.

Traffic and Circulation: The following specific impacts were found to be less than significant: A, B, C, and D.

Utilities: The following specific impacts were found to be less than significant: A, B, C, D, and E.

The project was found to have a less than cumulatively considerable contribution to specific impacts within the following categories of environmental effects as set forth in more detail in the Draft EIR.

Cultural and Tribal Resources: The following specific impact was found to be less than cumulatively considerable: 4.1.

Land Use: The following specific impact was found to be less than cumulatively considerable: 4.2.

The above impacts are less than significant or less than cumulatively considerable for one of the following reasons:

- The EIR determined that the impact is less than significant for the project.
- The EIR determined that the project would have a less than cumulatively considerable contribution to the cumulative impact.
- The EIR determined that the impact is beneficial (would be reduced) for the project.
- The EIR determined that the cumulative impact was fully addressed in the General Plan EIR and that the project would not result in new or expanded cumulative impacts.

VI. REVIEW AND REJECTION OF PROJECT ALTERNATIVES

The State CEQA Guidelines Section 15126.6 mandates that every EIR evaluate a no-project alternative, plus a feasible and reasonable range of alternatives to the project or its location. Three alternatives to the proposed project were developed and considered in detail based on City of Davis staff and Planning Commission input, input from the public during the NOP review period, and the technical analysis performed to identify the environmental effects of the proposed project. Alternatives provide a basis of comparison to the project in terms of beneficial, significant, and unavoidable impacts. This comparative analysis is used to consider reasonable feasible options for minimizing environmental consequences of a project.

Typically, where a project causes significant impacts and an EIR is prepared, the findings must discuss not only how mitigation can address the potentially significant impacts but whether project alternatives can address potentially significant impacts. But where all significant impacts can be substantially lessened, in this case to a less-than-significant level, solely by adoption of mitigation measures, the lead agency, in drafting its findings, has no obligation to consider the feasibility that project alternatives might reduce an impact, even if the alternative would mitigate the impact to a greater degree than the proposed project, as mitigated (Public Resources Code Section 21002; *Laurel Hills Homeowners Association v. City Council* (1978 83 Cal.App.3d 515, 521. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 730-733; *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 400-403).

Because not all significant effects can be substantially reduced to a less-than-significant level either by adoption of mitigation measures or by standard conditions of approval, the following section considers the feasibility of the project alternatives as compared to the proposed project.

As explained below, these findings describe and reject, for reasons documented in the FEIR and summarized below, each one of the project alternatives, and the City finds that approval and implementation of the proposed Theta Xi Fraternity Redevelopment Project is appropriate. The evidence supporting these findings is presented in Section 5.0 of the Draft EIR.

A. IDENTIFICATION OF PROJECT OBJECTIVES

As described above, an EIR is required to identify a “range of potential alternatives to the project [which] shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects.” Chapter 2.0 and Chapter 5.0 of the Draft EIR identify the project’s goals and objectives. The project objectives include:

1. Address deficiencies in the structural integrity of the three houses used to house the undergraduate members of the Theta Xi Fraternity on First Street in Davis, CA, as identified in the report by Pemberton Engineering, dated July 27, 2016;

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

2. Renovate the subject properties in a way that provides for the needs of UCD students by ensuring that housing is competitive both in rent and amenities available within the City of Davis, including on-campus housing, in order to ensure the sustainability of the fraternity;
3. Use the value embedded in the three owned lots to assist in funding the renovation project by consolidating the housing needs of the fraternity onto a smaller footprint;
4. Construct the new building with features that will allow it to achieve a high level of energy efficiency and reduce ongoing maintenance costs; and
5. Continue to use the new facility as classrooms that, through fellowship and alumni guidance, lead to the wholesome mental, moral, physical, and spiritual growth that is the purpose of the Theta Xi Fraternity.

B. ALTERNATIVES ANALYSIS IN EIR

1. NO PROJECT (NO BUILD) ALTERNATIVE:

The No Project (No Build) Alternative is discussed on pages 5.0-5, 5.0-6 and 5.0-7 of the Draft EIR. The No Project (No Build) Alternative assumes that the project site remains in its existing state and no additional development would occur. The project site is currently developed with three two-story adjacent Theta Xi fraternity houses, totaling 19,800 square feet (sf). From east to west, the fraternity houses include the “TX Main House” located at 515 First Street (3,964 total sf, excluding the basement), the “Bryson House” located at 509 First Street (2,009 total sf, excluding the basement), and the “Jackson House” located at 503 First Street (2,065 total sf, excluding the basement). There is a detached garage in the northwest corner of the project site, and the side yard of the Jackson House is used for off-street parking for approximately seven vehicles. Additionally, a paved recreation/patio area is situated behind the Jackson House and Bryson House.

