

Dear Davis Planning Commission/City Council,

I support the Davis Live student housing project for many reasons:

- The near zero vacancy rate in Davis is causing rampant housing insecurity and homelessness among the student population. This is a shovel ready project that would be online by 2020.
- The project is sustainable: It is LEED gold with transportation options including bike loans, zipcar, and ample indoor bike parking.
- The project is close to campus and in a neighborhood with other students.
- The project is dense, thereby providing as many beds on a relatively small footprint to alleviate our housing crisis.
- The project has a needed affordable housing component that will help students who are struggling financially and it meets the City's 15% standard, with 5% of those beds being extremely low income, 5% of those beds being very low income, and 5% of those beds being low income.
- A recent student survey just found that even with the recently approved projects (Sterling, Lincoln40, and Nishi), and all planned on-campus development there will still be a shortage of over 1,000 beds.
- Furthermore, ~19% of UC Davis students reported experiencing some form of housing insecurity.

In addition to these reasons, I would like to share with you my own struggle to find housing as it illustrates why this is so important:

I am a PhD student who came to Davis after living in Baltimore. I started looking for housing after accepting my offer in March of 2016. It took 4 months of searching to find housing that I could (barely) afford on my stipend and I had seriously begun to question if I should move here after all. I was on the verge of withdrawing when I found someone who had a roommate back out of a lease last minute. I sent an email and by the next day, the girl who had posted about it had already received more than 20 responses from people looking to move in. My experience is not unique and almost every grad student I know has "war stories" of trying to find housing in Davis. Market rate rent in Davis is barely affordable on a typical grad student salary and the strain of the cost of living on my salary has been a constant source of stress.

By the time I finish my education, I will likely have lived in Davis for 5 years. This will be longer than I have lived in any one place since graduating high school and I want Davis to feel like my home. I want to feel as though I am part of a community beyond the university but it is difficult to lay down those roots when I am constantly wondering if next year's rent increase will be the one that forces me to move out of town. Davis Live will not magically fix the housing crisis in Davis, but it will alleviate at least some of the stress of trying to find an apartment. I ask you to give your support to this project.

Thank you,

Gwen Chodur

**From:** Heidi Tschudin  
**To:** [Cindy Gnos](#)  
**Subject:** FW: Support for Oxford Circle Davis Live Project  
**Date:** Wednesday, July 25, 2018 9:31:06 AM

---

Heidi Tschudin, FAICP  
Deputy City Manager/Community Development  
And Sustainability Director  
City of Davis  
23 Russell Blvd  
Davis, CA 95616  
(530) 813-3565 Cell/Text  
(530) 757-5654 Direct  
(530) 757-5610 Main

**From:** Ruy Laredo <ruy.laredo@gmail.com>  
**Sent:** Tuesday, July 24, 2018 11:14 AM  
**To:** Planning Commission <PlanningCommission@cityofdavis.org>  
**Subject:** Support for Oxford Circle Davis Live Project

Dear Davis Planning Commission/City Council,

I support the Davis Live student housing project for many reasons:

- The near zero vacancy rate in Davis is causing rampant housing insecurity and homelessness among the student population. This is a shovel ready project that would be online by 2020.
- The project is sustainable: It is LEED gold with transportation options including bike loans, Zipcar, and ample indoor bike parking.
- The project is close to campus and in a neighborhood with other students.
- The project is dense, thereby providing as many beds on a relatively small footprint to alleviate our housing crisis.
- The project has a needed affordable housing component that will help students who are struggling financially and it meets the City's 15% standard, with 5% of those beds being extremely low income, 5% of those beds being very low income, and 5% of those beds being low income.

- A recent student survey just found that even with the recently approved projects (Sterling, Lincoln40, and Nishi), and all planned on-campus development there will still be a shortage of over 1,000 beds.

- Furthermore, about 19% of UC Davis students reported experiencing some form of housing insecurity.

