

To Whom It May Concern:

I am writing in opposition to the High-Density project at 7264 Calle Real, referred to as the Kenwood Village project. Community members are fighting hard to have the City & State focus on under-utilized and non-vacant parcels and we stand firmly in opposition to re-zoning our much needed vacant and agricultural land.

There are alternate sites that should be considered before re-zoning agricultural land or building at this site. This area simply cannot handle an influx this large in addition to the high-density project at Colusa. The pros of Colusa are that it is set back between Glenn Annie and Cathedral Oaks, with access to two routes that would have less of an impact on traffic/commuters. It is smaller in scale, would be set on a corner that would not interrupt the look and feel of the neighborhood and would not impact agricultural land.

Goleta Councilmember Kyle Richards wrote in the Independent:

"It's important to share our priorities for how we make these decisions, and here are some of the considerations:

- *Within walking distance to retail or other services? Is there a store or a market within walking distance? Can our children walk or bike to school safely? Are there nearby parks to walk or bike to? (Or any other form of transportation or however you get around: wheelchair, scooter, etc.)*
- *Is it accessible to public transportation? Is it convenient to get on an MTD bus?*
- *We need to consider the impacts of parking and what it will mean for the immediate vicinity.*
- *And in order to reduce the impacts of parking and traffic, we need to take into consideration how people will get around, and make sure that they can do as much of their getting around as possible without a car. We may not be able to expect people to leave all their cars at home, but we should make it as easy as possible for them to do so.*
- *Will it provide a good mix of affordable units, especially for the low and very low categories? (And by the way, just for clarity, when we put a number of how many in each income category, what we're really talking about is a formula based on density.)*
- *How compatible is it with the neighboring areas?*
- *There are other important considerations that will also be explored during the planning process.*

Today, we aren't reviewing the particulars of any specific project; this about the underlying zoning only. When projects are reviewed then we will have an opportunity to review the height, architecture, the extent to which it preserves or enhances our creeks and environmentally sensitive areas and protects our viewsheds."

That being said, Kenwood Village offers NOTHING listed above. There are no markets (only a liquor store), there are no bus stops nearby and it is completely unsafe to walk to school from there. I can't reiterate enough that Calle Real is high traffic with limited sidewalk, narrow bike paths and high-speed route with no bike/foot access to the upper neighborhoods without going onto Calle Real. There is no street parking and the surrounding neighborhoods are privately owned streets or having parking issues as it is. Traffic is horrific during the school year and this High-Density Housing (not a "good mix"), is not compatible at all with the surrounding custom, multi-million-dollar homes. This will take away our agricultural land, displace animals, affect protected species of frogs, plants, monarch butterflies and other animals that live and hunt here as well as taking over an environmentally sensitive area alongside

a creek. A build of this scale cannot happen. If you must build, maintain the agricultural land to the front and build 40-60 single-family residences that will match the surrounding neighborhood and won't have a huge impact on the traffic (similar to the original proposal of Kenwood Village). Add a bike path around the perimeter and into the surrounding streets for safer commuting and put any two-story buildings along the creek, where there are other two-story buildings and a beautiful tree "hedge" for added privacy to the new and existing housing.

Spread the density out to other available locations and start considering ones that aren't on the candidate list but would love to be added to it! One example is the Shelby Property. The Shelby Property at 7400 Cathedral Oaks Road hasn't even been mentioned in the proposals. They are situated back on Cathedral Oaks, alongside the Golf Course in a less-dense, lower traffic area that would not disrupt the neighborhood, allows for a nice, wide street with bike paths and easier access for children to travel safely to the surrounding schools. It is exempt from Measure G, is a barren, dirt lot of 14 acres and would be a perfect alternative to Kenwood Village. The owner is eager to build there, it would spread the impacts of new housing around the city and, as I understand it, is the project closest to being shovel-ready in comparison to all other sites proposed.



Shelby Property Google World View

Alternatively, there are projects at 7780 Hollister Ave that are commercially zoned and the surrounding neighbors are begging for it to be re-zoned to residential. It is close to grocery stores, medical centers, transportation, Elwood School District which has capacity for more students and would be ideal for a high-density project. The City/State should be reaching out to these owners and incentivizing them to re-zone by offering support with permits, architecture, etc. Parcels at 7190 Hollister Ave are also in a perfect location for a high-density project like this to survive. These two locations are close to the Winchester freeway ramp which is low-traffic, they are at the outskirts of Goleta but in close proximity to everything needed for the residents to thrive. It's also an area with infrastructure capable of supporting high-density communities... 7264 Calle Real isn't.

If you spread the builds out to the above-mentioned candidate/alternate sites, you can still fulfill the State requirements and would be better-serving the surrounding communities as well as the families/individuals that would be living in the new sites!

Council Member Kasdin said himself in an article published in the Independent:

“Converting agricultural lands should be a last resort, not the first option...”

...The failure to receive a property owner’s explicit commitment to develop today may not reflect what happens to a property after it were rezoned. Managers of malls may not have experience creating with big developments, and they need time and partners to work through a project and see what pencils out. Or perhaps, a landowner will sell the land once it is rezoned to someone with experience in producing residential developments. The burden will be not just on the landowners, but on the county staff to facilitate and incentivize the project.

...If the county’s systematic analysis of existing buildout capacity and any related regulatory changes to support increased housing production do not meet the county’s housing target, they could consider rezoning certain commercial and industrially zoned parcels to residential zoning, where parcels are located along major arterials. Agriculturally zoned lands should be protected from conversion unless the existing buildout capacity and non-agricultural rezones by themselves cannot accommodate the housing goal.

...In practice, we can add more housing and retain the open spaces, without a destruction of the neighborhoods and community health. Sensitively designed infill that respects context can help reduce congestion by making other travel modes (e.g., biking, walking) more attractive. Planning can preserve the public spaces, walkable settings, and other urban amenities that people appreciate.”

Please do not make a rush decision to approve this project, just to meet a quota. Concrete is permanent and so is the impact on the environment, our neighborhood and the surrounding schools. Alternate sites that are underutilized and have the right location, infrastructure, access to shops and public transportation, promote walking/bicycling, prevent disruption of the environment or agricultural land, and support the families living there, need to be your main focus.

I am also strongly opposed to the increase in the coastal height limits. This end of Goleta is considered a scenic route along the freeway and having these towering 35’ buildings (similar to Los Carneros) is ruining the beauty and all that we love so much about Goleta. This height increase will disrupt the look and feel of the surrounding neighborhood in almost every location being considered.

PLEASE REJECT the height increases as well as the proposal for 7264 Calle Real. No one, other than the landowner and his friends, are in favor.

Respectfully,

Lauren VanVeelen, Goleta Resident

Sources: <https://www.independent.com/2023/07/27/keeping-the-country-character-of-goleta-and-avoiding-builders-remedy/>

<https://www.independent.com/2023/03/17/good-planning-matters/>

From: Malone, Caitlin K. <CMalone@BHFS.com>

Sent: Friday, November 10, 2023 12:03 PM

To: Caitlin Colyer <ccolyer@cityofgoleta.org>

Cc: Collins, Beth A. <BCollins@bhfs.com>; Carlson, Mack <mcarlson@bhfs.com>

Subject: Agenda Item B.3. Shelby Property Opportunity – Potential for 129 Additional Residential Units

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

Please see the attached letter regarding Planning Commission Agenda Item B.3 Shelby Property Opportunity – Potential for 129 Additional Residential Units. Exhibits 1-3 can be found at the end of the letter, and Exhibit 4 can be found at the Sharefile link:

<https://bhfs.sharefile.com/d-s3dd605e891034a52972a9f983f55e7c9>

Best regards,

Caitlin K. Malone

Legal Practice Assistant

Brownstein Hyatt Farber Schreck, LLP

1021 Anacapa Street, 2nd Floor

Santa Barbara, CA 93101

805.882.1462 tel

CMalone@BHFS.com

Brownstein - we're all in.

November 10, 2023

Beth A. Collins
Attorney at Law
805.882.1419 direct
bcollins@bhfs.com

VIA E-MAIL CCOLYER@CITYOFGOLETA.ORG

Planning Commission
City of Goleta
130 Cremona Drive
Goleta, CA 93117

RE: Agenda Item B.3. Shelby Property Opportunity – Potential for 129 Additional Residential Units

Dear Chair Smith and Commissioners:

We represent the owners of Shelby Residential Project (Project) at 7400 Cathedral Oaks Road (APN 077-530-019) (Property). We understand that the City of Goleta's (City) 2023-2031 Housing Element (Housing Element) process has been arduous for decisionmakers, staff, and the community; and we understand the temptation, in light of the State's October 2023 letter, to conclude that the process is nearly complete, and no further changes to the City's Housing Element should be considered. **In fact, the City is not out of the woods yet.** There are a number of important steps pending before the City has a viable certified Housing Element, including rezoning properties in the site inventory and surviving any potential CEQA or other challenge associated with that action. In the meantime, **there are steps this Planning Commission can take to improve the draft Housing Element, and increase the likelihood that more quality affordable housing will be constructed in Goleta.**

A few key complaints have arisen from neighbors, commentors, and decisionmakers throughout the Housing Element process: (1) the City's housing inventory is too reliant on redevelopment of "underutilized sites" which have existing uses that are unlikely to be replaced with housing in the next 8 years,¹ (2) the City has not fairly distributed proposed new housing sites across the City, and (3) the City has slated too much density on some sites while ignoring other viable vacant sites. **Including the vacant 14-acre Shelby Property in the Housing Element helps address all these concerns because it will give the City an important buffer of additional units distributed more evenly around the City on a vacant site (see also [Exhibit 2](#) [prior letters submitted to the City and HCD re Shelby]).**

¹ A recent trial court decision found that the City of Beverly Hills' Housing Element failed to comply with California Housing Element Law on the basis that Beverly Hills did not provide a "realistic" estimate of development capacity under its existing zoning and failed to show that sites with existing uses would likely redevelop with housing. (See [Exhibit 1](#).) Brownstein and other commentors have raised similar issues throughout the City's Housing Element adoption process.

Some confusion has arisen about whether Measure G blocks the City's ability to include Shelby in the Housing Element.² To address this confusion, we submitted the attached proposal to the City (Exhibit 3), laying out a path that would allow the City to rely on the Shelby Property in its Housing Element. As is detailed in the proposal, the Shelby Project includes a Vesting Tentative Tract Map which was deemed complete before Measure G passed. Under the Subdivision Map Act and the City's Code, the City has wide discretion to allow Shelby to amend the existing Vesting Tentative Tract Map to facilitate more housing development on the Property in furtherance of critical City and State policies. This vested application makes the Property uniquely situated to allow residential development on the Property to move forward without implicating Measure G or creating the risk that other agricultural lands within the City would be converted to residential uses.

In short, the Shelby Property presents a special opportunity for the City to facilitate the development of residential units without conflicting with Measure G. As you will see in the attached, **the Shelby Property could be developed with approximately 56 units (which is consistent with the Project that has been proposed for decades),³ 101 units (20 percent deed-restricted affordable), or 129 units (30 percent deed-restricted affordable).** Acknowledging the severity of the housing crisis and the intensity of the City's regional housing needs assessment (RHNA) obligation, the Couvillion family approached the City Council with the attached proposal to allow the Property to move forward with a more dense, affordable residential project. In light of this, we ask the Planning Commission to consider recommending to the City Council that the Shelby Property be included in the City's rezone list to accommodate the City's regional housing needs identified in the City's Housing Element.⁴

The proposal gave the City Council the opportunity to partner with a local family to develop a more dense, residential project with at least 20 percent of the units available to lower income households.⁵ The Couvillion family also offered to let the City Council provide input on key aspects of the revised

² For additional background, the local owners, Glynne and Gillian Couvillion and their family, purchased this Property in the 1970s when it was within Santa Barbara County and was designated in the General Plan for residential development for decades. In an effort to stop housing development in the region, however, the County downzoned the site to agriculture in the 1980s against the family's wishes. For over 25 years, the Couvillion family has proposed residential development on the Property to return the Property's original residential zoning since the Property is not well suited for agriculture use. Measure G is a voter initiative—enacted in 2012—that requires a vote of the people to modify the existing agricultural land use designation.

³ The Couvillion family has a pending application for the 56-unit residential Project on the Property, which the City deemed complete in March 2011. The Project has been ready to move forward since approximately 2015 and has been analyzed by the City of Goleta through two environmental impact reports (EIRs) which are still available on the City's website. City of Goleta, Shelby General Plan Amendment and Shelby Residential Project <https://www.cityofgoleta.org/your-city/planning-and-environmental-review/ceqa-review/shelby-general-plan-amendment-and-shelby-residential-project> (accessed on Oct. 27, 2023).

⁴ As previously explained in our letters attached as Exhibit 2, the Shelby Property achieves the City's stated rezoning goals of creating housing along a major arterial (Cathedral Oaks), in the City's urbanized area, on Measure G exempt lands that are not in agricultural use.

