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June 27, 2024

William Gilchrist
City of Oakland Planning Director
250 Frank H. Ogawa Plaza
Oakland, CA 94612

RE: SB 330 Preliminary Application for 5295 College Avenue

Dear Mr. Gilchrist:

Taylor, Wiley, and Keasling represent property owner, Mr. John Allen (“Applicant”) with respect to property located at 5295 College Avenue (APN 014-124901301) (“Project Site”). The Applicant respectfully submits the attached Senate Bill 330 (“SB 330”) Preliminary Application pursuant to Government Code Section 65941.1 for a residential mixed-use development project (“Project”) consisting of 88 multifamily units and 43,050 square feet of commercial space. The Project’s residential component includes eighteen (18) deed restricted affordable housing units – with eleven (11) units reserved for low-income households and another seven (7) units for moderate-income households.

This letter serves to provide an overview of the base project and its compliance with the land use regulations applicable to the Project Site, as well as how the project intends to invoke the benefits laid out in both the State Density Bonus Law (“SDBL”) and the Housing Accountability Act (“HAA”). Finally, the letter outlines the Project’s eligibility for ministerial processing under Senate Bill 35 (2017, Wiener) (“SB 35”) and its recent update via Senate Bill 423 (2023, Wiener) (“SB 423”).

I. The Base Project Complies with All Applicable Objective Development Standards.

The Project Site is designated “Neighborhood Center Mixed Use” in the City’s General Plan and is zoned “Neighborhood Commercial – 1 Zone (CN-1).” As shown in the Project submittal materials (sheet AP0.01), a base project that consists of 44 multifamily

residential units and 4,750 square feet of complementary commercial space complies with, and is consistent with, all of the applicable objective development standards that apply in the Neighborhood Center Mixed Use designation and CN-1 zone. More specifically, the base project satisfies the relevant zoning standards including all form-based density controls. Having established that the base project complies with all applicable objective development standards, the following discussion outlines how the utilization of the State Density Bonus Law and Housing Accountability Act allow for a proposed project that includes 88 residential housing units and 43,050 square feet of commercial and office space.

II. The Project Qualifies for Benefits Under the State Density Bonus Law.

The State Density Bonus Law (“SDBL”) provides various benefits to qualifying projects, including a density bonus, the opportunity for an additional density bonus pursuant to Assembly Bill 1287 (Alvarez, 2023) (“AB 1287”), incentives and/or concessions, waivers and/or reductions of development standards, and reduced parking ratios.¹ To qualify for these benefits, a project must include a prescribed ratio of affordable housing units depending on the type of residential development. Relevant to the Project, one qualification is that a project provide at least 10% of total units for rental or sale to lower income households.² Here, the Project proposes to include 24% of base project units for low-income households, satisfying the threshold requirement set out in the SDBL and qualifies for the benefits set forth therein.³ Furthermore, projects that include 24% of units for low-income households – such as the proposed Project – are entitled to a 50% density bonus thereby allowing the Project to increase from 44 to 66 units.⁴

Density Bonus and Additional AB 1287 Density Bonus

Additionally, AB 1287 allows projects that include a minimum of 24% of units for low-income households to receive a secondary density bonus if the project commits to include additional amounts of affordable housing.⁵ In this instance, the Applicant has included an additional 15% of base project units for moderate-income households which, under AB 1287, entitles the Project to a secondary density bonus of 50%. In total,

¹ See Cal. Gov. Code § 65915.

² See *Id.* at subd. (b)(1)(A)-(G). The project also provides qualifying requirements for senior citizen housing developments, student housing, and transitional housing projects. Such qualifying requirements are inapplicable to this project proposal.

³ Cal. Gov. Code § 65915(o)(8)(A).

⁴ Cal. Gov. Code § 65915(f)(1).

⁵ Cal. Gov. Code § 65915(v)(1).

the Project is eligible for two 50% density bonus awards – or simply stated – to a 100% density bonus. As such, these two density bonuses legislatively authorize the Applicant to increase the 44-unit base density project an 88-unit project on the Project Site.