In addition to these reasons, I would like to share with you my own struggle to find housing as it illustrates why this is so important:

Thank you,

Ruy Laredo

**Davis Resident**

---

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

## Cindy Gnos

---

**From:** Heidi Tschudin <HTschudin@cityofdavis.org>  
**Sent:** Wednesday, July 25, 2018 5:50 PM  
**To:** Cindy Gnos  
**Subject:** FW: In Support of Davis Live

Heidi Tschudin, FAICP  
Deputy City Manager/Community Development  
And Sustainability Director  
City of Davis  
23 Russell Blvd  
Davis, CA 95616  
(530) 813-3565 Cell/Text  
(530) 757-5654 Direct  
(530) 757-5610 Main

**From:** Allison Olson <mrs.allisonolson@gmail.com>  
**Sent:** Wednesday, July 25, 2018 2:11 PM  
**To:** Planning Commission <PlanningCommission@cityofdavis.org>  
**Subject:** In Support of Davis Live

Hello Esteemed Commissioners,

It's my understanding that Davis Live on Oxford Circle is up for review tonight at your Planning Commission meeting. I believe this project is an important investment in the City of Davis' future- for students and for families like mine. Please read my Op-Ed in the Davis Enterprise highlighting the need for smart dwelling opportunities in Davis. I've linked it [HERE](#) for you. Please consider passing Davis Live for families and students alike!

Sincerely,

Allison Olson

---

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

## Cindy Gnos

---

**From:** Heidi Tschudin <HTschudin@cityofdavis.org>  
**Sent:** Wednesday, July 25, 2018 5:49 PM  
**To:** Cindy Gnos  
**Subject:** FW: In support of Davis Live

Heidi Tschudin, FAICP  
Deputy City Manager/Community Development  
And Sustainability Director  
City of Davis  
23 Russell Blvd  
Davis, CA 95616  
(530) 813-3565 Cell/Text  
(530) 757-5654 Direct  
(530) 757-5610 Main

---

**From:** Sara Robinson <smrobinson@ucdavis.edu>  
**Sent:** Wednesday, July 25, 2018 2:32 PM  
**To:** Planning Commission <PlanningCommission@cityofdavis.org>  
**Subject:** In support of Davis Live

Dear Davis Planning Commission,

I've written to you a few times regarding student housing in Davis, and in light of Davis Live coming in front of the Planning Commission again on Wednesday, I would like to highlight some of my previous comments in favor of student housing. I've put them in italics. You may remember them, in which case, this email will be redundant. Please feel free to get back to your busy day if you do remember them!

Also, I'd like to mention that Davis Live really seems pioneering both in regards to the density it offers in a crisis market and also in the alternative transportation options it encourages. As a scientist, environmental conservation means quite a bit to me!

Thank you (again) for hearing my concerns.

Sincerely,

Sara Dye

*July 10, 2017*

*I recently purchased my first home in town for around \$500,000. I saved up to do this for years, living in Woodland beforehand. My husband and I had to make an offer on our house in Davis the first day it went on the market, after only having an opportunity to look at the pictures online and take one look inside. The reason we moved so quickly is because we missed several home buying opportunities to investors who bought houses on the spot for cash, intending to rent to students.*

*I love the student population here and work with them in my lab every day. One of the students I work with cannot find an apartment in Davis and takes two busses each morning from Elk Grove to get to campus. I, myself, would have loved to live in Davis all along, rather than commute from Woodland every day. I believe I could have done this if homes in established neighborhoods in the \$350-500,000 range were more readily available at the time, rather than rented to students in such abundance.*

*I know we can solve our housing problem in town. I look forward to students like the ones I work with not having to worry about finding housing in Davis and couples like ourselves being able to live in Davis from the start. More student housing, which would free up the entry level housing stock in town, would be a good start.*

*Thank you for your consideration,  
Sara Dye*

---

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

OFFICE OF THE MAYOR

Darrell Steinberg  
Mayor



CITY HALL  
915 I STREET, Fifth Floor  
SACRAMENTO, CA  
95814-2672

PH 916-808-5300  
FAX 916-264-7680  
MayorSteinberg@cityofsacramento.org

---

CITY OF SACRAMENTO  
CALIFORNIA

July 23, 2018

Brett Lee, Mayor  
Davis City Council  
23 Russell Blvd, Suite 1  
Davis, CA 95616