⁵ The 101-unit project would provide at least 21 lower income units and 129-unit project would provide at least 39 lower income units.

project, like the type of units (rental or for-sale), the size and type of affordable units, the percentage of affordable units by income category, and other project features and community amenities.

It also is worth reiterating that the City's current rezone effort is likely insufficient to provide meaningful new affordable housing.⁶ The City's Housing Element relies on the development of existing sites—like Fairview and University Plazas, commercial business between 5677-5955 Calle Real (including 27 units on the Bowlero Santa Barbara parcel), Sumida Nursery and the Elks Lodge—for affordable housing. Relying on these sites that will not be developed during the City's Housing Element's eight year planning period reduces opportunities for desperately needed affordable housing. Although it improperly diminishes the number of sites that the City will need to rezone now, the City will inevitably need to rezone additional sites to accommodate housing in the coming years when it fails to develop these existing sites and achieve its Housing Element objectives.

Proactively adding the Shelby Property and revised project to the City's potential housing sites now reduces this risk and provides the City with additional flexibility to tailor development to the community's needs.

Finally, if the City continues to refuse to collaborate, the Couvillion family is prepared to submit a Senate Bill 330 preliminary application for the current 56-unit residential Project (Exhibit 4) that leverages the "Builder's Remedy" to move the smaller Project forward. This application would allow the current 56-unit Project to proceed without a General Plan Amendment or a rezone, and thus would not trigger Measure G. Importantly, the Builder's Remedy project application also would forfeit the City's opportunity to guide development of a denser affordable project that adds significant new, affordable units on a Property located near major arterials within the City's urban area, near public transit and three schools. Such an affordable project could simplify the Planning Commission's decision on the rezone sites and help provide the affordable housing City residents desperately need.

In summary, we respectfully urge the Planning Commission to recommend that the City Council include the Shelby Property in the rezone list and resume discussions with the Couvillion family over a more dense, affordable housing project.

Sincerely,



Beth A. Collins

⁶ See Brownstein, Letter to California Department of Housing and Community Development re City of Goleta Housing Element 2023 (Sep. 7, 2023) <https://www.cityofgoleta.org/home/showpublisheddocument/29305/638297686964430000>; see also Exhibit 1 (court decision finding the City of Beverly Hills' Housing Element noncompliant with California Housing Element Law for similar reasons outlined in the Brownstein Letter).

Attachments:

Exhibit 1 – *Californians for Homeownership, Inc. v. City of Beverly Hills*, Ruling on Verified First Amended Petition for Writ of Mandate

Exhibit 2 – Shelby Letters to City of Goleta

Exhibit 3 – Proposed Settlement Agreement

Exhibit 4 – Senate Bill 330 Preliminary Application Package

Exhibit 1

Californians for Homeownership, Inc. v. City of Beverly Hills

**Superior Court of California
County of Los Angeles**

SEP 12 2023

David W. Slayton, Executive Officer/Clerk of Court

By: M. Mort, Deputy

CALIFORNIANS FOR
HOMEOWNERSHIP, INC.,

Petitioner,

Case No. 23STCP00143

vs.

**RULING ON VERIFIED FIRST
AMENDED PETITION FOR
WRIT OF MANDATE**

CITY OF BEVERLY HILLS,

Respondent.

Dept. 82 (Hon. Curtis A. Kin)

Petitioner Californians for Homeownership, Inc. petitions for a writ of mandate directing respondent City of Beverly Hills to adopt a revised housing element pursuant to Government Code § 65754.

I. Factual Background

The State of California requires each city to have a “comprehensive, long-term general plan for the physical development” of the city. (Gov. Code § 65300.)¹ Each general plan must have a housing element. (§ 65302(c).) The housing element consists of ‘standards and plans for housing sites in the municipality that ‘shall endeavor to make adequate provision for the housing needs of all economic segments of the community.’ [Citations.]” (*California Building Industry Assn. v. City of San Jose* (2015) 61 Cal.4th 435, 444; *see also* § 65580 [legislative findings concerning housing element law].)

“A municipality must review its housing element for the appropriateness of its housing goals, objectives, and policies and must revise the housing element in accordance with a statutory schedule.” (*Martinez v. City of Clovis* (2023) 90 Cal.App.5th 193, 222, citing § 65588(a), (b).) “The interval between the due dates for

¹ All statutory references are to the Government Code, unless otherwise specified.

the revised housing element is referred to as a planning period or cycle, which usually is eight years.” (*Martinez*, 90 Cal.App.5th at 222, citing § 65588(e)(3), (f)(1).)

“A revised housing element’s assessment of needs must quantify the locality’s existing and projected housing needs for all income levels, which includes the locality’s proportionate share of regional housing needs for each income level.” (*Martinez*, 90 Cal.App.5th at 223, citing § 65583(a)(1).) “The projected regional housing needs for a planning period are determined by the HCD [Department of Housing and Community Development] in consultation with regional ‘councils of government.’” (*Martinez*, 90 Cal.App.5th at 223, citing §§ 65584(a) & (b), 65584.01, 65588(e)(3).) “Based on the HCD’s regional housing needs determination, each regional council of governments adopts a ‘final regional housing need plan that allocates a share of the regional housing need’ among the cities and counties within its region.” (*Martinez*, 90 Cal.App.5th at 223, citing § 65584(b).)

For the 2021-2029 planning period, the City Council of respondent City of Beverly Hills (“City”) adopted a housing element on October 12, 2021 and submitted it for review to HCD. (JR 776.) On January 14, 2022, HCD determined that the housing element did not fully comply with the housing element law and provided necessary revisions. (JR 1309-16.)

On September 28, 2022, the City submitted a revised housing element to HCD. (JR 776.) On November 28, 2022, HCD determined that the revised housing element did not fully comply with the housing element law and provided necessary revisions. (JR 1318-24.)

On February 21, 2023, after having revised the September 2022 housing element, the City adopted the revision. (JR 5.) On February 21, 2023, petitioner Californians for Homeownership, Inc., who monitors local compliance with the housing element law, sent a letter to the City asserting that the revised housing element was inadequate for reasons identified by HCD and petitioner. (JR 1584-85.) On May 12, 2023, HCD determined that the housing element does not substantially comply with housing element law. (RJN Ex. B.)

II. Procedural History

On January 18, 2023, petitioner filed a verified petition for writ of mandate. On May 24, 2023, pursuant to stipulation, petitioner filed a verified first amended petitioner for writ of mandate.

On June 22, 2023, during the trial setting conference, the Court set the hearing on the instant petition for September 12, 2023.

On July 14, 2023, petitioner filed an opening brief. On August 15, 2023, respondent filed an opposition. On August 31, 2023, petitioner filed a reply.

III. Request for Judicial Notice

Petitioner's requests for judicial notice are ruled on as follows:

- Exhibit A (September 15, 2017 Assembly Floor Analysis of AB 1397 (2017-2018 Session)) – GRANTED (Evid. Code § 452(c); *Wood v. Kaiser Foundation Hospitals* (2023) 88 Cal.App.5th 742, 751, fn. 4)
- Exhibit B (May 12, 2023 Letter from HCD to City) – GRANTED (Evid. Code § 452(c))
- Exhibit C (Staff Report for June 22, 2023 Meeting of Beverly Hills Planning Commission) – DENIED
- Exhibit D (Minutes of June 22, 2023 Meeting of Beverly Hills Planning Commission) – DENIED
- Exhibit E (Resolution No. 1907 of Beverly Hills Planning Commission) – DENIED
- Exhibit F (2022 Form 10-K for Creative Media & Community Trust Corporation (Excerpts)) – DENIED
- Exhibit G (June 10, 2020 Memorandum of the California Department of Housing and Community Development, Entitled “Housing Element Site Inventory Guidebook”) – GRANTED (Evid. Code § 452(c))
- Exhibit H (City of Gardena’s 2021-2029 Housing Element, Table C-1) – GRANTED (Evid. Code § 452(c))

With respect to denying the request for judicial notice of Exhibits C, D, E, and F, the Court notes these exhibits are extra-record evidence petitioner presents to demonstrate that certain sites listed in the sites inventory of the housing element are improperly included. For the reason stated in section V.C below, this is improper. The exhibits are accordingly irrelevant. (*Mangini v. R.J. Reynolds Tobacco Co.* (1994) 7 Cal.4th 1057, 1063 [“Although a court may judicially notice a variety of matters (Evid. Code, § 450 *et seq.*), only relevant material may be noticed”].)

IV. Standard of Review

CCP § 1085(a) provides: “A writ of mandate may be issued by any court to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station, or to compel the admission of a party to the use and enjoyment of a right or office to

which the party is entitled, and from which the party is unlawfully precluded by that inferior tribunal, corporation, board, or person.”

“Any action brought by any interested party to review the conformity with the provisions of this article of any housing element or portion thereof or revision thereto shall be brought pursuant to Section 1085 of the Code of Civil Procedure; the court’s review of compliance with the provisions of this article shall extend to whether the housing element or portion thereof or revision thereto substantially complies with the requirements of this article.” (§ 65587(b); *see also* § 65751.) Substantial compliance means “actual compliance in respect to the substance essential to every reasonable objective of the statute, as distinguished from mere technical imperfections of form.” (*Martinez*, 90 Cal.App.5th at 237, internal citations omitted.)

“[A] city’s adoption of a housing element is a legislative enactment, something which is generally entitled to some deference.” (*Fonseca v. City of Gilroy* (2007) 148 Cal.App.4th 1174, 1191.) “If the municipality has substantially complied with statutory requirements, we will not interfere with its legislative action, unless that action was arbitrary, capricious, or entirely lacking in evidentiary support.” (*Ibid.*) The challenging party has the burden to demonstrate that the housing element is inadequate. (*Ibid.*)

V. Analysis

A. This Dispute is Not Moot

As a preliminary matter, respondent asserts that the City anticipates adopting a revised housing element in November of this year to address concerns about the current housing element. (Wiener Decl. ¶ 2.) However, there is no guarantee that a revision will be completed by November or that the City will adopt a revision at that time, or at any time thereafter. The Court can only rule based on the current housing element. The instant petition is entitled to preference. (§ 65752.) Further, if the Court were to enter judgment in favor of petitioner, the housing element law provides deadlines for the City to address the deficiencies in the housing element and to submit the revision to HCD. (§ 65754(a).) If respondent were to appeal, the appeal would be given preference also. (§ 65752.) Accordingly, there is no reason to delay ruling on the merits of the operative first amended petition.

B. Whether Sites Inventory Meets Statutory Requirements

1. Realistic Development Capacity

The inventory in a housing element must “specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower income housing, moderate-income housing, or above moderate-income housing.” (§ 65583.2(c).) For a city that does not require a

minimum residential density,² the city “shall demonstrate how the number of units determined for [each] site...will be accommodated.” (§ 65583.2(c)(1).) As part of the calculation, “[t]he number of units calculated...shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583, the realistic development capacity for the site, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.” (§ 65583.2(c)(2).)

An “assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs” shall include an “analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels...including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, local processing and permit procedures, and any locally adopted ordinances that directly impact the cost and supply of residential development.” (§ 65583(a)(5).)

To demonstrate that its inventory is adequate, respondent relies on a Mixed Use Overlay Zone (“Overlay Zone”) adopted by ordinance on November 17, 2020, where the maximum residential density within the zone was increased from 0 in commercial areas to 79.2 units/acre. (JR 200, 209.) The Overlay Zone spans the length of the City from east to west and partially north to south, along its largest commercial corridors, including Wilshire Boulevard, Robertson Boulevard, Olympic Boulevard, South Doheny Drive, and South Beverly Drive. (JR 125; *see also* JR 213 [map of Overlay Zone].) In the housing element, the City describes the purported benefits of the Overlay Zone: “This wide-scale rezoning allows for the creation or conversion of non-residential space into residential units, and therefore will create all net new housing, since it does not involve the displacement of any existing occupied housing/residents.” (JR 125.)

Respondent argues that the maximum residential density exceeds the minimum 30 units per acre that is statutorily deemed appropriate to accommodate housing for lower income individuals. (§ 65583.2(c)(3)(B)(iv).) Respondent also argues that existing commercial buildings in the Overlay Zone may obtain a permit to convert to a mixed-use building and obtain relief from having to comply with standards concerning parking requirements, loading facilities, outdoor living space, commercial-residential transitional setbacks, or height limits if compliance is physically infeasible. (JR 1636; *see also* Chen Decl. Ex. G [Beverly Hills Municipal Code (“BMMC”) § 10-3-1888].) The vacancy rates for commercial buildings also purportedly create an incentive for commercial building owners to convert their buildings to mixed-use projects. (JR 201.)

² It is undisputed Beverly Hills does not mandate a minimum residential density.

For commercial properties listed in the sites inventory of the housing element that were designated for conversion or indicated as having conversion potential (JR 229-34), to calculate the total number of units on the site, the City multiplied the total parcel size by the maximum allowable residential density.³ However, the total parcel size listed in the sites inventory refers to land area, not the square footage of the existing building that can accommodate residential units. Contrary to respondent's contention, the sites inventory does not account for floor area capacity; the sites inventory lists the height limit of the building, not the number of stories to be converted to residential use. (*See, e.g.*, JR 229 [column name is "Height Limit (stories)," 233 [8500 Wilshire Blvd. described as "8 story building – conversion," but height limit is 3 stories].) As a result, for buildings to be converted to mixed use, the housing element does not demonstrate how the number of units indicated in the sites inventory will be accommodated, as required by section 65583.2(c)(1).

