

From: "josh@mspecialbrewco.com" <josh@mspecialbrewco.com>

Date: October 28, 2019 at 11:31:20 AM PDT

To: Roger Aceves <raceves@cityofgoleta.org>, Stuart Kasdin <skasdin@cityofgoleta.org>, Paula Perotte <pperotte@cityofgoleta.org>, James Kyriaco <jkyriaco@cityofgoleta.org>, Kyle Richards <krichards@cityofgoleta.org>, Kristen Miller <kristen@goletachamber.com>

Cc: daniel michealsen <dan@michealsen.com>, russell michealsen <russ@michealsen.com>, "chris@mspecialbrewco.com" <chris@mspecialbrewco.com>

Subject: New Zoning Ordinance concerns

Council Members, Chamber Representatives and Stakeholders;

With the council being presented next week with a new zoning ordinance (NZO) I wanted to reach out to you to discuss some potentially damaging effects to our business and other stakeholders that the current version of the NZO could have.

Premise: The NZO is intended to implement the City's General Plan (GP).

Issue 1: The NZO proposes making our use in our zone a "Non-Conforming" use for business parks even though the GP clearly states that Eating and Drinking Establishments are a "Conforming" use. In doing so (even if unintentionally) it effectively changes the GP.

The NZO does this by bifurcating "Eating" and "Drinking" establishments, and it really has a negative impact to 3 specific businesses (as far as I can tell) of which we are the largest.

Making these businesses "Non-Conforming" would make growth for us in our current locations extremely difficult, and likely would relegate any future growth of our companies to other more friendly municipalities. Furthermore, "Non-Conforming" designations can negatively impact property values. We all relied on the idea that our businesses were "Conforming" uses when we selected these locations and invested our money in The Goodland.

Issue 2: The music ordinance threatens M Special's ability to have live music by requiring pulling a permit each and every time, an endeavor that will make the process too difficult and costly for M Special to continue doing it. We don't charge covers and always pay our bands. We don't make money off of this endeavor. We simply provide music because that's what our residents have come to love about our spot.

Issue 3: The food truck ordinance is very restrictive and will effectively limit food trucks at M Special to a couple of occasions annually, with restrictive hours and limits on numbers of vendors even on those occasions.

Food trucks and live music are hallmarks of our business and were cited as important factors that contributed to the Goleta Chamber of Commerce honoring us in 2016 as the Small Business of the Year.

Issue 4: It appears the NZO has sought to decrease parking requirements in general, but for some reason it has increased parking requirements in Business Parks. This issue also affects property values and other development opportunities for stakeholders.

Thank you all so much for your time, diligence and consideration for the continued successes of our businesses, our residents and our City! Please do not hesitate to contact me by phone (number below) or email (or even in person!) if I can help clarify any of the concerns above.

Respectfully,

Joshua Ellis
Brewmaster/Owner
M. Special Brewing Company
805-451-2855

October 29, 2019

Steven A. Amerikaner
Attorney at Law
805.882.1407 tel
805.965.4333 fax
samerikaner@bhfs.com

BY U.S. MAIL AND EMAIL (MJENKINS@CITYOFGOLETA.ORG)

Michael Jenkins
City Attorney
City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117

RE: New Zoning Ordinance – Sec. 17.30.070 (Streamside Protection Areas)

Dear Mr. Jenkins:

This letter is submitted on behalf of SyWest Development, owner of the site of the former Goleta Drive-in Theatre at 907 S. Kellogg Avenue.

The following comments pertain to Section 17.30.070 of the City of Goleta's proposed New Zoning Ordinance ("NZO"), as attached to the staff report for your November 5 City Council meeting. Section 17.30.070 sets forth an elaborate framework for the City to consider a reduction to the required streamside protection area ("SPA") upland buffer. Despite its cursory reference to the General Plan, this new framework appears untethered from the City's existing General Plan policy setting forth the applicable standards for an exception to the SPA buffer. (See General Plan Policy CE 2.2.) Section 17.30.070 provides no additional guidance to City decision-makers, certainty to property owners, or transparency to interested stakeholders. Instead, the proposed policy elevates determinations over SPA buffers to a labyrinthine level of complexity. As drafted, Section 17.30.070 would conscript the City Council and Planning Commission into applying legal standards as to what constitutes a regulatory taking – a task that confounds even judges and seasoned practitioners. For these reasons, and as set forth in further detail below, SyWest requests that the language of Section 17.30.070 be revised to address these fatal defects.