**RE: Davis Live Project CEQA Exemption per Public Resources Code § 21155.1**

Dear Mayor Lee:

I write in strong support of exempting the Davis Live Project from CEQA review. I authored Senate Bill (SB) 375 in 2008 based on the recognition that new vehicle technologies alone will not be sufficient to combat climate change; it will also be necessary to reduce vehicle trips by fundamentally changing land use patterns and improving transportation. Without smarter land use and transportation planning, California will not be able to achieve the climate goals embodied in AB 32 (Nuñez) and SB 32 (Pavley).

As part of SB 375, the Legislature adopted the Transit Priority Project exemption (Public Resources Code section 21155.1) to streamline the CEQA process for projects that improve residential development patterns, expand transit service and accessibility, and enhance the walkability of communities. With this tool, our state's local governments can improve air quality, conserve energy, and promote efficient development that supports the growing population needs in a manner that also reduces greenhouse gas emissions.

The Davis Live Project is precisely the type of project I envisioned with SB 375—density in close proximity to transit and major regional destinations (e.g., the University of California at Davis) to encourage public transit use, walking, and biking. The Davis Live Project will provide critically needed housing across the street from the University and within walking distance of retail amenities and downtown Davis. Moreover, four bus lines serve the immediate Project vicinity and other lines are accessible at the Memorial Union bus station, just under a mile away. The Capitol Corridor lines, supplying access throughout the Sacramento and Bay Area regions, are accessible about a mile and a half away.

Projects like Davis Live are essential to assisting the state in reaching its greenhouse gas emissions reduction goals. Thank you for your continued efforts to facilitate sustainable planning in California and achieve the goals of SB 375.

Sincerely,

A handwritten signature in black ink that reads 'Darrell Steinberg'. The signature is written in a cursive, flowing style.

Darrell Steinberg  
Mayor, City of Sacramento

## Cindy Gnos

---

**From:** Barbara Katz <barbara\_katz@sbcglobal.net>  
**Sent:** Wednesday, July 18, 2018 11:19 AM  
**To:** Heidi Tschudin; Planning Commission; Barbara Katz; Patty And John  
**Subject:** Fw: Davis Live 525 Oxford Circle

On Wednesday, July 18, 2018 11:15 AM, Barbara Katz <barbara\_katz@sbcglobal.net> wrote:

We renew our objections to this project. Please see that our objections get in the record of the hearing. Thank you.  
Barbara Katz, Patty and John Goss

On Wednesday, May 23, 2018 4:02 PM, Barbara Katz <barbara\_katz@sbcglobal.net> wrote:

To the Planning Commission:

We, Barbara Katz, Patty Goss, and John Goss, oppose this project. The "student ghetto" that exists in the Wake Forest/Oxford Circle/south Sycamore area has gotten too large, too noisy, and there are too many cars and bicycles in our neighborhood. This project follows the rebuilding of UCD's Webster Hall on Oxford Circle where one story and 104 students will be added and the number of on site parking spaces will be reduced from 50 to 18. The proposed project will be a seven story building housing 440 students with 71 parking spaces for cars. That is too many students and not enough parking spaces.

**PARKING AND CAR TRAFFIC:** Several years ago our neighborhood (Plum Lane/Peach Lane/West 8th Street) fought long and hard for preferential parking because we were overrun with students parking their cars here leaving no space for parking for residents and visitors. The City staff and the developers make the assumption that these students will be riding their bikes to and from campus. That is probably true. However, many of them come to Davis with both cars and bikes and it is very difficult to park cars on Wake Forest and Oxford Circle if there are not enough spaces in this proposed project. These students are smart and have figured out that the City Police parking enforcement officer patrols our area just before 9:00 am for enforcement of the 2:00 am-9:00 am no parking restriction. The students park here, move their cars just before 9:00 and then re-park them here all day. So much for preferential parking! Some of the students use West 8th Street to get to and from Wake Forest and add to traffic and noise and litter that we long-time residents must endure. How do the project proponents plan to enforce the no cars rule for Freshman and Sophomore students?

