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November 16, 2023

VIA Hand Delivery

Sherri Metzger, Director
Department of Community Development and Sustainability
City of Davis
23 Russell Blvd., Suite 2
Davis, CA 95616

Re: 212 University Ave., Davis, CA

Dear Sherri:

Opterra Law, Inc., represents 12-14 West Street, LLC, in relation to their property located at 212 University Avenue (the "Property"). Thank you for meeting with us yesterday regarding the proposed multi-family housing project located at 212 University Ave. (the "Project"). We are pleased to submit the enclosed application for the Project.

The Project proposes to demolish the existing, vacant 6-unit apartment building and replace it with twenty (20) new apartments. These apartments will be 3- and 4-bedrooms in size for a total of seventy-eight (78) bedrooms. Four of the apartments (20% of the units) will be for lower-income households. The Project also includes laundry and bicycle parking in the basement.

The Project has been designed to fit seamlessly within the existing urban context. It is surrounded by residential uses. There are existing multi-family uses to the north, south, and west of the site. The Black Bear diner is immediately east of the site and there are single-family residences to the northwest of the site. It is located one block from campus and one block from the downtown retail area. It is also two blocks from Central Park. The building is in a location well served by public transportation and walkable and bikeable amenities. It is designed to encourage bicycle and pedestrian access. The Project includes a mix of unit sizes, including 3- and 4-bedroom apartments.

Downtown Davis Specific Plan. Although the Project is subject to the Builder's Remedy (see below) and need not comply with the applicable General Plan and zoning, the applicant has worked to comply with the City of Davis ("City") Downtown Davis Specific Plan ("Specific Plan") and implement the Specific Plan's vision for the Downtown core area.

The pre-application included a checklist detailing the Project's attributes with regard to the form-based requirements in the Specific Plan. More broadly, the Project provides much-needed

housing in a mixed-use, walkable environment in close proximity to the University campus and to the downtown core.

In accordance with the purpose of the Neighborhood Medium (N-M) zone, the Project will bring residents within short walking distance of neighborhood-serving retail and services. The house-form building invites residents and visitors into a main entry lobby, from which the apartments on each floor are accessed from internal common areas. There will be stairs and an elevator. The building site complies with the site requirements and setbacks. The overall building size fits within the building size envelope, with an additional 3-foot architectural feature to beautify and articulate the overall form of the building, as permitted by the Specific Plan.

Density Bonus. The Project qualifies for a density bonus. By including 20% of the units for low-income households, the Project qualifies for two incentives or concessions from local development standards. The Project as designed proposes to use one concession seeking relief from the maximum height standard and a second concession seeking relief from the main entrance location requirement. The main entrance will be located on the side of the building to accommodate a gracious shared entryway/lobby. Landscaping features will be used to invite visitors from the front around the side of the building to the entrance.

SB 330. The Project is a “housing development project” subject to SB 330 and protected by the Housing Accountability Act (the “HAA”) because more than two-thirds of the Project’s square footage is devoted to residential uses. Gov’t Code §65905(b)(3); Gov’t Code §65589.5(h)(2). The applicant submitted a preliminary application with all of the information specified in SB 330 and a permit processing fee on November 1, 2023. This pre-application vested the applicant’s right to develop a housing development project in accordance with the applicable ordinances, policies, and standards in effect as of that date. Gov’t Code 65589.5(o)(1). As confirmed by the California Department of Housing and Community Development (“HCD”), these vested rights include a right to proceed under the Housing Element compliance status in effect at the time of preliminary application submittal. *See* HCD, “3030 Nebraska Ave., Santa Monica – Letter of Technical Assistance” (Oct. 5, 2022).¹ The City’s housing element compliance status was, and continues to be, non-compliant. Therefore, that non-compliant status is vested for the purposes of the Project.

Builder’s Remedy. When a local government has not adopted a Housing Element that is substantially compliant with Housing Element Law, the so-called “Builder’s Remedy” applies. Although the City has been working toward compliance with state law, the City’s Housing Element is not yet in compliance according to the August 31, 2023 Letter from HCD to the City.

In this situation, a local government cannot deny a housing development for very low, low, or moderate income households unless the local government can make one of five limited findings specified in Government Code section 65589.5(d). For the purposes of the Builder’s Remedy, housing for very low, low, or moderate income households includes a project in which at least 20% of the total units are rented to lower income households, as defined by the Health & Safety Code. This Project includes 20% of the units to be rented to lower income households. Therefore, the Builder’s Remedy will apply.

The Legislature “has made increasingly clear” that mandates included in the HAA “are to be taken seriously and that local agencies and courts should interpret them with a view to giving ‘the

¹ Available at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/santa-monica-TA-100522.pdf>

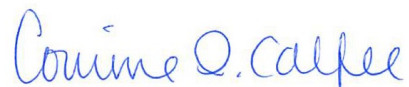
fullest possible weight to the interest of, and the approval and provision of, housing.” *Cal. Renters Legal Advoc. & Educ. Fund v. City of San Mateo*, 68 Cal. App. 5th 820, 902 (2021) (citing Gov. Code § 65589.5(a)(2)(L)). We look forward to working further with the City to promptly consider the Project in a manner consistent with state and local law.

CEQA Review. The Project is exempt from review under the California Environmental Quality Act (“CEQA”) because it is compliant with the Specific Plan. Government Code section 65457, implemented by CEQA Guideline 15182, exempts residential projects implementing a specific Plan for which an Environmental Impact Report (“EIR”) has been prepared. The City prepared an EIR for the Specific Plan and as above, the Project complies and implements the Specific Plan, and so qualifies for this exemption.

Project Processing. We anticipate that the Project application will be reviewed pursuant to the processes articulated by the Specific Plan. Because the Project proposes a new building with an allowed use, it will be subject to staff review. To the extent that the City requests that the Social Services Commission review the affordable housing component of the project, the applicant requests that such review reflect the extraordinarily limited discretion available to the City to deny a housing project, much less a Builder’s Remedy project proposing 20% of on-site units affordable at the low-income level.

Thank you for your assistance. We are excited to work through this process with you to implement the Downtown Specific Plan and achieve the City’s ambitious goals for adding new market rate and affordable housing to our community. Please let me know if you have any questions or would otherwise like to discuss this application.

Sincerely,



Corinne I. Calfee

Encl.

cc: Client