I. The Requirements of Section 17.30.070 Far Exceed Those Requested by the California Coastal Commission as part of the Eastern Goleta Valley Community Plan.

As we understand, part of the rationale for the adoption of the elaborate process set forth in Section 17.30.070 may have been to anticipate potential requests by the California Coastal Commission ("CCC"). In considering whether to approve an amendment to the County of Santa Barbara's local coastal program adopting the Eastern Goleta Valley Community Plan ("EGVCP"), the CCC indeed requested that certain language be added to the County's Coastal Zoning Ordinance ("CZO"). The County ultimately adopted this language as sections 35-192.4 through 35-192.6 of its CZO. However, the language recently added to Section 17.30.070 of the NZO goes far beyond the already stringent requirements in the EGVCP in several key respects.

1021 Anacapa Street, 2nd Floor
Santa Barbara, CA 93101-2711
main 805.963.7000

First, the requirements proposed in Section 17.30.070 would apply in both the Coastal Zone and non-Coastal Zone areas. The language in the County's CZO applies only to a property owner seeking a coastal development permit in the Eastern Goleta Valley Community Plan area. (CZO, Sec. 35-192.5, 35.192.6.)

Second, Section 17.30.070 as drafted mandates that all required findings be supported by "substantial evidence," while the language requested by the CCC and adopted by the County merely requires the governing body (i.e., Board of Supervisors or County Planning Commission) to **make** the required findings. (See CZO, Sec. 35-192.6.) As a threshold problem, the NZO does not define "substantial evidence." As you are aware, moreover, the "substantial evidence" standard is used in the California Environmental Quality Act ("CEQA") context and provides fertile ground for litigation over the sufficiency of evidence supporting an agency's findings. (See Pub. Res. Code § 21168.5; Cal. Code Regs., title 14, § 15384; see, e.g., *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502; see also Elisa Barbour and Michael Teitz, CEQA REFORM: ISSUES AND OPINIONS, Public Policy Institute of California (April 56, 2015), at p. 15 [noting that even among CEQA practitioners, the law's flexible and vague standards, including "substantial evidence," are a source of uncertainty].)

Third, Section 17.30.070 as drafted includes **additional** and problematic findings that are not required by the EGVCP:

- Section 17.30.070 B.2.c.i requires a finding that "Based on a **City-approved, third-party economic consultant's review and** consideration of the economic information provided by the applicant, as well as any other relevant evidence, adherence to the 100-foot SPA upland buffer would not provide an economically viable use of the applicant's property." (Emphasis added.) The emphasized language is not included in the County's CZO and is ambiguous as to whether the Reviewing Authority (City Council or Planning Commission) has the discretion to make this finding *against* the recommendations or conclusions of the economic consultant.
- Section 17.30.070 B.2.c.vii requires a finding that "The project is located on a **legally created lot.**" (Emphasis added.) This finding should be revised to provide for projects located on multiple lots and for situations where an applicant may be seeking a lot line adjustment as part of project entitlements.
- Section 17.30.070 B.2.c.viii requires a finding that "The project is consistent with all other applicable biologic goals, objectives, policies, actions and development standards from the Goleta General Plan, Local Coastal Program, and Zoning Ordinances." This finding is unnecessarily duplicative with the land use consistency analysis required under CEQA. (See CEQA Guidelines, §15125(d) and Appendix G.) The proposed language also overlooks situations where a project applicant may be seeking a variance from another applicable standard.

Fourth, Section 17.30.070 as drafted specifically requires review by a City-approved, third-party biologist and a City-approved, third-party "economic consultant." Although such review may be appropriate for projects of a certain scale, requiring these third-party studies for a smaller project where only a minor variance is requested is inequitable and unreasonable.

Fifth, Section 17.30.070 as proposed requires a "Initial Assessment and Biological Report," terms which are not defined elsewhere in the NZO. Presumably these terms refer to the Initial Site Assessment and biological report required for projects that "have the potential to have a direct or indirect effect on ESHAs." (See Secs. 17.30.020, 17.30.030.) However, it is possible that a project may fall within the 100-foot SPA buffer without having the potential to have a direct or indirect effect on ESHA. It is unclear whether Section 17.30.070 as proposed would require that *any* project within the 100-foot buffer comply with ESHA requirements, in addition to the third-party biological and economic consultant studies described above.