**NOISE:** Sound carries! Students have loud parties especially on weekends. The noise plus extra traffic and need for parking create a nuisance for us. Generally, City Police do not enforce the noise ordinance without a specific complaint. It can be hard to tell which apartment is the source of the noise. Accordingly, the burden of enforcement falls on the residents in the neighborhood which we don't like doing nor should we have to do it. We cannot relax outside in our yards or in our homes with the windows open because of noise from students in this area. Even with the windows closed, we can still hear the loud music. Adding more students will make the noise problem worse.

**SIZE AND SCALE OF THE PROJECT:** Replacing a two story building with a seven story building is just too big for the neighborhood. The density that planners seem to like is destroying our neighborhoods. The Planning Commission and the City Council want taller buildings, greater density, and reduced parking without any apparent thought to the impact on those of us who live in these neighborhood and PAY TAXES. The City needs to negotiate with UCD to house more students on campus and have long term parking lots for these students to park their cars. Stop dumping them on the rest of us! UCD should limit enrollment if it can't house the students. The City must stand up for us and demand that UCD take responsibility for housing the students that it enrolls. It is the responsibility of UCD to house students, not the City.

**CEQA COMPLIANCE:** We aren't sure that the exemption claimed by the City applies here with many impacts that have not been mitigated.

We will appreciate your consideration of our comments and concerns about this proposed project. If you need further information we may be contacted as follows:

Barbara Katz  
barbara\_katz@sbcglobal.net  
530-753-2158

Patty and John Goss  
plgoss@sbcglobal.net  
530-756-3302

Thank you,  
Barbara Katz, Patty Goss, John Goss



tel: 916.455.7300 • fax: 916.244.7300  
510 8th Street • Sacramento, CA 95814

July 25, 2018

**SENT VIA EMAIL ([htschudin@cityofdavis.org](mailto:htschudin@cityofdavis.org);  
[planningcommission@cityofdavis.org](mailto:planningcommission@cityofdavis.org))**

City of Davis  
Department of Community Development and Sustainability  
c/o Heidi Tschudin, Deputy City Manager/Director of  
Community Development and Sustainability  
23 Russell Boulevard, Suite 2  
Davis, California 95616

**RE: July 25, 2018 City of Davis Planning Commission Meeting  
Agenda Item 5C – Davis Live Student Apartments Project**

Dear Members of the City of Davis Planning Commission and Ms. Tschudin:

This letter provides additional comments on the Davis Live residential development project, which proposes a 71-unit, 440-bed student housing development<sup>1</sup> (the “Project”) on little over one acre. We appreciate this Commission’s thoughtful consideration of the Project at its prior hearing and acknowledgment that denial was the appropriate action.

In the nearly two months since then, no documents were circulated for public review until the staff report was released just days ago. That staff report includes, as an exhibit, over 2,000 pages of analysis and attachments, which in turn cite and rely on 1,000’s of pages of previously-prepared Environmental Impact Reports (“EIRs”) and related documents. These eleventh hour tactics are contrary to the California Environmental Quality Act’s (“CEQA”) public disclosure requirements. This Commission should hold staff and project applicants to a higher standard of disclosure, particularly when following a project denial. Therefore, at minimum, we respectfully request that the Project hearing be continued to allow for appropriate public review of these voluminous last-minute documents.

---

<sup>1</sup> Planning Application #17-21, General Plan Amendment #01-18, Rezone #01-18, Final Planned Development #02-18, Affordable Housing Plan #01-18, Design Review #02-18, Development Agreement #01-18.

