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Mayor and City Council Members
c/o Judi Herren, City Clerk
City of Menlo Park
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**Re: 320 Sheridan Drive - Applicant's Response to Appeal of Planning
Commission Resolution No. 2025-002**

Dear Mayor Combs and the Members of the City Council of Menlo Park:

This firm represents Alliant Communities LLC ("Applicant") regarding the proposed development of the multi-family residential development project ("Project") at 320 Sheridan Drive ("Property") in the City of Menlo Park ("City"). The Project proposes to provide a total of 88 units, comprised of 87 affordable units, and one market-rate, on-site manager's unit. The Property is owned by the Ravenswood City School District ("District"), which requires the Applicant to give preference to the District when leasing Project units. The Project is on a Housing Element inventory site, and thus would help the City meet its affordable housing needs, as well provide much-needed housing near people's jobs, where housing is typically far too expensive to afford.

Following the Planning Commission's approval of the Project on January 13, 2025, the City received an appeal ("Appeal") on January 28, 2025, from Skip Hilton ("Appellant"). While expressing support for the Project's production of affordable housing at the Property, the Appeal raised questions regarding the Project's Transportation Demand Management ("TDM") analysis and consistency with the General Plan, as well as transportation analysis provided by the City's consultant, Hexagon. This letter responds to the points in the Appeal Letter concerning the TDM analysis and General Plan consistency (Hexagon and City staff are best positioned to respond to the questions related to the scope of Hexagon's transportation analysis because City staff directed Hexagon's work).

Response to the Appeal

For the reasons discussed below, we ask the City Council to deny the Appeal and uphold the Project approval.

A. The TDM Plan Will Effectively Reduce Project Trips

As required by the County and City Association of Governments (“C/CAG”), the Project must implement required TDM measures to reduce single-occupancy trips by 25 percent. The Applicant’s consultant prepared the required TDM Plan, which shows that the Project will meet C/CAG’s requirements.¹

The Appellant claims that the Project’s TDM Plan is misleading because it lists bus routes that are “for students only” or located over one mile from the Project site and does not correctly portray pedestrian and bicycle routes. Each of these concerns is addressed below.

Bus Routes. The Appellant claims that the SamTrans Routes 81, 82, 83, and 88 are for students only. Not so. While these routes are designed to serve schools, operating on school days, they are open to the general public. (Exhibit 1, p. 1.) These routes are within an approximately seven-minute walk from the Project and provide viable transit options for Project residents, including the children living at the Project.

The Appellant also claims that SamTrans Route 281 is located too far from the Property to be used by Project residents. This claim fails to account for all pedestrian routes. The SamTrans Route 281 stop closest to the Property is at Newbridge Street and Market Place. From sunrise to sunset, when Project residents can walk through Flood Park, this stop is approximately 0.5 miles from the Property. On the shortest day of the year, sunset is at approximately 5:00 p.m., which is after many teachers would have left work. Before sunrise and after sunset, when Flood Park is closed, the distances to SamTrans Route 281 increases to approximately 1.1 miles, which is approximately six minutes by bike² or 24 minutes by foot. In addition, the Property is an approximately 13-minute bike ride to the Menlo Park Caltrain Station, which provides service to many commuter destinations. (Exhibit 1, Exhibit E.)

Despite the Appellant’s concern about the Property’s distance from transit, a professional TDM consultant has analyzed the Project and determined the TDM Plan will be effective in reducing the Project trips as required by C/CAG. Appellant has presented no substantial evidence to undermine this conclusion.

Bicycle and Pedestrian Access. The Appellant correctly identifies that the TDM Plan has an incorrect diagram. Rather than show bicycle and pedestrian access through the gate from the Property to Flood Park and then across Flood Park to Iris Lane to Van Buren Road, the original

¹ Given that the majority of Project residents likely will be District employees, it is realistic to expect carpooling will be more effective at the Project than at a project where residents have a wider variety of employers. (<https://www.sciencedirect.com/science/article/abs/pii/S0967070X11001314>.) The TDM Plan does not account for additional trip reductions that may occur due to such higher than average carpooling and therefore represents a conservative analysis.

² Estimated cycling times assume regular bicycles. The time likely would decrease if the rider has an electric-assist bike (“E-bike”).

TDM had a diagram showing bicycle and pedestrian access through private property to Van Buren Road. The Applicant has updated the TDM Plan to correct this exhibit. (See Exhibit 1, Exhibit D Update.)

The Appellant complains that the route through Flood Park for Project residents is unavailable to the general public. This claim does not alter the effectiveness of the TDM Plan for Project residents. Nor could the City require dedication of a public path through the District's property because such a dedication lacks a nexus to any Project impacts. (See *Dolan v. City of Tigard* (1994) 512 U.S. 374 [requirement to develop a pedestrian and bicycle pathway to relieve traffic congestion violated the constitution].)