Other Benefits Under the SDBL

Projects eligible for the SDBL also receive incentives and/or concessions, with the number of such incentives and/or concessions dependent on the amount and ratio of affordable housing provided for in the proposed project.⁶ The Project’s inclusion of 24% of units for low-income households and 15% of units for moderate-income households entitles the Project to three incentives and/or concessions.⁷ Additionally, local agencies may not apply any development standard that will have the effect of physically precluding the construction of the qualifying development project.⁸ The SDBL allows applicants to submit proposals for waivers and/or reductions of such development standards. The details of the requested incentives and/or concessions and waivers are provided in the attached and completed form titled “Supplemental Form – Affordable Housing Density Bonus” and as may be determined necessary through the City’s review process to ensure the continued feasibility of the Project.

III. The Inclusion of the Project’s Commercial Component is Consistent with the HAA and the SDBL.

The Housing Accountability Act provides various benefits to qualifying “housing development projects.” Among the definition of qualifying residential development projects is the following: a mixed-use development consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential

⁶ Cal. Gov. Code § 65915(d). A concession or incentive means any of the following: (1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c); (2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located; or (3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c). (See *Id.* at § (k)(1)-(3).)

⁷ Cal. Gov. Code § 65915(d)(2)(C).

⁸ Cal. Gov. Code § 65915(e)(1).

units.⁹ Additionally, SDBL allows for the inclusion of commercial and office uses as an incentive/concession if such uses are consistent with the existing development in the area and such uses will reduce the cost of the housing development.¹⁰

The Project proposes to include 43,050 square feet of non-residential uses (i.e., retail commercial and office). The gross floor area of the Project is estimated to be 179,650 square feet. As such, more than two-thirds of the floor area is dedicated to residential uses, maintaining the Project's ability to qualify as a "housing development project" and qualifying for the benefits and protections established in the Housing Accountability Act. Furthermore, the inclusion of the commercial and office components significantly improve the financial feasibility of the affordable units. As such, the commercial and office is permitted as one of the Applicant's three incentives/concessions under the SDBL.

IV. Senate Bill 35 and Senate Bill 423 Eligibility

SB 35, and as extended by SB 423, created a streamlined, ministerial approval process for qualifying multifamily and mixed-use affordable housing projects in localities that had failed to meet their Regional Housing Needs Assessment ("RHNA") goals.¹¹ Projects that qualify for SB 35/SB 423 are exempt from California Environmental Quality Act ("CEQA") review.

The proposed Project satisfies these criterion, as illustrated in the attached completed SB 35 Application form. As such, this project application is subject to a streamlined, ministerial approval process and is exempt from CEQA review.

V. Conclusion

As described above and as illustrated in the attached architectural sheets, the Applicant's base project of 44 multi-family units complies with all objective land use regulations applicable to the Project Site. Furthermore, the Project's inclusion of affordable housing entitles the Project to benefits set forth in the State Density Bonus Law, including a 100% density bonus, three incentives and/or concessions, and waivers and/or reductions of development standards. In addition, the non-residential component of the mixed-use project satisfies the definition of a "housing development

⁹ Cal. Gov. Code § 65589.5(h)(2).

¹⁰ Cal. Gov. Code § 65915(k).

¹¹ See Cal. Gov. Code § 65913.4(a)-(b).

project” under the HAA the inclusion of commercial and office improves the feasibility of the affordable units. As such, together, the benefits provided under the SDBL and HAA allow the base project to be expanded to include 88-multifamily residential units and a 43,050 square foot commercial component.

Finally, the Project is eligible for the streamlined, ministerial review process set forth in SB 35 and SB 432. The utilization of this ministerial review process means that the proposed Project is also exempt from CEQA.

Very truly yours,

A handwritten signature in blue ink that reads "Marissa C. Fuentes". The signature is written in a cursive, flowing style.

Marissa C. Fuentes