Nonetheless, the following comments confirm that the Project must still be denied. First, in apparent recognition of the fatal flaws with the Project's previously-claimed CEQA exemption, staff and the applicant *now* contend the Project qualifies for a *completely different* CEQA exemption, the "infill" project exemption. But to qualify, all project-level impacts must have been sufficiently analyzed by a program-level EIR *prepared by the City*. Staff and the applicant assert that the City's General Plan EIR prepared in the early 2000s provides that project-level analysis. But that EIR is legally incapable of providing appropriate project-level analysis because it is no longer current and could not analyze the impacts of building out the Project site as a "Residential Very High Density" land use that did not exist when the General Plan EIR was prepared—and indeed is now being proposed with this Project for the first time.

Second, staff's and the Project applicant's continued attempt to justify the previously relied upon exemption for "Sustainable Communities Projects" is misguided. While they have attempted to further support that exemption in response to our prior letter—implicitly acknowledging the validity of the flaws we identified—their revisions are unavailing and again fail to provide a legally adequate basis under CEQA to approve the Project. For example, the Project still does not provide affordable units to "families" as required by statute.

Third, despite minor modifications to the affordable housing plan, the Project still does not meet the affordable requirements of applicable federal, state, and local law.

Fourth, the Project obstructs achievement of several General Plan policies and objectives, and is inconsistent with the General Plan for that reason.

In sum, a need for housing does not excuse meaningful environmental review, nor can it override the several fatal problems with this proposed Project. If the hearing is not continued, we again request that this Commission deny the Project until all legal requirements have been met.

## **1. THE PROJECT IS NOT COMPLETELY EXEMPT FROM CEQA UNDER THE INFILL EXCEPTION**

Apparently recognizing the incurable flaws with the Sustainable Communities Project exemption (discussed *infra*), staff and the Project applicant have attempted to cobble together a full CEQA exemption under Public Resources Code section 21094.5 for "infill projects." But the infill exemption can only provide a full CEQA exemption where it can be determined that "a prior EIR for a planning level decision" fully analyzes

Project-level impacts and/or that impacts can be mitigated by “uniformly applicable development policies” adopted by the City of Davis.

The City’s attempt to make this showing suffers from several fatal errors. As demonstrated below, the City must prepare a CEQA-compliant document to analyze the Project’s impacts on the environment.

### **1.1. Reliance on the City’s Outdated General Plan EIR Is Legal Error**

CEQA Guidelines Appendix N requires that responses to the infill checklist “must account for the whole of the action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.” The City’s General Plan EIR was prepared in the early 2000s and only analyzed impacts to full buildout around 2010. Therefore, that EIR does not reflect current conditions in the City of Davis and cannot, as a matter of fact or law, provide the appropriate project-level analysis to support the infill exemption. For example, there can be no appropriate cumulative analysis for the Project when the General Plan EIR does not account for all existing and approved development, including those projects that received General Plan amendments.

Nor could the Project, which itself proposes a brand new land use designation for very high density, have been analyzed at the project-level in an EIR that predated this brand new land use designation. The same is true for the Project’s development standards, which are project-specific standards that could not have been analyzed in the General Plan EIR.

For these reasons, the General Plan EIR cannot provide a valid basis to support the infill exemption for any impact category. Reliance on the “infill” exemption is fatally flawed.

### **1.2. The SACOG RTP/SCS Is Not a “Planning Level Decision” for Purposes of the Infill Exemption**

Pursuant to Public Resources Code section 21094.5, if a project meets the eligibility thresholds provided in subdivision (b) of CEQA Guidelines section 15183.3, it can attempt to tier from “a prior EIR for a planning level decision.” However, the applicability of this exemption is expressly limited to EIRs and “planning level decision[s] . . . of a city or county.” (Pub. Resources Code, § 21094.5, subd. (a)(1).)

Although this limitation is plain on its face, the CEQA Guidelines provide even greater detail. Subdivision (f) to CEQA Guidelines section 15183.3, strictly defines “planning level decision” to mean “the enactment or amendment of a general plan or any general plan element, community plan, specific plan, or zoning code.” (CEQA Guidelines, § 15183.3, subd. (f)(2).) Thus, the reference to a prior EIR in subdivision (b)(3) refers only to an environmental impact report certified for one of those specific planning level decisions.