While the TDM Plan had one incorrect diagram, it provides an accurate portrayal of non-vehicle commute options and, as amended (see Exhibit 1), the TDM Plan provides substantial evidence that the Project will meet C/CAG's trip reduction requirements.

B. The Project Has No Significant Impacts From Vehicle-Miles Traveled (“VMT”), Or Related Greenhouse Gases (“GHG”) Or Air Quality Emissions And Cannot Be Conditioned On Obtaining Access Through Other’s Property

The Appellant claims that the Project “lacks environmental and traffic mitigation measures” to mitigate VMT and related GHG and air quality impacts, mainly because the Project will not provide a new access through Caltrans right-of-way to Van Buren Road. The Appellant misunderstands when the City requires mitigation and the effect that an access to Van Buren Road through Caltrans' property would have on VMT and related impacts.

The Project has no project-specific mitigation for VMT because the Project has no significant impact on VMT. According to the City's expert transportation engineering consultant, even with no mitigation and the existing street network, the Project's VMT is less than the City's VMT threshold, which is 15 percent below the regional average. (Hexagon Report, p. 9.) As Hexagon notes, “[a]ffordable housing projects typically result in less-than-significant VMT impacts on the transportation system due to factors such as shorter trip distances, higher rates of carpooling, and reduced reliance on personal vehicles among residents” and because “affordable housing developments often serve residents working nearby, resulting in fewer and shorter vehicle trips, further contributing to a lower VMT.” (*Id.*) These general assumptions about affordable housing are particularly applicable here, where the housing will mainly serve District employees, allowing the employees to live close to where they work and, due to a common employer, making carpooling more likely than typical. Because the Project would not have a significant VMT impact, it also would not have attendant significant air quality or GHG impacts that require mitigation. (See Illingworth & Rodkin, Construction Emissions and Health Risk Assessment Report (last rev. Dec. 5, 2024), pp. 8, 12, 17, 18 [showing the Project has less than significant impacts on air quality].) Accordingly, there is no reason to analyze the effect of new full access driveway to the Property or condition Project approval on

obtaining pedestrian and cyclist access through the Haven House property or use of Flood Park during nighttime hours.

Even though there are no significant Project impacts, the Applicant, in an attempt to address concerns from its northern neighbors, went above and beyond minimum requirements by exploring vehicle, bicycle, and/or pedestrian connections through other people's property to Van Buren Road.

The District first approached Caltrans in May 2022 about extending Van Buren Road to the Property over Caltrans' property ("Van Buren Extension"). Caltrans explained that it did not consider the Van Buren Extension to be surplus property and it would need to sell the land to allow the Van Buren Extension. To do so, Caltrans stated that such land would need to be certified as "excess" and go through a decertification process that could take 18 to 24 months. The correspondence between the District and Caltrans also touched on moving the sound wall.

The Applicant's attorney also approached a consultant who regularly work with Caltrans ("Caltrans Consultant"). The Caltrans Consultant stated that in her experience Caltrans would be unlikely to grant the Applicant an encroachment permit because Caltrans has a policy that its property must benefit the general public, which is why Caltrans would need to decertify the Van Buren Extension and sell it at fair market value.

The Applicant next approached the owner of Haven House about allowing cyclists and pedestrians to use the emergency vehicle access proposed by the Project through the Haven House property. Haven House rejected the proposal, citing safety concerns for its residents, although it will provide a reciprocal easement for emergency vehicles. Finally, the Applicant spoke with the County about allowing extended access for cyclists and pedestrians through Flood Park. Like the owner of Haven House, the County rejected the idea.

In sum, the Project has no significant VMT impacts and therefore there is no nexus for a condition requiring the Applicant to obtain access for its residents through other people's property. Instead, the Project will reduce regional VMT, which will slightly reduce related air quality and GHG emissions, by allowing some District employees who currently live well outside the area, including as far as the Central Valley, to live many miles closer to work.

C. The Project Is Consistent With The General Plan

Appellant claims that without a non-emergency ingress-egress point from the Property to Van Buren Road, the Project is inconsistent with various elements of the General Plan and other City policies, especially the Environmental Justice and Circulation Elements. Specifically, the Appellant states that locating new residents in an area with a high traffic burden score is inconsistent with the Environmental Justice Element and the Project conflicts with the Circulation Element's goals of safety, sustainability, mobility choice, and congestion management. The Appellant is incorrect.

As the Project’s January 13, 2025, Planning Commission staff report (“PC Staff Report”) indicated, the Project is consistent with the General Plan, furthering many of its goals and policies, including providing affordable housing on a site the Housing Element identifies for such housing. (PC Staff Report, pp. 2–3; see Housing Element, Appendix 7-1 [Property is a Housing Element site]; see generally *Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 776 [“The requirement that a project be consistent with a general plan does not require the project to rigidly conform to the general plan.”].)