Moreover, as petitioner points out in the reply, most of the sites in the City's sites inventory are not designated as conversions or potential conversions. (JR 229-34.) For sites not indicated as conversions, any construction of residential units is subject to land use and building controls. For example, multi-family developments are subject to height limits from three to five stories. (JR 153-54.) Any building in the Overlay Zone must include commercial uses on the ground floor, and residential uses on the first floor within the first 40 feet from the street are prohibited. (BMMC §§ 10-3-1877(C), 10-3-1879.) Moreover, each multi-family development must have at least 200 square feet for each dwelling unit, excluding front yards, balconies, and pedestrian accessways. (BHMC §§ 10-3-1886, 10-3-2803.)

The sites inventory contains no adjustment based on land use controls for new construction, as required by section 65583.2(c)(2). Rather, like the sites designated as conversions, the number of units for each site is calculated based on the land area multiplied by the maximum residential density. Moreover, the housing element contains no meaningful consideration and analysis of the governmental constraints on the development of housing, as required by § 65583(a)(5). Rather, the City relies on prior approved and proposed developments in arguing in conclusory fashion that "the current standards are not inhibiting development of housing." (JR 158-159, 203-04.) Accordingly, the housing element, including the sites inventory, fails to account for the realistic development capacity for the sites listed in the inventory.

With respect to respondent's contention that the maximum residential density exceeds the density set forth in section 65583.2(c)(3)(B)(iv), this only means that the

³ For example, for 8730 Wilshire Blvd., the parcel size is 11,863 square feet. (JR 233.) There are 1/43,560 acres in one square foot. (*See* <https://www.britannica.com/science/acre-unit-of-measurement> [43,560 square feet in 1 acre].) 11,863 square feet multiplied by 1/43,560 acre per square foot is 0.27 acres. 0.27 acres multiplied by 79.2 units per acre is approximately 21 units.

City does not have to provide an analysis demonstrating how its adopted density accommodates its share of the regional housing need for lower income households. (§ 65583.2(c)(3)(A-B).) However, the City still must adjust the number of units for each site based on the realistic development capacity of the site under section 65583.2(c)(1) and (c)(2) and provide an “analysis of potential and actual governmental constraints upon the...development of housing for all income levels” under section 65583(a)(5).

Petitioner also argues that the City designated the majority of the sites on the sites inventory as 100% low-income or 100% moderate-income housing without explaining the basis for such designation. (OB at 10:6-7.) Petitioner further argues that the City did not adjust the unit counts based on “typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction,” as required by section 65583.2(c)(2). (OB 10:7-8.)

Petitioner, however, does not reference any statute that requires an explanation for the basis for the low-income or moderate-income housing designation. The housing element law only requires that the City specify “the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower income housing, moderate-income housing, or above moderate-income housing” and demonstrate “how the number of units determined for that site...will be accommodated.” (§ 65583.2(c), (c)(1).) The sites inventory indicates the total number of units for each site. (JR 229 [“Total Units” column].) By indicating the number of units that are designated as low-income or moderate-income housing, the City also indicates “whether the site is adequate to accommodate lower income housing [or] moderate-income housing.” (JR 229 [“Lower” and “Mod” columns].) While the City did not explain how the total number of units will be accommodated for the reasons stated above, the designation of housing as low-income or moderate-income is not deficient.

Nevertheless, it is not apparent from the sites inventory whether the City adjusted the numbers for low-income and moderate-income housing based on “typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction.” (§ 65583.2(c)(2).) By multiplying the land area by the maximum residential density of 79.2 units per acre and designating all housing as low- or moderate-income housing, the City assumes that all units built on the site will be low-income or moderate-income housing. The City does not account for the possibility that only a certain percentage of the housing on the site will be designated for residents with low- or moderate-income. A revised housing element would need to contain an adjustment based on typical densities at similar affordability levels.

In sum, with respect to realistic development capacity, the housing element is deficient for the following reasons: (1) for conversions, the sites inventory calculates the total number of units based on a product of land area and the maximum residential density without accounting for the floor area of the building; (2) the sites

inventory does not contain any adjustments based on land use controls for new construction; (3) the housing element contains no analysis of the governmental constraints on the development of housing; and (4) the sites inventory does not contain any adjustments based on typical densities of existing or approved residential developments at similar affordability levels in the City.

2. Nonvacant Sites

For nonvacant sites, the housing element law imposes the following additional requirement:

[T]he city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the city's or county's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(§ 65583.2(g)(1).)

Petitioner argues that the City does not explain how its methodology relates to the sites it has included or excluded in the sites inventory. For underutilized nonvacant sites, respondent explains that it selected sites that were more likely to be redeveloped or converted based on evidence of a lack of investment in the property, such as a lack of maintenance or lack of recent upgrades and improvements; parcels with underutilized improvements; and parcels with existing commercial buildings that are higher than 3 stories but whose floor plan is conducive to residential conversion. (JR 202-03, 210-11.) Respondent also explains that existing uses do not constitute an impediment to additional residential development because the creation of the Overlay Zone creates opportunities for residential development; conversion from non-residential to residential use costs less than new construction; and high residential property values in the City create financial incentives for residential development. (JR 209-10.) However, respondent discusses its methodology for determining development potential generally, without engaging in any site-specific analysis.

Respondent contends that it need not engage in an analysis of the methodology of the development potential for each site. The Court disagrees. Section

65583.2(g)(1) states that, for nonvacant sites, “the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential.” Reading the subdivision as a whole, the City is required to provide an explanation of the methodology for each site in the sites inventory. Among the factors that the methodology must consider are “the current market demand for the existing use” and “an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development.” (§ 65583.2(g)(1).) These factors necessarily relate to specific sites and cannot be discussed generally. Because the Legislature included these factors, the Legislature surely intended that the City provide “an explanation of the methodology used to determine the development potential” for each site.

Without a site-specific analysis, it is unclear how the methodology was applied. For example, as petitioner points out in the opening brief, the City purports to have excluded commercial buildings that contained medical uses and car dealerships from the sites inventory. (JR 210.) However, the sites inventory includes medical buildings and car dealerships. (*See, e.g.*, JR 229-30 [153 S. Doheny Dr., 239 S. La Cienega Blvd., 8833 W. Olympic Blvd., 8845 W. Olympic Blvd., 9134 W. Olympic Blvd.].) The City does not explain how the existing use does not serve as an impediment to residential development.

For the foregoing reasons, with respect to section 65583.2(g)(1), the housing element is deficient because the City did not provide an explanation of the methodology used to determine the development potential for each site, including a discussion of the factors probative of likelihood of redevelopment set forth in section 65583.2(g)(1).

Further, the sites inventory shows that the City is meeting all of its share of the need for lower-income housing through nonvacant sites. Accordingly, section 65583.2(g)(2), quoted below, is implicated:

In addition to the analysis required in paragraph (1), when a city or county is relying on nonvacant sites described in paragraph (3) of subdivision (b) to accommodate 50 percent or more of its housing need for lower income households, the methodology used to determine additional development potential shall demonstrate that the existing use identified pursuant to paragraph (3) of subdivision (b) does not constitute an impediment to additional residential development during the period covered by the housing element. An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued during the planning period.

(§ 65583.2(g)(2).)

For nonvacant sites, the “Field Notes/Existing Conditions & Analysis for Keeping/Removing” column in the sites inventory only indicates the existing use of the site and whether the site is designated for conversion or has conversion potential. (JR 229-34.) The City does not engage in any discussion of occupancy rates, lease terms, viability of the business operating at the sites. Nor does the City present any other discussion demonstrating that the existing use for each site “does not constitute an impediment to additional residential development during the period covered by the housing element.” (§ 65583.2(g)(2).) Without any evidence concerning the existing use of each site, the existing use is presumed to impede additional residential development. (*Ibid.*)

Respondent maintains that Culver City and Gardena obtained HCD approval based on a chart similar to its sites inventory. However, unlike Beverly Hills, Gardena’s sites inventory sets forth the existing use of each site and why the existing use is likely to be discontinued during the planning period. (Reply RJN Ex. B; cf. Chen Decl. Ex. B at 71 [listing criteria used in selection of sites].) With respect to Culver City, the sites inventory does not set forth the reason why the existing use is likely to be discontinued. (Chen Decl. Ex. A at Appendix B.) However, elsewhere in the housing element, Culver City discusses sites that present opportunities for development based on positive responses from property owners and developers. (Chen Decl. Ex. A at B-9 to B-10.) Unlike Beverly Hills, Culver City discussed how the existing use at certain sites would not impede residential development. Beverly Hills did not engage in any site-specific analysis concerning how the existing use would not impede additional residential development.

Respondent contends that the Court of Appeal in *Martinez v. City of Clovis* (2023) 90 Cal.App.5th 193 determined that no site-specific analysis concerning the methodology used to determine development potential and additional development factors is required. This is not quite accurate. In *Martinez*, the Court of Appeal found that section 65583.2(g)(1) “does not mandate the City ‘specify the additional development potential for each [nonvacant] site within the planning period and ... provide an explanation of the methodology used to determine the development potential’ *in the housing element itself.*” (*Martinez*, 90 Cal.App.5th at 248-49, emphasis added.) While specification of the additional development potential for each site does not have to be part of the housing element, the City still must demonstrate the additional development potential for each site. In *Martinez*, for example, the City of Clovis provided evidence outside of the housing element to demonstrate the development potential of a nonvacant site. (*Id.* at 249-51.)

Here, there is no analysis of the additional development potential for each site listed in the sites inventory in the housing element or elsewhere. Further, the housing element does not contain findings based on substantial evidence that the existing uses of nonvacant sites are likely to be discontinued, as required by section 65583.2(g)(2).

In sum, with respect to nonvacant sites, the housing element is deficient for the following reasons: (1) the City did not provide an explanation of the methodology used to determine the development potential for each site in the sites inventory, including a discussion of the factors probative of likelihood of redevelopment set forth in section 65583.2(g)(1); and (2) the City fails to demonstrate with substantial evidence that the existing use for each site in the sites inventory does not constitute an impediment to additional residential development during the period covered by the housing element.

C. Specific Sites

Petitioner also contends that certain sites were improperly included in the sites inventory. (OB at 15:6-17:1.) Petitioner maintains that the City did not make the findings based on substantial evidence that are required to rebut the presumption under section 65583.2(g)(2) that the existing use will impede additional residential development. (Reply at 4:13-14.)

However, in contending that additional residential development is not possible on certain sites, petitioner relies on extra-record evidence. For example, for 55 North La Cienega, the sites inventory indicates that the property will have 70 low-income units. (JR 229.) However, petitioner presents a Planning Commission Report and meeting minutes to assert that the City's Planning Commission approved development on the site with only 11 units of very low-income housing. (Gelfand Decl. Exs. C at 1, D at 3-4.)

“[W]here the scope of review of factual findings is substantial evidence, review limited to the administrative record is appropriate because extra-record evidence is irrelevant to whether the agency's decision is supported by substantial evidence.” (*Cinema West, LLC v. Baker* (2017) 13 Cal.App.5th 194, 208.) Petitioner cannot challenge the inclusion of sites in the inventory based on extra-record evidence. Ironically, petitioner would have the Court consider the propriety of certain sites based on extra-record evidence, but then bar respondent from presenting extra-record evidence to rebut petitioner's argument. (Reply at 4:18-5:13.)

With respect to sites which petitioner contends are unlikely to disappear based on their existing use (OB at 16:21-17:2; JR 1557-58), the Court already finds that respondent did not make findings based on substantial evidence that the existing use for each nonvacant site in the sites inventory is likely to be discontinued. The City must make such findings in revising the housing element.

VI. Conclusion

The petition is GRANTED. Pursuant to Local Rule 3.231(n), petitioner shall prepare, serve, and ultimately file a proposed judgment and proposed writ of mandate.

Date: September 12, 2023



HON. CURTIS A. KIN

Exhibit 2
Shelby Letters to City of Goleta

July 20, 2023

Beth A. Collins
Attorney at Law
805.882.1419 direct
bcollins@bhfs.com

VIA EMAIL TO: CITYCLERKGROUP@CITYOFGOLETA.ORG

City Council and Planning Commission
City of Goleta
130 Cremona Drive
Goleta, CA 93117

RE: Housing Element 2023-2031 Sites Inventory Rezoning Study Session

Dear Mayor, City Councilmembers, and Planning Commissioners:

Our firm represents numerous clients throughout the City of Goleta (“City”) on commercial, mixed use and multi-family development projects. I have been closely monitoring the City’s process to develop and obtain certification of its 2023-2031 Housing Element (“Housing Element”). As your Council and Commission are aware, the City’s Housing Element update is a crucial opportunity to implement policies and programs that affirmatively further fair housing and support families and businesses within the City in a manner that complies with state law. On behalf of Glynne and Gillian Couvillion and their family, this letter supports the City’s identification of potential sites to rezone to accommodate additional housing with the City and encourages the City to take meaningful steps toward rezoning additional land suitable for affordable housing development. This additional housing will help the City address key challenges, including high housing costs, inadequate affordable rental housing, and homelessness.