In violation of these statutory and regulatory restrictions, staff’s section 21094.5 analysis relies heavily on an analysis of the SACOG Regional Transportation Plan/Sustainable Communities Strategy. This is a *regional* plan and does not qualify under the definition for planning level decision. (Pub. Resources Code, § 21094.5, subd. (a)(1).) Accordingly, any reliance on that plan for purposes of section 21094.5 is legal error.

Moreover, this error is highly prejudicial. Section 21094.5 allows qualifying projects to tier from “a prior EIR for a planning level decision” by avoiding analysis of impacts if: (i) the prior EIR provides appropriate project-level analysis, the actual Project would not have greater impacts than those already analyzed, and all mitigation has been incorporated; or (ii) if impacts were not analyzed or would be greater than previously analyzed, the Project’s impacts will be mitigated below significance through implementation of “uniformly applicable development policies or standards that have been adopted by *the* lead agency, or city or county.” The City of Davis, not SACOG, is “the lead agency” for the Project. By analyzing the RTP/SCS as a “prior EIR for a planning level decision” for both (i) and (ii) above, staff and the Project applicant violated CEQA’s requirements. Once references to the RTP/SCS EIR are removed, it is clear that many impact categories have not been analyzed pursuant to the pertinent guidelines.

### **1.3. The Project’s Piecemeal Analysis Also Prevents Reliance on the Infill Exemption**

As noted above, the infill exemption requires consideration of “the whole of the action involved.” (CEQA Guidelines, § 15378.) Yet, as also noted above, the Project did not analyze the demolition phase in conjunction with the other construction or operational phases. This excludes part of the “whole of the action” involved, and underestimates Project impacts across all or nearly all impact categories. This error was prejudicial since it underestimated impacts and allowed unmitigated demolition. The justification that people were inhabiting the Project site is insufficient. It is of course feasible, for instance,

to hire security or otherwise secure the prior-existing structure pending the Project's entitlement process. Demolition was not the only feasible option.

#### **1.4. The Cumulative Analysis Is Flawed**

The infill exemption's cumulative analysis fails to include and list all related projects that could have cumulatively significant impacts during construction and operational phases. This underrepresents impacts and constitutes prejudicial error.

Furthermore, staff and the Project applicant mischaracterize the Project's contribution to cumulatively considerable impacts as less than significant. For example, when analyzing traffic impacts, the City recognizes that in the cumulative scenario a significant impact would occur at a nearby intersection. But despite the fact that 80% of the Project's trip generation will travel through that intersection, staff and the Project applicant assert the Project's contribution is not cumulatively considerable. That argument is legally incorrect. CEQA requires that significant impacts, even in the cumulative scenario, be mitigated below significance. In the instant matter, this means that Project-specific mitigation must be analyzed and implemented to the extent feasible, and that analysis and mitigation precludes the Project's reliance on a full exemption as an infill project.

Accordingly, the Project does not qualify for the infill exemption.

Our review further indicates that there are countless problems with the substantive analysis for many, if not all, of the specific impact categories. While Project denial is compelled given the fundamental problems, a continuance is also justified in order to allow appropriate public review.

## **2. THE PROJECT DOES NOT QUALIFY FOR THE SUSTAINABLE COMMUNITIES EXCEPTION**

### **2.1. The Project Does Not Meet the Affordable Requirements of Section 21155.1, Subdivision (c) Because Its Affordable Units are Unavailable to Families**

In order to qualify as a Sustainable Communities Project, section 21155.1, subdivision (c) clearly requires that rental housing projects provide "not less than 10 percent of the housing will be rented to *families* of low income, or not less than 5 percent of the housing is rented to *families* of very low income." (Emphasis added.) The noun

“families” is neither ambiguous nor otherwise defined to mean something other than its commonly understood meaning. Consistent with any reasonable use of the word, the Oxford English Dictionary defines “family” as a “group consisting of two parents and their children living together as a unit.” Of course, single parents would similarly fall under “family.” Thus, to qualify for the Sustainable Communities Project exemption, the Project must provide the necessary affordable units to “families.” But it does not. In fact, the Project’s consultant admits that “by-the-bed rental [] *substantially reduces the potential that school age children would live on site.*” (Emphasis added.)

