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VIA Hand Delivery

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

June 10, 2024

Re: 724 & 730 G Street, Davis CA

Dear Sherri:

Opterra Law, Inc., represents Sweetbriar & G Investments I, LLC (the "Applicant") in relation to their property located at 724-730 G Street (APNs 070-163-001-000 & 070-163-002-000, the "Property"). We are pleased to present the accompanying preliminary application for the Sweetbriar project (the "Project") pursuant to the Housing Crisis Act of 2019 ("HCA", also known as "SB 330").

The Project proposes to demolish two existing single-family homes and replace them with twelve (12) 3- and 4-bedroom dwelling units in townhomes. The Project has been designed to comply with the Downtown Davis Specific Plan and the form-based code that implements the Specific Plan. As such, the Project will fit seamlessly within the existing neighborhood while providing much-needed new housing in the downtown area.

Downtown Specific Plan. The Project complies with the City of Davis ("City") Downtown Specific Plan. 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 upon submission of a complete application and fees.

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).

SB 330 requires that each local government compile a list of required materials and an application that developers may use to submit a preliminary application. The California Department of Housing and Community Development ("HCD") has created a form that may be used where, as here, the local government does not have such a list or form. The Applicant has completed the HCD form, which is attached.

By submitting this preliminary application with all of the information specified in SB 330 and a permit processing fee, the Applicant obtains a vested right to develop a housing development project in accordance with the applicable ordinances, policies, and standards in effect as of today's date, when the preliminary application is submitted. Gov't Code 65589.5(o)(1).

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 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.

Inclusionary Housing. Applicant is proposing alternative compliance with the City's inclusionary housing requirements by paying the current "In-Lieu Housing – Per Unit" fee of \$81,979.00 for 15% of the twelve units. The calculation would be 15% x 12 units x \$81,979.00 = \$147,562.20.

By way of further explanation, the City adopted an inclusionary housing ordinance in 2023. The ordinance was adopted under the authority provided by the state legislature through AB 1505. The state law allows cities to adopt inclusionary housing ordinances only so long as those ordinances provide for alternative compliance. The statute reads, "The ordinance **shall** provide alternative means of compliance that may include, but are not limited to, in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units." Gov't Code 65850(g) (emphasis added). In other words, a city may only adopt an inclusionary housing ordinance if it also provides alternative means for developers to comply with the ordinance, other than simply including affordable rental units in the proposed development.

The California Department of Housing and Community Development ("HCD"), Division of Housing Policy Development has provided guidance to cities with regard to inclusionary housing ordinances.¹ It confirms that the inclusion of alternative compliance mechanisms is mandatory: "AB 1505 also recognizes the importance of flexibility and mitigating development costs in meeting inclusionary requirements. The law states that **inclusionary ordinances with rental housing must provide alternative means for compliance**" (p. 3, emphasis added).

Here, although the City's ordinance anticipates that alternative compliance mechanisms will be adopted in the future, they have not yet been adopted. Yet alternative compliance mechanisms are required in inclusionary housing ordinances. In the absence of a new alternative compliance scheme, Applicant proposes to comply with the City's existing in-lieu fee, which has not been repealed. We are therefore proceeding under the City's existing policy that provides for payment of a \$81,979.00 in lieu fee, as published in the 2023-24 fee schedule.²

¹ https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/ab_1505_final.pdf&ved=2ahUKEwjil-LxtGGAxVBMzQIHSmHBwYQFnoECBwQAQ&usg=AOvVaw1GuIPNiGCJF5sfUmobfN08

² <https://www.cityofdavis.org/home/showpublisheddocument/18683/638283052739770000>, p. 15.

Thank you for your assistance. We are excited to work through this process with you to begin implementing the Downtown Specific Plan and achieving the City's ambitious goals for adding housing to our community. Please let me know if you have any questions or would otherwise like to discuss this request.

Sincerely,

A handwritten signature in blue ink that reads "Corinne I. Calfee". The signature is written in a cursive, flowing style.

Corinne I. Calfee

Encl.

cc: Client