I. IDENTIFYING SUFFICIENT REZONE SITES THROUGH A ROBUST PUBLIC PROCESS IS NECESSARY TO ENSURE THAT THE CITY CAN ACHIEVE ITS REGIONAL HOUSING NEEDS ALLOCATION

The City’s Regional Housing Needs Allocation (“RHNA”) identifies the projected housing needs within the City and assigns the City a need to plan for a total of 1,837 units during the Housing Element’s eight year planning period. This allocation is divided based on income category with the City needing to plan for 682 very low, 324 low, 370 moderate, and 461 above moderate income housing units.¹ The City must plan for these units in its Housing Element and enact ordinances, policies and standards to promote the construction of affordable housing.

¹ See Draft Housing Element, Table 10-1.

In response to findings from California’s Department of Housing and Community Development (“HCD”) on the draft Housing Element,² staff revised the site inventory and now identifies a **shortfall of 554** lower income units that can be accommodated on existing sites.³ **This increased shortfall is a monumental change from the City’s most recent draft Housing Element which found a surplus capacity of 558 lower income units on vacant and underutilized sites under existing zoning.** The Staff Report further explains that HCD recommends a reasonable buffer of 15 percent, bringing the **currently estimated total shortfall to 637 lower income units.**⁴ **Thus, since the last draft Housing Element, the City has revised its capacity to provide lower income housing units by 1,112 lower income units (or 1,195 units with the buffer).**

The basis for this dramatic change must be clearly explained. The Staff Report, however, only provides a general overview of the revisions to the underutilized site inventory to shift the income categories of units and to remove some underutilized sites due to site constraints.⁵ Although the Attachment 2 to the Staff Report contains a Rezone Candidate Sites Map identifying the existing inventory, it is difficult for the public to understand the vacant and underutilized sites that were removed from the prior draft Housing Element or the basis for the removal of some sites but not others. Further, the Staff Report does not explain why a 15 percent buffer is adequate given the uncertainties associated with the development of affordable housing and that the State has often required local agencies rezone with a more conservative buffer.

Public participation in preparation of the Housing Element is a cornerstone of Housing Element Law.⁶ One joint session of the City Council and Planning Commission with an abbreviated staff report and one week’s notice is not enough to ensure adequate public review of the site inventory and potential rezones. The public must have the opportunity to review and understand the identified sites, the basis for the site inventory and the calculated shortfall. This public review is critical to ensure that the existing site inventory appropriately identifies the shortfall of lower income units. For example, if public review of the existing site inventory identifies further sites that do not have the realistic possibility for housing development during the planning period or the buffer is not supported, the City may be required to rezone additional sites to have HCD certify its Housing Element.

² HCD found that the Housing Element, among other things, does not (1) identify sufficient sites that have the realistic potential for redevelopment with housing under existing zoning; (2) adequately analyze the development potential of nonvacant sites with lower income housing; (3) evaluate the extent the City’s land use controls constrain housing; and (4) assess the City’s permit processing and procedures to improve the certainty, timing and feasibility of residential projects. Based on the above, the HCD concluded that the City has not established the “adequacy” of existing sites and zoning to accommodate housing and “the City may need to add or revise programs to address a shortfall of site or zoning available to encourage a variety of housing types.” (See Staff Report, Attachment 1.)

³ Staff Report, p. 4; see HCD Letter, p. 2; Gov. Code, § 65583.2(g)(2).

⁴ Staff Report, p. 4.

⁵ Staff Report, p. 4.

⁶ Gov. Code, §§ 65583(c)(9), 65585(b)(1).

Absent more information on the reasoning that supports the changes made to the existing site inventory, the City Council and Planning Commission cannot make informed decisions about the extent of the potential rezone sites needed to meet the City’s RHNA demand. Until this information is presented, the City Council and Planning Commission should take a conservative approach and identify more than sufficient potential rezone sites to accommodate its lower income housing needs with a robust buffer. Otherwise, the City risks not receiving certification of its Housing Element and, more importantly, will be less likely to provide enough affordable housing for working families.

II. THE STAFF PROPOSAL IS A STEP FORWARD, BUT MORE IS NEEDED TO ENSURE THE CITY HAS A REALISTIC POSSIBILITY OF ACHIEVING ITS RHNA.

The Staff Report identifies ten candidate sites for rezones in Table 1 and an additional seven alternative sites for rezones in Table 2.⁷ As noted in the Staff Report, the Table 1 sites only provide a maximum potential of 583 lower income units, which is insufficient to meet the City’s lower income units shortfall with a fairly low buffer of 15 percent. Even with the inclusion of all the alternative sites, the City only would have the potential to develop 911 lower income affordable housing units based on the City’s current zoning proposal.⁸ Providing the capacity to develop 911 lower income units may seem sufficient to meet the City’s RHNA; however, in light of the significant uncertainty associated with the City’s existing site inventory along with the challenges facing affordable housing development, including permitting requirements, existing uses, local opposition, increased construction costs, and financing challenges, development of these units is uncertain at best.

First, the tables propose to rezone eight underutilized sites for residential uses for a total of 643 units and an unclear number of lower income units.⁹ As noted above, HCD remains skeptical of the redevelopment of underutilized sites during the planning period given the high costs to convert existing commercial square footage into housing. This is evidenced by the fact that only one significant redevelopment of existing commercial square footage into housing has recently been permitted or constructed in the City.¹⁰ One of the underutilized sites includes a potential redevelopment project by Yardi for primarily employee housing, but this one project—which has not been applied for, let alone approved—does not provide sufficient evidence that these underutilized sites will realistically be developed with lower income housing in the next eight years.

⁷ Staff Report, pp. 5-6.

⁸ This 911 lower income unit estimate is based on the sum of the 583 lower income units associated with Table 1 and the 328 lower income units associated with Table 2. (Staff Report, pp. 5-6.)

⁹ Staff Report, pp. 5-6.

¹⁰ See Old Town Village (Winslowe) Project in Table 10A-29 of the Draft Housing Element. The Winslowe Project, however, was highly controversial and approved at lower densities (17.8 units/acre) than proposed under the rezones.

Second, the tables propose to rezone 15 of the 17 sites for RH Residential – High Density (RH) for projects developing at 15 to 30 units per acre.¹¹ The prior draft Housing Element, however, indicates that the City did not develop any RH zoned properties during the prior 2015-2023 Housing Element planning period.¹² Also, only two of the recent projects (Heritage Ridge and Cortona Apartments) were developed at more than 20 units per acre, well below the maximum density allowed under RH zoning.¹³ The City thus does not have a proven track record of approving high density projects under the City’s RH zoning. As a result, the Planning Commission and City Council should support considering additional candidate sites for potential rezones, at a variety of residential densities, to ensure there are a realistic number of sites for the City to achieve its RHNA for lower income units.

Thus, we urge the City Council and Planning Commission to take a conservative approach toward moving forward with the rezones and select all the proposed sites. Selecting all the proposed sites for potential rezones will allow staff and the public to review the adequacy of these sites to support affordable housing, to identify potential constraints or opportunities to promote affordable housing development on these sites, and to understand how staff arrived at the proposed unit counts, including those identified for the lower income category. More information is needed to understand whether these rezone sites at the densities proposed in the Staff Report have a realistic possibility for affordable housing development within the planning period. This information can be developed and publicly presented by moving forward with all the potential rezone sites and will help the City show whether it can meet its lower income RHNA obligations consistent with Housing Element Law.

Moreover, the Staff Report expressly notes that “[e]xceeding the shortfall has value if HCD does not support particular sites as counting toward the lower income need.”¹⁴ As such, including all the sites in Tables 1 and 2 for potential rezones—as well as identifying additional sites—will further support certification of the Housing Element and reduce the housing challenges facing the City’s residents.

III. THE SHELBY RESIDENTIAL PROJECT SITE IS ANOTHER VACANT SITE—EXEMPT FROM MEASURE G—THAT COULD ASSIST THE CITY WITH MEETING ITS LOWER INCOME HOUSING NEEDS.

The Shelby Residential Project Site (“Shelby Site”) is a vacant site that is noticeably absent from the Staff Report. The Staff Report identifies three key criteria for its process to select candidate sites: (1) property owner interest; (2) located along or near major arterials in the City’s urban area; and (3) are not Measure G-protected agricultural sites.¹⁵ The Shelby Site meets all three of these criteria.

¹¹ See Goleta Municipal Code, § 17.07.020.

¹² See City, Draft Housing Element, Tables 10A-27 & 10A-29.

¹³ See City, Draft Housing Element, Table 10A-29.

¹⁴ Staff Report, p. 6.

¹⁵ Staff Report, p. 5.

First, the Shelby Site, located at 7400 Cathedral Oaks Road, is a vacant 14.38 acres (gross) property that has had a pending application for the Shelby Residential Project with the City for the development of a market rate 56 single-family residential subdivision project since 2005. (See Exhibit – Property Aerial.) The Shelby Residential Project has already undergone significant planning and environmental review pursuant to the California Environmental Quality Act. The pending project applications have been before the City for over 18 years and demonstrate a firm commitment to residential development and should streamline the City’s process to review and approve a housing project on the Shelby Site. The Couvillion family, the long-time owner, recognizes the significant unmet affordable housing needs within the City and has interest in revising the project to provide more dense, multi-family housing and a significant number of lower income units. The Couvillion family welcomes the opportunity to coordinate with the City to rezone the Shelby Site for higher density affordable housing.

Second, the Shelby Site is located along Cathedral Oaks Road, a two and four lane arterial roadway in the City’s urban area connecting it to key job centers along Calle Real and Hollister Avenue. It also has existing water and wastewater main facilities. Two bus stops with two different service lines are within a half mile of the Shelby Site as well. The majority of the site has limited ecological value and is within walking distance of Dos Pueblos High School and two elementary schools—making it an ideal housing site for teachers and families.

Third, the Shelby Residential Project is exempt from Measure G. The Shelby Residential Project has a vested tentative map that exempts the project from Measure G; and should the project proceed under the Builder’s Remedy it would not need a General Plan Amendment or a rezone, and thus Measure G would not be triggered.¹⁶ Although the Shelby Site is currently zoned for agriculture and has an agriculture general plan land use designation, the site is not in agriculture use, and has not been for decades. In fact, when Dr. Couvillion acquired the property, it was zoned for residential development.¹⁷ Including the Shelby Site in the potential rezone list would simply return the property to its original residential zoning. Accordingly, the Shelby Site is not an agricultural site subject to Measure G and the City should elect to rezone the site to meet its RHNA obligations.

¹⁶ The Shelby Residential Project’s application for a vesting tentative map was deemed complete in 2011, vesting it with then applicable general plan, zoning and development standards. Measure G did not pass until 2012; therefore the Shelby Residential Project is exempt from Measure G.

¹⁷ The parcel was originally zoned residential from the 1950s through 1982. The County rezoned the property to agriculture in 1982 in response to no-growth movements in 1982. However, the original 30 acre parcel was subdivided in connection with the extension of Cathedral Oaks Road after which the County rezoned the south parcel for residential and it was developed with single family homes. The subdivision of the parcel, development of Cathedral Oaks, the golf course, and adjacent residential developments, however, has extremely limited the Shelby Site’s viability for agriculture use and the site has not been in use as productive agriculture for decades.

In summary, we urge the City Council and Planning Commission to recommend the Shelby Site for inclusion in the list of potential rezone sites since it meets each of the City's three criteria for potential rezone sites, in addition to other positive aspects. The site could be rezoned with RM Residential – Medium Density and RS Single Family Residential to allow for a more dense, affordable housing project that still aligns with the overall character of the surrounding neighborhood. The City Council and Planning Commission can and should consider all potential options to prepare a revised Housing Element that complies with state law and promotes realistic affordable residential development to house essential workers and low income residents. We are confident that if included in the City's rezone proposal, the Shelby Site can be developed with significant affordable housing for lower income local families within the planning period.

We do not wish to delay the City moving forward with much needed efforts to promote affordable housing development through certification of its Housing Element and the related rezones. Thus, **we respectfully request that the City Council and Planning Commission move forward with all the potential rezone sites—and add the Shelby Site—through a transparent public process that allows for thorough review of the City's existing site inventory and potential rezone sites. We firmly believe that this public process is necessary to comply with state Housing Element Law and promote sustainable, affordable housing development within the City.**

Thank you for your careful consideration of these comments as you deliberate on the potential rezone sites and future actions to support the development of affordable housing in the City of Goleta.