An illustration of the dormitory-style accommodations makes the point. The Project’s affordable beds are exclusively contained in double-up rooms inside larger four-to-eight bedroom apartments, with shared kitchens and bathrooms. According to the affordable plan, these “beds” will be “integrated throughout the project among market-rate beds.” Thus, there is no guarantee that a family could even share the same double-up bedroom, or even the same apartment. So a father could be on one floor, with his young children each in different apartments on different floors, while all would be sharing rooms with college students. By the Project applicant’s own concession, these are not suitable family accommodations.

Instead, staff and the Project applicant argue that the word “families” does not actually mean families, but can mean exclusively individuals, based on citation to a federal law that is neither incorporated by reference nor ever cited as providing the definition for “family” by California law. That argument is based on legal error.

Since these affordable “beds” are unavailable to families, and no analysis shows that the offering would even provide a family with affordable housing if pieced together, the Project does not meet the affordable requirements, and further does not qualify for the CEQA exemption.

## **2.2. The Project Still Stands to Harm Biological Species**

We previously commented and demonstrated that the Project could harm special-status species, as set forth in section 21155.1, subdivision (a)(2)(A), which prevents reliance on the Sustainable Communities Project exemption where a project could cause such “harm.” Staff has again failed to provide any substantial evidence to support the conclusion that the Project would not harm all special-status species, and have not even identified all potentially impacted species. All such species must be identified and analyzed, consistent with the City’s recent EIRs involving similar developments.

### **2.3. A Preliminary Endangerment Assessment Must Still Be Prepared for the Project**

Section 21155.1, subdivision (a)(4) is clear: to qualify as a Sustainable Communities Project, a “preliminary endangerment assessment” must be prepared. The California Legislature chose a heightened level of analysis, and the Project must provide one to qualify. The legal argument that this requirement is somehow optional is flawed. A preliminary endangerment assessment is required or the Project simply cannot qualify as a matter of law.

### **2.4. The Project’s Public Health Exposures Analysis Is Impermissibly Narrow**

Section 21155.1, subdivision (a)(6)(C) provides that, to qualify for the CEQA exemption, the Project cannot “[r]isk [] public health exposure at a level that would exceed the standards established by *any* state or federal agency.” (Emphasis added.) A violation of *any* standard will make a project ineligible for the exemption. This is very different from the typical scenario under CEQA where the City has discretion to select the threshold it wishes to measure impacts against. The lowest threshold established by *any* state or federal agency must be used. Since no analysis shows that the most stringent thresholds have been used, the analysis is legally incorrect.

Staff and the project applicant also take an impermissibly narrow view of what qualifies as a “public health exposure.” All impacts that could risk a public health exposure must be analyzed. The rationale for this makes sense, if a Project will be exempt from CEQA’s otherwise thorough analysis of these issues, it requires a strict analysis of potential harm to future occupant and the surrounding community.

Because the public health analysis is impermissibly narrow, and does not include an appropriately designed cumulative impact and/or localized impact analysis, it is insufficient to support the exemption.

### **2.5. The Project Did Not Analyze Whether Existing Utilities are Adequate to Serve the Project and Other Recently Approved Projects**

Section 21155.1, subdivision (a)(1) requires that the “transit priority project and other projects approved prior to the approval of the transit priority project but not yet built can be adequately served by existing utilities.” Staff and the project applicant attempted to fix their prior failure to analyze all approved projects, but they again fail to

account for all such projects, and again fail to conclude that all existing utilities are sufficient. The Project is not eligible for the CEQA exemption until an appropriate analysis is complete *before* any approvals.