The City adopted the Environmental Justice Element after the Project submitted a complete SB 330 preliminary application, which vests the local land use rules in place at that time, and therefore the Project need not comply with it. (Gov. Code, § 65589.5, subd. (o).) But even if the Environmental Justice Element applied to the Project, the Project is consistent with it, including Policy H2.4, which encourages the City to ensure affordable housing remains affordable over time, and Policy EJ5.3, which encourages affordable housing in areas outside the City’s underserved communities. (Environmental Justice Element, pp. 8, 46.) Consistent with Policy H2.4, the Project’s Below-Market Rate Agreement will result in the Project providing affordable housing for at least 55 years. Consistent with Policy EJ5.3, the Project would site affordable housing on property identified as being in the “highest resource” area rather than in the Belle Haven area, which is a low resource area. ([2025 Affirmatively Furthering Fair Housing Mapping Tool](#); see Environmental Justice Element, p. 29 [“Promote affordable housing throughout the city, and outside of Belle Haven.”] High-resource areas are those areas with the best access to opportunity, including good schools, good jobs, safe and decent housing, low crime rates, and healthy environment. (California Department of Housing and Community Development (“HCD”), *Affirmatively Furthering Fair Housing*, p. 34.) Like the City’s Environmental Justice Element, the state supports putting affordable housing in high-resource areas as a way to break discriminatory practices and equalize access to opportunities, serving environmental justice goals. (*Id.*, p. 6.)

The Project also is consistent with the Circulation Element. The Project supports sustainability, mobility choice, and reduced congestion by providing housing to employees who now live far from work and have no choice but to drive. By relocating to be within a few miles of work, these same employees will drive many fewer miles (supporting sustainability), have options to walk, bike, or take the bus (mobility choice), and will result in reduced regional congestion without significantly exacerbating existing local congestion. (See Hexagon Report (Nov. 6, 2024) Transportation Impact Analysis, pp. 10–11.)

Importantly, the Project does not need to alter the City’s circulation network to meet General Plan or other city requirements, including those related to mobility and safety. As discussed above, the City’s transportation engineer who analyzed the Project’s impacts found that the Project would not create safety issues. Additionally, the Menlo Park Fire Protection District (“FPD”) reviewed the Project as part of its standard development review process in spring 2024. On March 21, 2024, the Applicant received a comment letter with acceptance of

“one point of access.” Despite not noticing the Applicant, the FPD Board discussed the Project at hearings. At the FPD Board’s December 17, 2024, hearing a Suburban Park resident and Menlo Park Fire District Board Member, introduced a resolution that would have requested the City Council to require a second vehicular access to the Project, purportedly to “increase fire safety” for the Project’s residents. The Fire Chief and Fire Marshal confirmed that the Project had been previously reviewed and that the Project, as proposed, exceeded the requirements of the California Fire Code and Menlo Park Fire Code. After discussing the proposed resolution with the Chief and the Marshall, the FPD Board voted against the resolution.

Finally, the Applicant is providing a secondary fire department access point through a locked gate that would be accessible by any responding fire units arriving from Van Buren Road. According to the FPD’s report on the Project, “[t]he inclusion of this additional access point exceeds what is required by the Fire Code and was provided voluntarily by the developer.” Thus, the Project does not create safety impacts.

D. The Appeal Fails To Overcome The Project’s Housing Law Protections That Require Approval

In sum, nothing in the Appeal raises issues that would allow the City to grant the appeal and deny the Project.

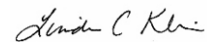
The City can deny the Project or condition it in a manner that would make the Project infeasible only if the Project “would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low- and moderate-income households . . . infeasible.” (Gov. Code, § 65589.5, subd. (d)(2).) A “specific, adverse impact” means “a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.” (*Id.*)

As discussed above, neither City staff nor the CEQA professionals who analyzed the Project identified any significant impacts, let alone a specific, adverse impact upon the public health or safety. Moreover, the “conditions” proposed by Appellant, namely, to require the Applicant to obtain use of a Caltrans right-of-way for Project residents and obtain the right for Project residents to cross through Flood Park when it is closed to the general public, would render the Project infeasible. There is no certainty that either condition could be met, particularly when discussions to date have not yielded results. We understand that as a policy matter, Caltrans does not provide use of its public property for private benefit (i.e., to serve a single property owner). Even if Caltrans agreed to sell the Van Buren Extension, the cost of that property and related improvements would render the Project infeasible. The County has stated that it is uninterested in allowing people through its property after hours, so a condition to obtain such permission could never be fulfilled, again killing the Project. The Applicant urges the Council to uphold the law, deny the Appeal, and not impose any new conditions.

Finally, unlike a market-rate project, affordable housing projects must meet strict deadlines related to application dates, project readiness tests, and other milestones to secure and retain the funding that makes them possible. The Applicant therefore requests that the City hear the Appeal as soon as feasible to avoid having the Appellant delay the Project into nonexistence.

Sincerely,

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