Sincerely,



Beth A. Collins

Cc: Anne Wells, Advance Planning Manager
Andy Newkirk, Senior Planner

EXHIBIT – SHELBY SITE PROPERTY AERIAL



3 WEST CARRILLO STREET
SUITE 205
SANTA BARBARA, CA 93101
(805) 962-4611

SHELBY PROPERTY
7400 CATHEDRAL OAKS RD.
APN 077-530-019
CITY OF GOLETA, CA

P.N.

July 31, 2023

Beth A. Collins
Attorney at Law
805.882.1419 direct
bcollins@bhfs.com

VIA EMAIL TO: CITYCLERKGROUP@CITYOFGOLETA.ORG

City Council and Planning Commission
City of Goleta
130 Cremona Drive
Goleta, CA 93117

**RE: Third Meeting on Housing Element 2023-2031 Sites Inventory Rezoning Study Session,
Second Meeting on July 31, 2023**

Dear Mayor, City Councilmembers, and Planning Commissioners:

This letter follows my letter from Thursday, July 20, 2023 regarding the sites inventory for rezoning necessary for the City to obtain certification of its draft 2023-2031 Housing Element (“Housing Element”). We respectfully request that the City Council and Planning Commission carefully consider the following comments during their deliberations on the rezones for the Housing Element’s site inventory.

I. THE BASIS FOR STAFF’S CALCULATION OF THE CITY’S UNIT SHORTFALL HAS STILL NOT BEEN PROVIDED TO THE PUBLIC OR DECISIONMAKERS

As staff detailed in the first meeting on July 20, 2023, “after revisions to address HCD 3/20/23 comments” the City now reportedly has a shortfall of sites for low and very low income categories. But the basis for these numbers has never been shared – with the public or decisionmakers. Despite weeks of meetings, no one has seen the analysis supporting the almost 1,200 unit swing in the City’s shortfall of units in the site inventory. As explained in our July 20, 2023 letter, the City’s most recent draft Housing Element reported a surplus capacity of 558 lower income units on vacant and underutilized sites under existing zoning (see Housing Element, Table 10-1 below), but now staff estimate a 583 shortfall, plus staff seek a 15 percent buffer (for a total of 637 lower income units).¹

¹ Housing Element 2023-2031 Site Inventory Rezone Study Session, p. 4 (July 20, 2023).

**TABLE 10-1
 SUMMARY OF HOUSING UNIT POTENTIAL IN GOLETA (2023–2031)**

	Income Category				Total
	Very Low	Low	Moderate	Above	
RHNA	682	324	370	461	1,837
Approved projects	597 6	0 85	0	235	64 396
Vacant sites	25 149		32	380 143	663 324
Underutilized sites	1,146		542	47	1,735
Future ADUs	108		10	34	152
Total estimated capacity	1,564		584	466 459	2,607 44
Surplus (deficit)	558		214	(2) 5	770 7
Notes: For the analysis of housing site capacity, the very-low and low income categories are combined because the zoning standards are the same for these categories. Source: City of Goleta, 2023					

This swing of approximately 1,200 lower income units (from +558 to -637 lower income units) is the starting point for the City Council and Planning Commission’s decision about whether the City is identifying sufficient sites to rezone in its Housing Element, yet the reasoning behind that baseline has not been vetted. The assumptions about the development potential of these sites – both the existing sites plus the potential rezone sites – on the site inventory lies at the foundation of the City’s Housing Element. Public participation in understanding the basis for these numbers is particularly valuable because the public has information that the City Council and Planning Commission and staff do not have about the viability of potential development over the next cycle. Decisionmakers should have the information now as you all consider potential rezones to address the City’s shortfall. Without that information, vetted by the public, City Council and Planning Commission cannot know if the shortfall you are currently seeking to address is actually much higher, and the City needs to identify even more sites to rezone.

Without the information, the City Council and Planning Commission should apply a significantly larger buffer to ensure the City will rezone sufficient sites to meet its legal requirements, retain local control, and most importantly, provide enough affordable housing for working families in Goleta.

II. THE COMMENTS AT THE WORKSHOPS MAKE CLEAR THAT MORE SITES ARE NEEDED

The hearings have demonstrated that there are many, many forces at work to stop and reduce development at all of these sites. We heard concerns about higher density development and height on the proposed sites being incompatible with surrounding development, concerns about impacts to views archaeology, biology, environmental setbacks, traffic, noise, and interest in protecting certain neighborhoods and distributing development across the City (while also focusing it near schools and

other development).² But very few comments pushed for more density, more height, more development at any of these sites. Almost none. Plus, as many commenters and decision-makers acknowledged it is incredibly unlikely that the City will meet the 100 percent affordable projections for a number of the sites.

That means that the City needs to rezone and upzone more sites. Waiting to do it only once the City starts falling behind as we move through the eight-year housing element cycle will put the City far behind. As we know, development projects take years to entitle. It is better to rezone additional sites now and let as many projects as possible start moving through the design and preapplication process, and allow the projects to be modified as needed in response to site specific constraints. Additional sites are necessary especially in light of factors outside the City's control that can slow or halt development projects, such as economic downturns, inflation and interest rate increases, natural disasters and other global disturbances, and a water moratoria. To ensure housing is developed as needed in this cycle, this City needs to get as many viable sites moving forward through the development process as possible, as soon as possible. The City Council and Planning Commission should not support a hollow exercise to rezone the minimum number of sites to receive certification of its Housing Element when it is clear that approach would not truly achieve the community's workforce housing needs.

III. THE SHELBY SITE PROVIDES A WONDERFUL POTENTIAL REZONE SITE FOR AFFORDABLE HOUSING

As noted in my July 20, 2023 letter, the Shelby Site has a (a) willing owner (with a demonstrated dogged commitment to building residential units on this site), (b) surrounded by other urban uses, and (c) a pending residential project that is exempt from Measure G. It is located walking distance to schools and close to transit. The Shelby Site also is a vacant site, which is highly valued by HCD when evaluating the City's Housing Element because it is more likely to be developed with housing during next eight-year planning period.

The 14-acre Shelby Site is surrounded by urban uses and cannot be used for agriculture. The Shelby Site would also not have some of the impacts to surrounding neighbors that some of the other sites in the inventory may have because the property is naturally buffered from surrounding neighbors (single family homes south of Cathedral Oaks and condominiums to the west across Northgate Drive). The Shelby Site could also provide an affordable project designed to minimize potential impacts to surrounding neighbors with setbacks and variation in building heights. The Shelby Site also helps distribute new housing development more around the City. As such, the Shelby Site is an ideal

² These comments similarly apply to the already identified sites in the site inventory that remain unvetted.

candidate site for rezoning and demonstrating the City Council's commitment to support affordable housing development within the City.

In summary, we urge the City Council and Planning Commission to rezone all the sites proposed and add the Shelby Site to the potential rezones. The Shelby Site could be rezoned with RM Residential – Medium Density and RS Single Family Residential to allow for a more dense, affordable housing project that still aligns with the overall character of the surrounding neighborhood.

Thank you for your careful consideration of these comments.

Sincerely,



Beth A. Collins

Cc: Anne Wells, Advance Planning Manager
Andy Newkirk, Senior Planner

Exhibit 3
Proposed Settlement Agreement

July 31, 2023

Beth A. Collins
Attorney at Law
805.882.1419 direct
bcollins@bhfs.com

**PRIVILEGED – SETTLEMENT OFFER
EVID. CODE, § 1152 ET SEQ.**

VIA EMAIL TO: Megan.Garibaldi@bbklaw.com

City Council
City of Goleta
130 Cremona Drive
Goleta, CA 93117

RE: Shelby Residential Project – Settlement Offer for a Revised Affordable Housing Project

Dear Mayor and City Councilmembers:

As you are aware, the Couvillion family has been seeking approvals from the City of Goleta (“City”) for the Shelby Residential Project located at 7400 Cathedral Oaks (the “Shelby Site”) since 2005. The pending applications propose a 56-home market-rate single-family residential subdivision project with a vesting tentative map which was deemed complete in 2011.¹ The original project was designed to conform to the single family residences in the existing neighborhood along the southern side of Cathedral Oaks.

Since the original Shelby application in 2011, times have changed. California, including the Central Coast, now faces an epic housing crisis that harms working families and the vibrancy and economic vitality of the City. Recognizing the need for affordable housing, the Couvillion family wants to work with the City on a path forward for a modified Shelby Residential Project (“Affordable Project”) that meets the community’s need for affordable housing. The Affordable Project also would help the City demonstrate its commitment to affordable housing and show it can achieve its regional housing needs with the California Department of Housing and Community Development (“HCD”).

The Couvillion family has options to proceed with residential development on the Shelby Site, but ultimately it would prefer to cooperate with the City on a path forward. A settlement agreement for an Affordable Project provides a significantly better option for the City to move forward collaboratively with the Couvillion family to develop much-needed affordable housing within the City.

¹ The pending applications include a (1) General Plan Amendment (05-154-GPA), (2) a rezone (05-154-RZ), (3) a zoning ordinance text amendment (05-154-OA), (4) a Vesting Tentative Map (05-154-VTM), (5) a Development Plan (05-154-DP), and (6) a Development Agreement (05-154-DA).

It helps the Couvillion family realize the goal of developing housing on the vacant Shelby Site. It helps City Council provide lower income housing to meet its regional needs and the needs of working families.

The Couvillion family hopes to create a legacy Affordable Housing Project that the City and family can be proud of rather than face delays or disputes with the City. To that end, we propose the following settlement agreement options for the City Council's consideration:

(A) rezone the Shelby Site before February 2024 at the same time the City approves Shelby's modified vesting tentative map with two parcels (one parcel approximately 6 acres zoned RP – Planned Residential and one parcel of approximately 8 acres zoned RS – Single Family Residential) so that the City can take credit for the units which will be developed on the property in its 2023-2031 Housing Element ("Housing Element"), or

(B) allow the Couvillion family to proceed with an Affordable Project to meet part of the City's regional housing needs.

Both options allow the City Council to collaborate with the Couvillion family on a viable affordable housing project and avoid unnecessary litigation.

Option A. Applicant Modifies Its Vesting Tentative Tract Map to Create Two Lots Which Can Be Rezoned to Allow for Multi-Family and Single-Family Housing to Support the City's Housing Element Sites Inventory.

The Couvillion Family offers to modify the Shelby Residential Project, reducing its pending vesting tentative map to only two parcels: an approximately 8 acre multi-family zoned parcel (RP – Planned Residential) and an approximately 6 acre single-family zoned parcel (RS – Single Family Residential). No actual development would be proposed, or approved, with the rezone and map. However, since the rezone/General Plan Amendment could be approved at the same time as the modified vesting tentative map, the rezone/General Plan Amendment would not be subject to Measure G.

Option A would allow the City to include the Shelby Site in its rezone efforts supporting the Housing Element. By doing so, the City could rely on the Shelby Site's development potential to demonstrate the City's ability to meet part of its lower income regional housing needs allocation in its Housing Element.

Once rezoned, the Couvillion family would then proceed with a separate, subsequent application for an Affordable Project in accordance with the Shelby Site's new residential zoning designations. The Couvillion family has proposed two different potential versions of such a project, which are discussed further below. This separate application would proceed through the City's standard development review process, including environmental review. The City, Couvillion family and community would

provide input on the Affordable Project's design through the City's tradition development review process.

We believe Option A is a sensible solution for everyone. It provides the City with a more defensible Housing Element because it allows the City to rezone a significant vacant property, located along a major arterial and with utility services, within the City's urban area to include in the site inventory. It helps ensure the Shelby Site is developed with more residential units, and more deed-restricted affordable units (since the current project only contemplates 56 market rate, single family homes). It also ensures the development will be done in compliance with the City's new zoning code (which has more stringent inclusionary housing and other requirements). The Shelby Site also gives the City more flexibility for its other rezone sites or provides an addition buffer in case the projects identified in the Housing Element do not develop at the density and unit composition proposed.

Option B. Shelby Residential Project Revises Its Vesting Tentative Map to Accommodate an Affordable Housing Project with City Council Support

Alternatively, under Option B, the Couvillion family would modify its Shelby Residential Project and vesting tentative map for either a 101 or 129-unit multi-family and single-family affordable housing project on the Shelby Site. Copies of the preliminary designs for these potential Affordable Projects are attached hereto as **Exhibits A** (101-unit project) and **B** (129-unit project).

Under Option B the City Council would similarly rezone a portion of the Shelby Site to accommodate the multi-family portion of the Affordable Project. Both Affordable Projects can be refined to comply with all applicable development standards for the necessary underlying zoning. The Couvillion family is willing to work with the City on either proposed Affordable Project to design a project that meets both parties' needs for the Shelby Site.

Option B, however, would take additional time to process given the need to update environmental review for the specific Affordable Project selected. This delay would mean the City may have a difficult time claiming credit toward meeting its lower income housing obligations in its Housing Element. Although ultimately, after the project is approved, the Affordable Project's lower income units would of course count toward meeting the City's regional housing need obligations during this housing element cycle, Option B will not be as helpful to the City in obtaining certification of its Housing Element from HCD.

Option B however does present another viable option for the development of an Affordable Project on the Shelby Site through a collaborative effort with the Couvillion family.