Findings: The No Project (No Build) Alternative is rejected as an alternative because it would not achieve any of the five identified objectives. The No Project (No Build) Alternative is the environmentally superior alternative.

Explanation: This alternative would not realize the benefits of the project nor achieve any of the project objectives. The City of Davis and the project applicant have identified the need to address structural deficiencies in the existing buildings in order to achieve a high level of energy efficiency, reduce ongoing maintenance costs, and ensuring that housing is competitive both in rent and amenities available within the City of Davis, including on-campus housing, in order to ensure the sustainability of the fraternity. Under the No Project (No Build) Alternative, the structural deficiencies would continue and no site development would occur. The No Project (No Build) Alternative would result in fewer significant environmental impacts than the proposed project, but would fail to meet any project objectives identified by the City.

For these reasons, the project is deemed superior to the No Project (No Build) Alternative.

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

2. RENOVATION AND PRESERVATION ALTERNATIVE:

The Renovation and Preservation Alternative is discussed on pages 5.0-5 through 5.0-8 of the Draft EIR. Under this alternative, the three existing buildings would be preserved and undergo modest interior renovations and various other renovations required by existing laws and regulations that do not require significant structural changes to the building for Theta Xi Fraternity Use. This alternative would avoid the loss of any or all of the fraternity buildings that would occur under the proposed project as a result of demolition.

Findings: The Renovation and Preservation Alternative is rejected as an alternative because it would not meet three of the five project objectives and would partially meet two objectives. The Renovation and Preservation Alternative is the next environmentally superior alternative.

Explanation: This alternative results in reduced impacts to land use and historical resources. While this alternative would retain all three buildings in their current exterior design, this alternative would not address deficiencies as a result of recommendations made by Pemberton Engineering of Davis, who conducted a structural/engineering study of the buildings in 2017. Additionally, this alternative would not meet the applicant objective relative to current and future needs of the Theta Xi Fraternity in regards to providing a safe, secure, and livable space for its fraternity members. Further, this alternative would not meet the applicant objective relative to funding because the alternative would not consolidate the housing needs onto a smaller footprint in order to use the value of the lots to assist in funding.

For these reasons, the project is deemed superior to the Renovation and Preservation Alternative.

3. PRESERVATION, RENOVATION, AND NEW BUILD ALTERNATIVE:

The Preservation, Renovation, and New Build Alternative is discussed on pages 5.0-6, and 5.0-8 through 5.0-8 of the Draft EIR. Under this alternative, two of the three existing buildings would be preserved and/or renovated, and one would be demolished. The two buildings that would be preserved and/or renovated would include the TX Main House (located at 515 First Street, totaling 3,964 total sf, excluding the basement) and the Bryson House (located at 509 First Street, totaling 2,009 total sf, excluding the basement), while the Jackson House (located at 503 First Street, totaling 2,065 total sf, excluding the basement) and associated garage would be demolished and the site redeveloped.

Similar to the proposed project, under this alternative, the TX Main house would be vacated and placed for sale or lease to a third party on the open market. The Bryson House would be renovated for continued use by the Theta Xi Fraternity for housing and study. The renovation would include structural and safety improvements only and would not change the number of beds or bathrooms. Once the Jackson House and associated garage are demolished, this alternative would redevelop

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

the Jackson House lot with a new three-story residential structure for use by the Theta Xi Fraternity. This new residential structure would include 22 beds and seven bathrooms. The capacity of the overall site would be similar to the proposed project.

Under this alternative, the parking capacity would remain comparable to the existing condition, and outdoor activities would take place in the backyard of the renovated Bryson House. The other proposed amenities and landscaping would be comparable to the proposed project.

Findings: The Preservation, Renovation, and New Build Alternative is rejected because it would not reduce any impacts compared to the project, and would not reduce the significant and unavoidable impact to a historical resource. Additionally, this alternative would not fully achieve three of the five project objectives.

Explanation: This alternative would fully meet two of the five objectives of the project and would partially meet three of the objectives. The Preservation, Renovation, and New Build Alternative would result in similar impacts related to land use. Because demolition of one of the buildings would be required for this alternative, this alternative would not avoid the loss of one of the fraternity buildings. As such, impacts to historical resources would be similar to the proposed project. It is worth noting, however, that because two buildings would be preserved and/or renovated (compared to one building preserved under the proposed project), the significant and unavoidable impact to historical resources would be reduced (although not avoided). On balance, the benefit of renovating one of the buildings that would be achieved with this alternative are outweighed, independently and separately, by the reasons described above, and the failure of this alternative to provide the same level of benefits as the project.