## **2.6. By Inappropriately Piecemealing the Demolition Phase, the City Has Failed to Analyze All Impacts**

CEQA prohibits piecemeal environmental review. (*Citizens Ass’n for Sensible Dev. v County of Inyo* (1985) 172 Cal.App.3d 151, 167.) Yet, the Project has inappropriately piecemealed the demolition phase of construction. Staff’s justification, that demolition was a ministerial action, provides none. (See *Orinda Ass’n v. Board of Supervisors of Contra Costa County* (1986) 182 Cal.App.3d 1145, 1171 [demolition permit was part of larger project and therefore could not be issued until CEQA process complete for overall project].) This legal error pervades the entire impact analysis, and precludes reliance on the exemption.

To continue with the example we provided in our prior comment letter, piecemealing the Project’s demolition analysis prevented appropriate analysis of the impacts on affordable housing units. Section 21155.1, subdivision (b)(3) requires that “[t]he transit priority project [] not result in any net loss in the number of affordable housing units within the project area.” But despite specific reference to this shortcoming, neither the project applicant nor staff demonstrated the preexisting unit mix, number of “beds,” or rental pricing for the prior existing housing. Contrary to staff’s assertion, to qualify as an affordable unit for purposes of subdivision (b)(3), there need not be any formal requirement or covenant; if the beds were rented for prices that meet affordable requirements, they are affordable units that must be accounted for. Without that information, substantial evidence does not support the required finding.

## **2.7. The Project Failed to Consider All Cumulative Impacts**

It is apparent that the Project’s section 21155.1 analysis did not consider all cumulative impacts for construction or operational phases. Without that analysis, the Project does not comply with CEQA’s requirements.

**3. THE PROJECT’S AFFORDABLE COMPONENT VIOLATES FEDERAL, STATE, AND LOCAL LAW, AND FURTHERS A PATTERN AND PRACTICE OF DISCRIMINATION BASED ON FAMILIAL STATUS**

As we previously commented and demonstrated to the City’s Social Services Commission, the Davis Live affordable housing program is not accessible to those trying to find affordable housing for their families.

The Legislature has clearly provided that “[t]he availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment *for every Californian*, including farmworkers, is a priority of the highest order.” (Gov. Code, § 65580, subd. (a) [emphasis added].) The responsibility for implementation has been assigned to both “[l]ocal and state governments [who] have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.” (*Id.* at subd. (d).) The affordable program, however, does not meet these mandates. Rather, by providing affordable beds in a manner that is unavailable for families, it violates Government Code section 12955, subdivision (a) and the federal Fair Housing Act. (42 U.S.C. § 3604.)

**4. THE PROJECT IS INCONSISTENT WITH THE GENERAL PLAN**

The Project remains inconsistent with the City’s General Plan, and new information only clarifies additional inconsistencies. For example, the Project is severely under parked, and so is the surrounding neighborhood. According to staff and the Project applicant, there are only 10 available unrestricted public on-street parking spaces nearby, which will be used by the Project’s residents. This will prevent the public from accessing Oxford Circle Park, which is one of the only such parks in the area. As a result, the Project obstructs achievement of GOAL POS 1: “Provide ample, diverse, safe, affordable and *accessible* parks, open spaces and recreation facilities and programs to meet the current and future needs of Davis’ various age and interest groups and to promote a sense of community, pride, family and cross-age interaction.” (Emphasis added.)

**5. CONCLUSION**

Davis Live is not what the City needs. It has already approved other large-scale student housing developments, which have tied up all new affordable units and dedicated them to students. The City's apparent attempt to rush this Project through the entitlement process, hastily amend its General Plan, and skip necessary environmental review contravenes established law and City policy.

We urge the Commission to deny the Project until appropriate environmental review and compliance with all laws has been demonstrated. At minimum, we request a continuance to allow full consideration of the voluminous eleventh hour documents produced. Thank you for your consideration of these important issues.

Very truly yours,

**SOLURI MESERVE**  
A Law Corporation

By:   
Patrick M. Soluri

PMS/mre