Benefits of an Affordable Project over Status Quo

Under any of these Options, the Shelby Site is a special opportunity for the City. The Shelby Site aligns with all the key criteria for a potential rezone: the Couvillion family is a willing property owner with a demonstrated commitment to housing development (in fact, the owner has shown a persistent commitment to developing the site over decades); the Shelby Site is located near major arterials within the City's urban area, near public transit and three schools; and rezoning of the Shelby Site with the pending vested tentative map is vested against Measure G.

The Shelby Site also is a vacant site, which is highly valued by HCD when evaluating the City's Housing Element because it is more likely to be developed with housing during next eight-year planning period. The 14-acre Shelby Site is surrounded by urban uses and cannot be used for agriculture. The Shelby Site would also not have some of the impacts to surrounding neighbors that some of the other sites in the inventory may have because the property is naturally buffered from surrounding neighbors (single family homes south of Cathedral Oaks and condos to the west). The design also minimizes potential impacts to surrounding neighbors with setbacks and variation in building heights. The Shelby Site also helps distribute new housing development more around the City. As such, the Shelby Site is an ideal candidate site for rezoning and demonstrating the City Council's commitment to support affordable housing development within the City.

As mentioned above, the Couvillion family's existing Shelby Residential Project contains 56 market rate, single family residences. The existing Shelby Residential Project has been analyzed through two environmental impact reports (EIR), prepared under the California Environmental Quality Act (CEQA). It is the closest to shovel ready and need not be modified to proceed under its vesting tentative map. The vesting tentative map allows the Shelby Residential Project to proceed under the City's Old Zoning Code and City development standards that existed as of March 10, 2011. Therefore, it does not need to comply with Measure G, nor the City's recent inclusionary housing requirements. The Couvillion family may proceed with this vesting project in the near future for City Council consideration, but doing so would forfeit the opportunity to provide more, much needed affordable and market rate housing to the community.

The Couvillion family also can proceed with a Builder's Remedy project under the Housing Accountability Act with minor modifications to the existing Shelby Residential Project due to the City's noncompliance with state Housing Element Law.² (Gov. Code, § 65589.5(d).) The City Council would be

² Government Code section 65589.5(d) constrains the City's ability to deny or render infeasible qualifying affordable housing development projects unless the City can make one of four other findings based on a preponderance of the evidence. However, the City Council cannot make any of these findings for an Affordable Project on the Shelby Site. Subdivision (d)(1) only applies if the City has a certified housing element and has met its regional housing needs obligations; neither of which the City has satisfied. Subdivision (d)(2) does not apply because the City cannot make a finding that an Affordable Project will have a "specific, adverse impact upon the public health or safety", as an Affordable

prohibited from denying the Shelby Residential Project based on any inconsistency with the City's zoning code and general plan land use designations, including Measure G. In fact, Measure G would not be triggered at all because the Shelby Site would not need a rezone or a General Plan Amendment to build an Affordable Project. The scenario would result in very few affordable units, and would subject the City to significant legal risks should the City seek to block or deny the project.

Similarly, the Couvillion family retains the right to submit for either the 101-unit or 129-unit Affordable Projects described above under the Builder's Remedy. In this scenario, the City Council would similarly not be able to deny either Affordable Project based on inconsistencies with the City's zoning and general plan land use designations, including Measure G. The City Council would have limited discretion over either proposed Affordable Project and would face litigation if it chose to deny or unreasonably condition either project.

Rather than proceed with the one of the above methods to develop a residential project, the Couvillion family prefers to collaborate with the City on a path forward through a settlement agreement that provides much-needed affordable housing on the vacant Shelby Site.

Additional Settlement Agreement Benefits

Under either Option A or B, the Couvillion family remains open to City Council input on a proposed Affordable Project. For example, the Couvillion family remains open to allowing City Council input on the following potential Affordable Project features:

- Number of for-sale and for-rent affordable units;
- Size and type of affordable units;
- Percentage of affordable units by income category;
- Other potential project features and amenities; and

Project will not result in any "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." Inconsistency with the City's zoning ordinance and general plan land use designations is not sufficient. (Gov. Code, § 65589.5(d)(2)(A).) Subdivision (d)(3) does not apply because an Affordable Project would not result in any violation of "specific state or federal law." Subdivision (d)(4) also does not apply because the Shelby Site is not surrounded on two sides by land *being used for agriculture or resource preservation* but rather it is surrounded by a recreational golf course and/or will be surround by land zoned for housing should Santa Barbara County move forward with rezoning Glenn Annie Golf Course for its housing element. The Shelby Site also has adequate water or wastewater *facilities* to support an Affordable Project given it is within the Goleta Water District and Goleta Sanitary District service areas, and they both have facilities that can readily serve the site. (Gov. Code, § 65589.5(d)(4).) Further, to the extent the City believes this language refers to water *supply* instead of facilities, Goleta Water District plans to lift its new connection moratorium before the Affordable Project would be approved and, even if the District does not lift the moratorium, an Affordable Project has other water supply options. Therefore, the City Council would be required to approve an Affordable Project on the Shelby Site under the Builder's Remedy.

- Processing under the City’s New Zoning Ordinance rather than the City’s Old Zoning Ordinance.

The Couvillion family remains willing to negotiate the above features, among others, to come to a financially and politically viable project. We offer these potential terms in an effort to avoid litigation, since the Couvillion family wants to prioritize permitting and building affordable housing.

Proposed Settlement Agreement Terms

The following provides a preliminary list of key terms for the City Council’s consideration. The terms of the settlement agreement may change depending on the City Council’s preferred Option. We welcome further coordination with the City Council and City Attorney’s Office to finalize a mutually agreeable settlement agreement that benefits the Couvillion family, the City and the community.

- City confirms Couvillion family will modify its proposed vesting tentative map for the Shelby Residential Project consistent with applicable law and preserve its vesting against Measure G.
- The Couvillion family will submit a Senate Bill 330 Preliminary Application for a Builder’s Remedy project to the City for the Shelby Site, which the City accepts while also agreeing that the Couvillion family may retain the vesting associated with Vesting Tentative Map. City then holds the Builder’s Remedy application in abeyance, while the Couvillion family and City proceed with an Affordable Project under a settlement agreement.
- The Couvillion family will modify its vesting tentative map for the Shelby Residential Project to proceed with Option A or B. The City initiates any new General Plan Amendment or rezone as required to support the RP – Planned Residential zoning of and multifamily development on a portion of the Shelby Site.
- The City and Couvillion family agree to collaborate in good faith on the selected Option, such as timely processing of the modified vesting tentative map and Affordable Project features.
- The City Council retains discretionary review authority over selected Option, and agree that no entitlement is issued with this settlement agreement and the City will comply with CEQA at the time that any actual rezone, General Plan Amendment, other entitlement or permit is granted or permit is approved.
- The Couvillion family retains the right to proceed with (a) its original Shelby Residential Project with its vesting tentative map or (b) its Builder’s Remedy project at any time before the Shelby Site receives the necessary approvals contemplated in Options A or B.
- The City and Couvillion family reserve all legal arguments with respect to the City Council’s decisions on the Shelby Residential Project and Builder’s Remedy project following termination

of the settlement agreement, except the City forfeits the right to assert that the Couvillion family lost its right under the vesting tentative map for the Shelby Residential Project or the Builder's Remedy project by agreeing to the settlement agreement and proceeding as described in the settlement agreement.

- The Couvillion family will support the City's efforts to obtain certification of its Housing Element.

Thank you for your careful consideration of these comments as you deliberate on the proposed settlement agreement. We hope to support the development of affordable housing in cooperation with the City of Goleta and firmly believe that a settlement agreement provides the best path forward for affordable housing construction on the Shelby Site.

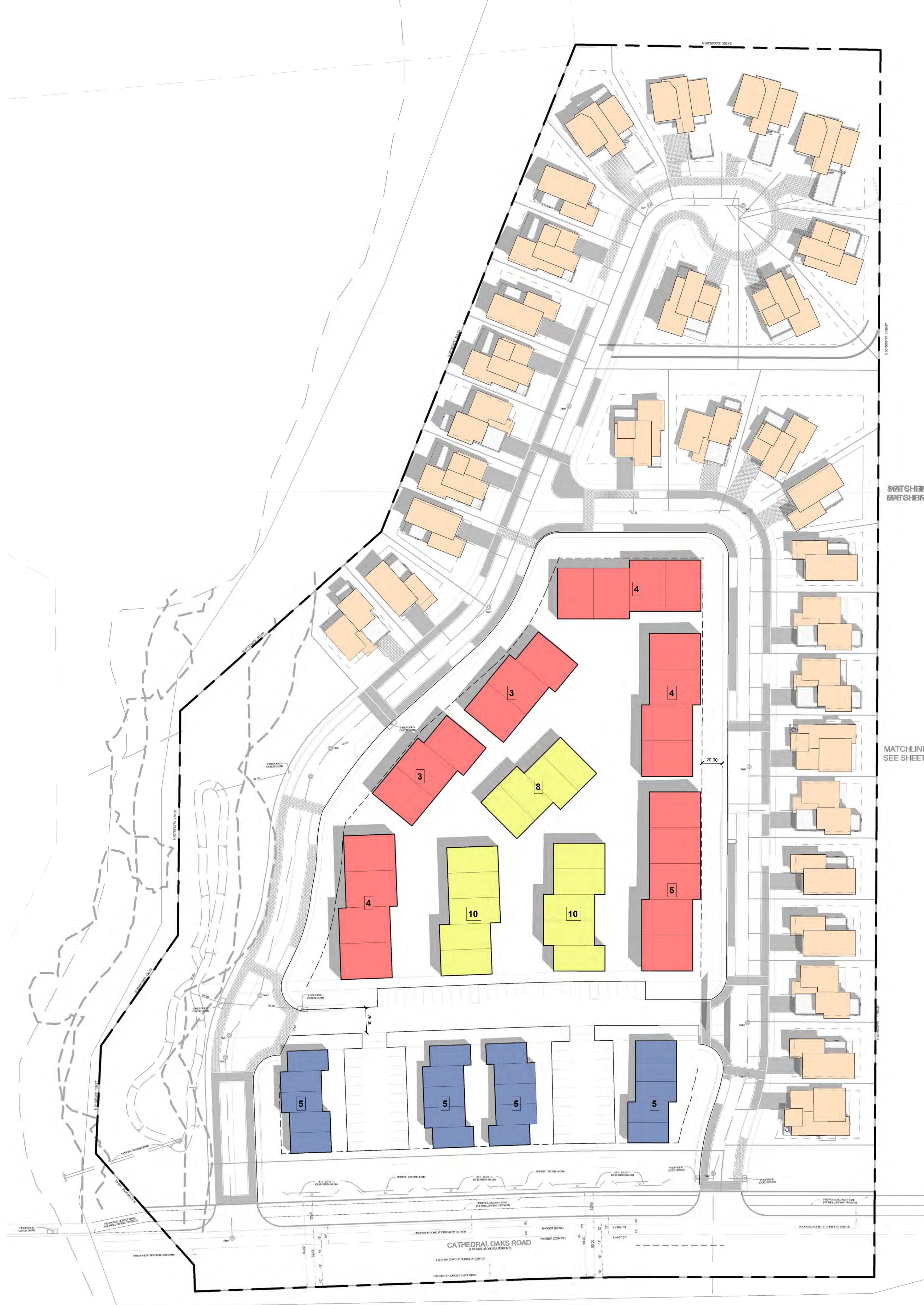
Sincerely,



Beth A. Collins

Cc: Winnie Cai, Assistant City Attorney
Peter Imhof, Planning & Environmental Review Director
Anne Wells, Planning Manager

Exhibit A



SITE PLAN 01
1" = 50'-0"