For these reasons, the project is deemed superior to the Preservation, Renovation, and New Build Alternative.

VII. STATEMENT OF OVERRIDING CONSIDERATION RELATED TO THE THETA XI FRATERNITY REDEVELOPMENT PROJECT FINDINGS

As described in Section III of these Findings, the following significant and unavoidable impact could occur with implementation of the project:

- Impact 3.1-1: Project implementation has the potential to cause a substantial adverse change to a significant historical resource, as defined in CEQA Guidelines §15064.5.

The adverse effect identified above is a substantive issue of concern to the City of Davis. The Land Use Element of the City's General Plan promotes infill development and densification of the City's downtown area. Policy LU 2.1 of the Davis General Plan aims to develop and implement guidelines for infill development and comprehensive car management strategies immediately following the adoption of the General Plan so that guidelines and strategies will be in place prior to the approval

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

of significant new infill development. The standard associated with this policy specifically calls out the densification of existing single family lots as a form of infill development that could be used to meet Policy LU 2.1. The standards also target residential infill to help address the needs of UC Davis students. This project would result in densification of the two single family lots while targeting residential infill to address the needs of the fraternity members, whom are UC Davis students.

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 proposed project would include redevelopment of a site that is currently rented to UC Davis students. Approval and development of the proposed project will provide students and members of the Theta Xi Fraternity with rental housing located in close proximity to neighborhood centers and shopping centers, with access to transit routes and bicycle paths.

Additionally, General Plan Policy UD 2.4 aims to 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, and transit stops. The proposed project would result in redevelopment of a Fraternity building with a multifamily residential building that includes innovative designs and amenities. The project is also linked with public bicycle/pedestrian ways and is in close proximity to transit. There are two Unitrans routes that pass the project site: the 'M' line and the 'W' line. The 'M' line provides service to the Memorial Union Terminal and the 'W' line provides service to the Silo Terminal. Additionally, the Putah Creek and Arboretum trail system links the project site to south Davis, west Davis, and UC Davis. Further, the project site is located in close proximity to neighborhood centers and services, such as the Davis Commons and downtown Davis.

General Plan Policy TRANSPORTION 1.3 aims to locate higher intensity residential development near existing centers and along corridors well served by non-motorized transportation infrastructure and public transportation. The project meets this policy as already described.

The Planning Commission has balanced the benefits of the project against its unavoidable environmental risks in determining whether to approve the project, and has determined that the benefits of the Project outweigh the unavoidable adverse environmental effects. The reasons set forth below are based on the EIR and other information in the record. As set forth in the preceding sections, approving the project will result in significant adverse environmental effects that cannot be reduced to a less-than-significant level, even with the adoption of all feasible mitigation measures. As determined above, however, there are no additional feasible mitigation measures, nor are there feasible alternatives, that would mitigate or substantially lessen the impacts to a less-than-significant level. Therefore, despite these significant environmental effects, the Planning Commission, in accordance with Public Resources Code Sections 21001, 21002.1(c), 21081(b) and CEQA Guidelines Section 15093, chooses to approve the Project because, in its judgment, the following economic, social, and other benefits that the Project will produce will render the significant effects acceptable.

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

Substantial evidence supporting the benefits cited in this Statement of Overriding Considerations can be found in the preceding findings, which are incorporated by reference into this section, and in the documents found in the record of proceedings, as defined in section II, above. Any one of the following reasons is sufficient to demonstrate that the benefits of the project outweigh its unavoidable adverse environmental effects, thereby justifying approval of the project.

1. **Development of Student Housing.** The project would provide replacement student housing options and contribute toward an adequate supply of rental housing in the City of Davis to help meet existing student housing needs, consistent with City housing policies. Davis General Plan Standard LU-2.1 targets residential infill to help address the needs of UC Davis students and employees, City and school district employees, seniors, lower income households and other special needs groups. Davis General Plan Policy HOUSING 41.2 strives to maintain an adequate supply of rental housing in Davis to meet the needs of all renters, including students.
2. **Quality Design and the Integration of On-Site Amenities.** The proposed project would comply with all existing energy standards, including those established by the City of Davis. 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. For example, the project would be required to comply with Chapter 8.01 of the City of Davis’ Municipal Code, which requires that buildings are to comply with the Tier 2 standards of the California Green Building Standards Code. Further, the project would be required to provide solar photovoltaics, among other requirements, on the proposed fraternity building, as required by the City’s “Green Reach Code”. In addition to quality design, the proposed project includes several on-site amenities, such as a dedicated “Bike Barn”, exterior meeting and gathering areas, and study areas.
3. **Consistency with the Davis General Plan.** The proposed Project is consistent with all of the following General Plan goals, policies, and standard:

- | | |
|----------------|--|
| 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. |
| 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. |

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

- Policy LU 2.1: Develop and implement guidelines for infill development and comprehensive car management strategies immediately following the adoption of the General Plan so that guidelines and strategies will be in place prior to the approval of significant new infill development.
- Standard LU 2.1: a. Guidelines should recognize various forms and patterns of infill development including:
- (1) new mixed use, transit oriented development in new neighborhoods developed on urban land zoned for non-residential uses. (Land designated on the General Plan Land Use Map for uses of agriculture, agriculture buffer, or various open space uses are not to be considered as, nor re-designated as, urban land for infill purposes.)
 - (2) new mixed use, transit oriented development in/near established neighborhoods.
 - (3) residential infill in/near established neighborhoods (e.g., Grande and Wildhorse school sites).
 - (4) densification of existing single family lots.
 - (5) targeted residential infill to help address the needs of UC Davis students and employees, City and school district employees, seniors, lower income households and other special needs groups (e.g., prospective joint UC-City-RDA-private sector sponsored projects).
 - (6) redevelopment of older apartment complexes.
- b. Guidelines and car management strategies should be sensitive to the impacts and obstacles unique to each infill type.
- 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.
- Policy HOUSING 1.2: Strive to maintain an adequate supply of rental housing in Davis to meet the needs of all renters, including students.

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

- 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.
- Policy TRANS 1.3: Encourage higher intensity residential, commercial, and mixed-use development near existing activity centers and along corridors well served by non-motorized transportation infrastructure and public transportation.
4. Consistency with the Davis Climate Action and Adaptation Plan (D-CAAP). The proposed project is consistent with the D-CAAP, which lays the framework for the City of Davis to achieve its target reduction goals of GHG emissions, and is consistent with the City's GHG standards for new residential projects. The project would be subject to the City's Reach Code. The air quality and GHG modeling completed as part of the Initial Study for the project demonstrates that the proposed project would result in decreased operational GHG emissions compared to the existing condition. Further, the project would be considered an infill development that is located near transit, retail, and other services. This project would result in densification of the downtown area, which is recognized as a desired objective of the City's General Plan and corresponds to various goals of the D-CAAP. Because the proposed project is consistent with the D-CAAP, development of the project would assist the City in achieving their adopted GHG reduction targets.

VIII. CONCLUSION

After balancing the specific economic, legal, social, energy, and other benefits of the proposed project, the Commission finds that the unavoidable adverse environmental impact identified may be considered "acceptable" due to the specific considerations listed above which outweigh the unavoidable, adverse environmental impact of the proposed project.

The Davis Planning Commission has considered information contained in the EIR prepared for the proposed Theta Xi Fraternity Redevelopment Project as well as the public testimony and record of proceedings in which the project was considered. Recognizing that a significant unavoidable impact related to historical resources may result from implementation of the proposed project, the Commission finds that the benefits of the project and overriding considerations outweigh the adverse effects of the project. Having included all feasible mitigation measures in the Mitigation Monitoring and Reporting Program, and recognized the unavoidable significant impact, the Commission hereby finds that each of the separate benefits of the proposed Theta Xi Fraternity Redevelopment Project, as stated herein, is determined to be unto itself an overriding consideration, independent of other benefits, that warrants adoption of the proposed project and outweighs and overrides its unavoidable significant effect, and thereby justifies the adoption of the proposed Theta Xi Fraternity Redevelopment Project.

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATION

Based on the foregoing findings and the information contained in the record, the Commission hereby determines that:

1. All significant effects on the environment due to implementation of the proposed Theta Xi Fraternity Redevelopment Project have been eliminated or substantially lessened where feasible;
2. There are no feasible alternatives to the proposed Theta Xi Fraternity Redevelopment Project which would mitigate or substantially lessen the impacts; and
3. Any remaining significant effects on the environment found to be unavoidable are acceptable due to the factors described in the Statement of Overriding Considerations above.

FINDINGS OF FACT AND STATEMENT OF OVERRIDING
CONSIDERATION

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