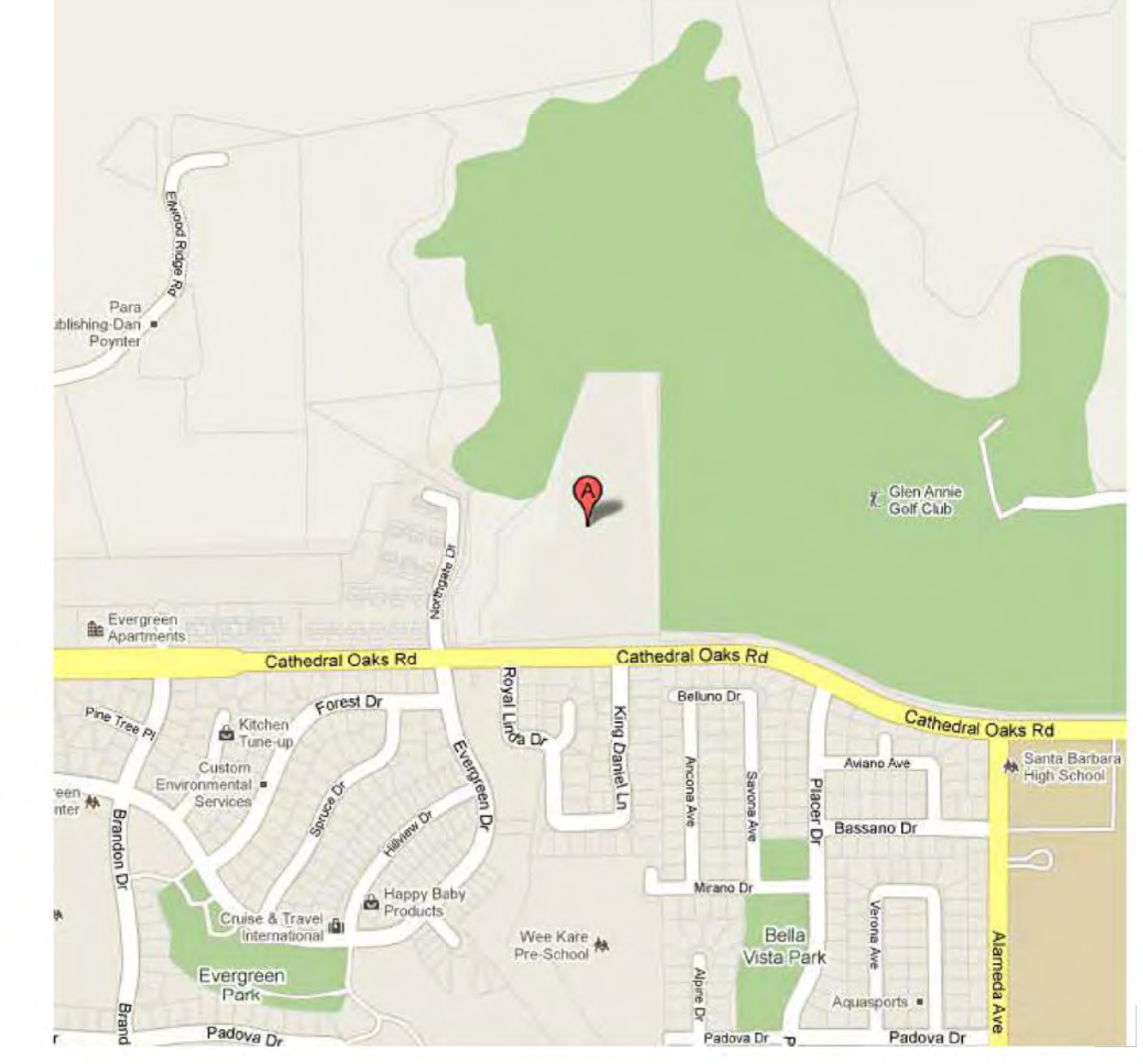
UNIT STATISTICS

DESCRIPTION	# OF BEDS	SQ. FT.	FOOTPRINT	# OF UNITS
TWO-STORY TOWNHOME	2 OR 3	1600 SF.	35' X 50'	23
STACKED FLAT	2	1250 SF.	25' X 50'	28
LOW INCOME FLAT	2	800 SF.	20' X 40'	20
TWO-STORY PERIMETER SFR	2 OR 3	VARIES	VARIES	30
TOTAL				101

LEGEND

PROPERTY LINES	---
SETBACKS	- - - - -

VICINITY MAP



Tract Map No. 32,045

7400 Cathedral Oaks Road
Goleta, CA 93117

PROJECT #: 000-AAA
NO. DESCRIPTION DATE

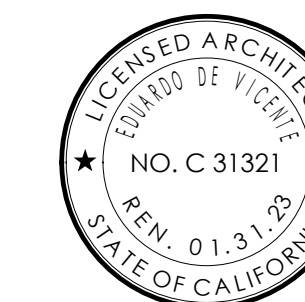
MF Scheme 01	01/06/2023
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G001a
SITE PLAN
SCALE = 1"=50'

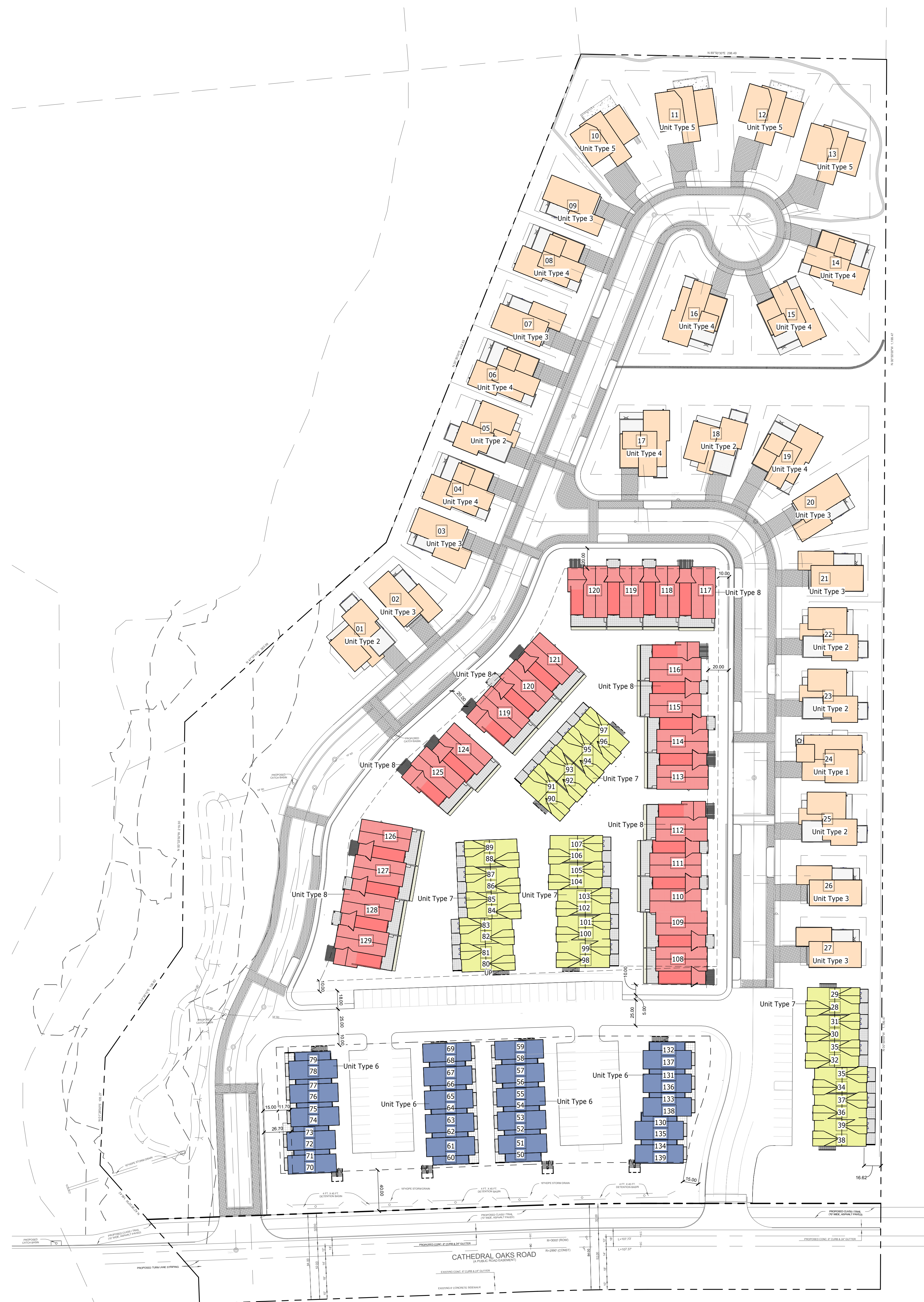
L:\0223_4\3137 PM Z:\Drawings\DMHA Projects\2023\185 - 7400 Cathedral Oaks\11 Drawings and Presentations - Arches and Reference Plans\20231127\DMHA\32,045 MF 01.rvt

DMHA expressly reserves its common law copyright and other property rights in these plans. These plans are not to be reproduced, changed or copied in any form or manner whatsoever nor are they to be assigned to any third party without the express written permission and consent of DMHA.

Exhibit B



NOT FOR CONSTRUCTION



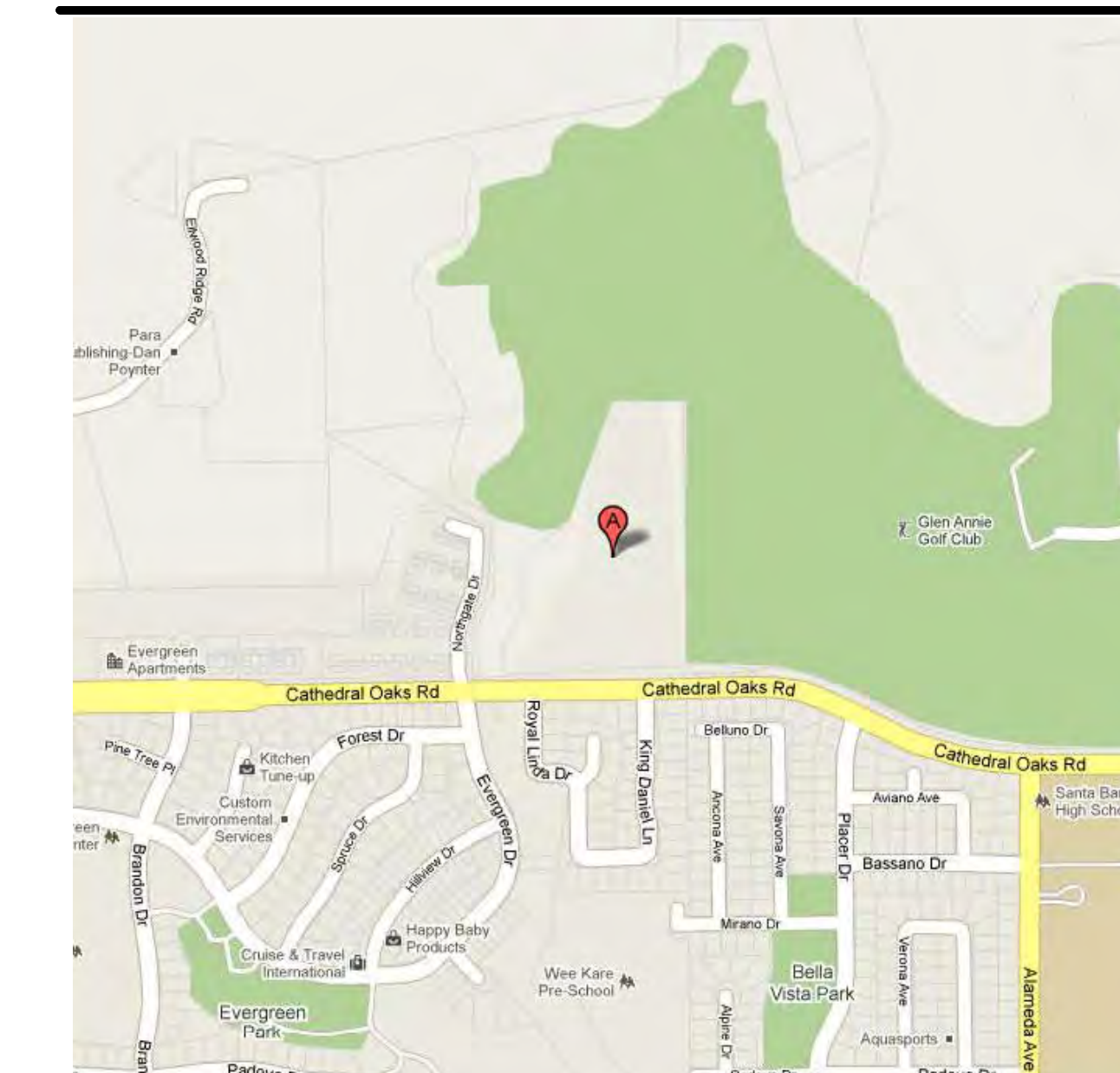
UNIT STATISTICS

UNIT TYPE	DESCRIPTION	# OF BEDS	SQ. FT.	FOOTPRINT	# OF UNITS	
1-5	TWO-STORY PERIMETER SFR	2 OR 3	VARIES	VARIES	27	
6	LOW INCOME FLAT	2	840 SF.	23' X 37'	40	
7	STACKED FLAT	2	1200 SF.	25' X 50'	40	
8	TWO-STORY TOWNHOME	3	3000 SF.	35' X 50'	22	
					% AFFORDABLE	31
					TOTAL	129

LEGEND

PROPERTY LINES - - - - -
SETBACKS - - - - -

VICINITY MAP



Tract Map No. 32,045

7400 Cathedral Oaks
Goleta, California

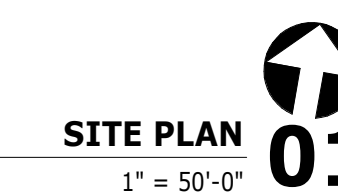
PROJECT #: 22C112

NO.	DESCRIPTION	DATE
MF Scheme 01		01/06/2023
MF Scheme 02 - 30%		04/12/2023

AS101

SITE PLAN

SCALE: 1"=50'



-----Original Message-----

From: Maggie Friedlander <maggiefrie@gmail.com>

Sent: Monday, November 13, 2023 8:26 AM

To: City Clerk Group <cityclerkgroup@cityofgoleta.org>

Subject: Zoning Changes

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

The legislation allowed increased density along major transportation corridors. Many of these projects do not fit that criteria.

In 2018 in the Paradise Camp Fire, people died because they couldn't escape because of gridlock. If housing is clustered in a way that precludes

Staff Report #3 / Agenda Item B.3 / General Plan and Title 17 Amendments to Implement Certain Housing Element 2023-2031 Programs including Rezoning / posted November 9, 2023

**Ken Alker
Kenwood Village, LLC
81 David Love Place, Suite 100
Goleta, CA 93117
November 13, 2023**

Planning Commission
City of Goleta
130 Cremona Drive
Goleta, CA 93117
vai email to: [cityclerkgroup@cityofgoleta .org](mailto:cityclerkgroup@cityofgoleta.org)

Dear Planning Commissioners,

I have attached my letter from October 9, 2023. In that letter I discussed the idea of moving Friendship Manor to the Kenwood property which would require returning to the original decision to allow for 284 units. I truly hope you will consider returning to the original decision during this evening's meeting.

I also pointed out in my letter that the 190 unit cap that was suggested in one of the later workshops conflicted with the 20 units/acre minimum in the RH zone district. A 20 units/acre minimum across 9.85 acres results in a minimum of 197 units. Effectively, the 190 max is lower than the 197 minimum.

Staff has put a document before you this evening that further restricts building at Kenwood Village by reducing the buildable area of the parcel from 9.85 acres down to 6.33 acres. The 6.33 acres was arrived upon by dividing the 190 maximum by 30units/acre. Staff is now suggesting that you limit the developable acreage in order to solve the min/max problem that I addressed in my letter. I am assuming, and please correct me if I am wrong, that if it is decided to build Kenwood out to 190 units, the massing will have to be much greater than it would have to be if we could develop all 9.85 acres. 6.33 acres is only 63% of the total site acreage. This will likely mean making the project taller rather than wider. My goal is to make this project compatible with the surrounding neighborhood by keeping height as low as possible and creating a reduced building area is counter to this goal. Is there a precedent for this kind of modification to the zoning code? Is there not SOME other way that staff can create a limit of 190 units WITHOUT reducing the developable area?

If we choose to build 126 units can we then divide the maximum of 190 by 20 units/acre to arrive at a buildable area of 9.5 acres? The 190 maximum on the property is causing staff to come up with a way to fix the min/max problem but they are being forced into using a cookie-cutter approach to satisfy the General Plan rather than being able to come up with a unique answer to the Kenwood property.

Councilmember Kasdan originally introduced the concept of 22-24 units/acre which is where the 190 unit cap ultimately came from. Can we go back to his suggestion of 22-24 units/acre so that we are not forced into a maximum developable area? I am very concerned that limiting the developable area is going to cause massing to increase to fit the units into 6.33 acres rather than 9.85 acres. If you are

unwilling to go back to the 284 units, what other ways are there to honor the maximum number of units without limiting the buildable area? Can you please ask staff to address this question tonight?

Also, I am hoping that someone tonight can share with me exactly what "developable area" means. Is this defined somewhere in a City ordinance? I assume that setbacks, easements, open areas, and common areas are NOT included in developable area. Is this correct, and are streets included in the "developable area"?

I am available to discuss further at your convenience. Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Ken Alker".

Ken Alker

ATTACHED: "**Kenwood Village - Housing Element update 20231002 comment letter.pdf**"

Revised Adopted Housing Element 2023-2031 revisions posted October 2, 2023

**Ken Alker
Kenwood Village, LLC
81 David Love Place, Suite 100
Goleta, CA 93117
October 9, 2023**

City Council, Planning Commission, and city staff
City of Goleta
130 Cremona Drive
Goleta, CA 93117
vai email to: HousingElement@cityofgoleta.org

Dear City Council, Planning Commissioners and staff,

I greatly appreciate the many hours spent during the three workshops in July discussing the various zoning possibilities for the Kenwood Village project. In the end, I understand that the intention is to rezone the property for RH with a maximum of 190 units.

Council and Planning Commission were struggling with creating split zoning (RS vs. RM vs. RH) using the current split between the upper and lower portions of the property. I can't tell you how grateful I am that this was NOT done. Commissioner Chapman stated (at the July 20 workshop) that he supports using the design review process to address the architecture concerns rather than split zoning, Mr. Imhof stated (at the July 20 workshop) that Staff does not recommend split zoning and a Commissioner (at the July 31 workshop) stated that the property owner needs flexibility; all were on-point. The flexibility that will be necessary to create a project with higher density toward Calle Real and lower density toward the existing single family residences to the north and east cannot be achieved using the arbitrary split that now exists between the upper and lower portions of the property. Rezoning the entire property under a single zone will allow an architect to produce a much better project that is more cohesive to the neighborhood to make the project flow better against the existing densities to the north and east which do not match up in any way with the current zoning split.

I hope everyone is aware of the Friendship Manor (FM) project in Isla Vista. FM has been in operation as a senior congregate living facility since 1973. They operate from a dorm that was built in 1967 designed for young and able-bodied college students. You must be at least 62 years old to reside at FM. Due to seniors living longer and more frail lives, FM has a need to build a new purposely-built building with enhanced features to cater to senior needs. For instance, they need ADA bathrooms and ADA living spaces which both require slightly more space than they have in the existing dorms. They want to employ the latest green technology to save on operational costs and keep rents affordable. FM also hope to add space to accommodate areas for an adult senior day care and/or outside caregivers.

I go to church with residents of Friendship Manor and I have visited FM on multiple occasions. I am in touch with their manager and two of their board members. They have approached me multiple times over the years hoping that I could help them create the new Friendship Manor at Kenwood Village. In the past I had to say "no" because I had already created the 60-unit single family housing project with

which everyone is very familiar. After I was told in July that the City was considering rezoning the property for RH at approximately 284 units, I reengaged with FM to discuss how I could help them move their residents to a new project on the Kenwood site.

Friendship Manor's current project is 214 units on just under 2.5 acres. They feel that a refreshed version of their site would require 3-4 acres in order to expand the units to add the ADA features that they need for their residents. Such that no resident is left behind, the new project must accommodate at least 214 units. My thought was to put a new Friendship Manor along Calle Real and then surround it to the north and to the east with lower density homes that would accomplish my original goal of creating housing for my employees. Additionally, it would create housing for Friendship Manor staff. In this way, the highest density is along Calle Real and the lower density portion flows toward the existing single family houses to the north and east.

Because Friendship Manor is a senior project, the mobility of the residents is much lower than those who would reside upon the remainder of the Kenwood site. While 190 units can certainly be accomplished, FM consists of much smaller clustered units that needs much less land and can fit well onto the Kenwood Village site leaving space for much needed worker housing. While the FM concept with surrounding housing is a higher density project, this concept of a 284 unit project including 214 units for FM I believe will have a LOWER impact and fit better with the surrounding neighborhood than would a 190 unit project without Friendship Manor being involved. Creating an arbitrary cap of 190 units on a site that could accommodate 284 ends up with a larger impact than one that could be achieved with Friendship Manor.

I don't think a cap is a good thing, as proven here. Kenwood Village is the only property with a proposed maximum number of units that is less than the zoning will allow. The design element needs to be left up to the architect to produce what is good for the project and what is good for the neighbors. The currently proposed 60-unit project for Kenwood Village was designed with the surrounding neighborhood under consideration in that I put all of the higher density housing along Calle Real and created lower density housing to the north and east. I was respectful of the community (with none of their input) and I feel I can do this again under a design that allows for the 284 units. After a lot of consideration, I think a 190 unit project has its merits, and I will produce it if that is the only option, but I feel that the 284 unit option is better and carries less impact.

I was hoping to introduce this concept to everyone at the final July 31 meeting as multiple times Council and Planning Commissioners suggested that they "ask the property owner" how the different zoning options would affect the project, but, alas, I was never invited to speak even after it was suggested. What a great thing it will be for our community to get our seniors a new ADA compliant and energy efficient space that is out of Isla Vista and in Goleta. Plus, I can still build the homes I've been wanting to build for our local workers!

Please recall that at the first (July 20) meeting, a straw vote resulted in unanimous support from Council and the Commission for the staff recommendation to rezone Kenwood to RH with a maximum of approximately 284 units without split zoning and without a cap, all after nearly an hour of discussion. Council and Planning Commission - I respectfully request that you think over my idea and let staff know if you agree with removing the cap (as was voted for originally). Staff - I respectfully request that you seek opinions from Council and Planning Commission again. I am just as committed now to producing a

project that is good for the community and for the neighbors, but I need the leeway to produce something good without artificial limitations. Every time the project gets limited, the ability to be creative and flexible gets diminished.

Will HCD support a cap at the very lowest end of the RH spectrum being placed on a single parcel amongst all the rezoned parcels? Will this seem disingenuous? My understanding is that HCD treats an identical minimum and maximum threshold on a property as being a constraint because, "it provides a narrow/precise range that does not allow flexibility for proposals."

If a cap must exist, I suggest going back and reviewing the video from the third (July 31) meeting. After input from several neighbors and concerns of both density and additional traffic, Commissioner Kasdin introduced the concept of a 22-24 units/acre cap which, over the 90+ minutes of deliberation, ended with an arbitrary 190 unit cap on the project. If you consider that RH zoning dictates a minimum of 20 units per acre, and the site is about 9.86 acres, that dictates a minimum of 197 units, yet the straw vote came in at a maximum of 190. The maximum that can be built is LOWER than the minimum that can be built. This makes no sense. Does that mean the project can't be built? Even if you bump the cap to 197 this then means the project has to be 197 units, no less, no more; shoehorned with no flexibility. I spoke to a few builders about this and it makes the project difficult. Having no range where the lower and upper limits are identical is impractical which is why zoning has a broad range of units; a lower and upper end. By capping Kenwood there is no longer ANY wiggle room. This forces us to create a project with 197 units no matter what; there is no creativity left in the architectural and planning process and nowhere to go if we need a few more units for the project to pencil, or a few less for it to make more sense for the neighbors or the bank funding the project.


Additionally, I assume the acreage is being taken from an assessor's map, which the assessor tells us is not deemed to be accurate. If you have a cap that is so close to the minimum number of units and the acreage ends up larger, we are right back to a maximum that is less than the minimum. Instead of having a limit of 190 units (or 197 units), any cap that is applied needs to be based upon UNITS/ACRE as Councilmember Kasdin originally suggested. I would suggest using what he articulated at 22-24/acre, but at the very least, please change to units/acre and not a hard cap (assuming you can't just get rid of the cap altogether, as I've asked for above).

Also, please take note that on page 10-11 parcel 077-130-006 is shown as 9.85 acres rather than the 9.86 shown in table 10A-28 and on the assessor's map. This is probably a typo.

Finally, I'd like to point out that the latest Housing Element revision only calls out the 077-130-006 parcel for rezoning, but the project site also includes parcels 077-130-19 and 077-141-49 which accounts for another 0.61 acres. Please include these in the rezone so that the entire project has the same zoning.

I am available to discuss further at your convenience. Thank you for your time and consideration.

Sincerely,



Ken Alker

From: [Chela Sandoval](#)
To: [City Clerk Group](#)
Subject: Dear planning commission, I am a teacher who lives in the working class community called "eL Encanto." I, like my working class people neighbors who are cement workers, gardeners, plumbers, electricians, tree trimmers, house painters, cleaners, and tea...
Date: Monday, November 13, 2023 4:52:04 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear planning commission, I am a teacher who lives in the working class community called "eL Encanto." I, like my working class people neighbors who are cement workers, gardeners, plumbers, electricians, tree trimmers, house painters, cleaners, and teachers with families like me. It is well known that the el Encanto neighborhood is a community of hard-working people who service the needs of Santa Barbara county. Our neighborhood and Main Street for entry and exit is Calle real. Our houses line Calle real, It moves right through our community and the speed and noise of cars there endangers our bicyclists, pedestrians and children. Cars use this street as a second freeway. We need support around making Calle real less dangerous. We have always hoped that the city of Goleta would move to provide the people of el Encanto with Township support. Instead, tcity planners are trying to usurp the one free area we have on Calle real to add more even more high intensity, medium and low income housing when our working class community can barely handle the numbers of us who are already here. Planners do not seem to realize that the kenmore plan will add more traffic(we can barely pull onto Calle real right now without fear of a traffic accident). More housing in our already congested working class neighborhood adds more danger, traffic, people, cars, smog (we are already right next to the freeway) more problems, more noise and pollution for our community. Why isn't the city of goleta protecting us? Protect us from more deaths on Calle real bicycles, deaths of children? When will goleta show they care about our community, our homes, safety and welfare so that we can continue to service the Santa Barbara community? Why are you moving even more of us into this poorly developed area even as you depend upon our skills to keep Santa Barbara and goleta going? Please stop the junkier high density lower income project and instead offer us something else that will improve the quality of our lives. Lower density housing with a park on Calle real, or something else that considers us and is kind and creative. Thank you.