II. The Findings Required by Section 17.30.070 Pose Problems for City Decision-Makers and Affected Property Owners Alike.

A. The Required Findings are Duplicative and Ambiguous.

As drafted, Section 17.30.070 B seems to require three distinct lists of findings, the relationship among which is not entirely clear.

Section 17.30.070.B.1 requires findings that are consistent with the City's General Plan, Conservation Element Policy 2.2. Unlike the City's General Plan or the County's CZO, however, Section 17.30.070.B.2.a then requires findings "for each potentially significant adverse effect." This language may be intended to mirror CEQA's framework for disclosing various classes of impacts. If so, this is duplicative with CEQA analysis and introduces unnecessary confusion into the environmental review process. If this portion of the NZO is intended to set forth a similar but slightly different standard than CEQA, this too risks its own set of implementation challenges. Put simply, it is unclear why CEQA analysis is insufficient for purposes of analyzing the *environmental impacts* of a downward adjustment to the SPA upland buffer.

Section 17.30.070.B.2.c then sets forth yet **another** list of findings that are required to make a downward adjustment to the SPA upland buffer. As described further below, this list is fraught with fatal ambiguity. For example, the list includes environmental findings that are arguably duplicative with CEQA's required analysis, without referencing CEQA explicitly. (See, e.g., Section 17.30.070.B.2.c.v. ["The project is the least environmentally damaging alternative and is consistent with all provisions of the Zoning Ordinance other than the provision for which the exception is requested."].) This risks confusion and dispute as to whether the finding required by the NZO is synonymous with CEQA's analysis concerning land use consistency and alternatives. (See Pub. Res. Code § 21002; CEQA Guidelines §15126.6 and Appendix G.)

B. The Required Findings Draw the City Council and Planning Commission Into the Impossible Task of Adjudicating Theoretical Takings Claims.

The findings in Section 17.30.070.B.2.c require the City Council and Planning Commission to apply legal standards that are notorious for defying precise application. For example, the question of whether a proposed use violates "background principles of the State's law of property" as that phrase was used in *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003 implicates any number of common law property issues, including nuisance, easements, water rights, and the public trust. (See James L. Huffman, *Background Principles and the Rule of Law: Fifteen Years after Lucas*, 35 Ecology L.Q. 1, 7-12 (2008) [noting that the concept of "background principles" could be understood as a catch-all, affirmative defense against a takings claim and as "embrac[ing] the notion that the common law is almost infinitely malleable".]) Determining whether "[t]he use and project design" are the "minimum necessary" to avoid a taking requires the City Council or Planning Commission to draw the fine line between lawful regulation and an unlawful taking, applying nuanced legal standards in a line-defying area of the law. Applying takings jurisprudence to an actual takings claim presents challenge enough. Section 17.30.070.B.2.c.iv, as drafted, takes that exercise that one step further and asks City decision-makers to preemptively adjudicate a purely theoretical claim every time a variance to the SPA upland buffer is requested.

Nor does the NZO specify whether the Reviewing Authority should turn to federal or state law in determining whether a downward adjustment to the SPA buffer is necessary to avoid a taking. Federal law sets forth a three-part test, including a property owner's "reasonable, investment backed expectations." But the courts have repeatedly emphasized that a regulatory takings analysis eschews any "set formula" and is essentially an "ad hoc, factual inquir[y]." (*Penn Central Transp. Co. v. City of New York* (1978) 438 U.S. 104, 124-29.) California courts have also identified additional factors that may be relevant in any particular case, while also noting that they are not to be used as a "checklist." (*Herzberg v. Cty. of Plumas*

(2005) 133 Cal.App.4th 1, 15; *Kavanau v. Santa Monica Rent Control Bd.* (1997) 16 Cal. 4th 761, 775.) Mooring the City's decision-making to this unstable area of the law presents intractable problems with implementation and fairness.

III. Section 17.30.070 is Inconsistent with the City's General Plan.

It is well-established that a zoning ordinance that is inconsistent with a city's general plan is "invalid at the time it is passed." (*City of Morgan Hill v. Bushey* (2018) 5 Cal.5th 1068, 1079; see also *Leshner Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal. 3d 531, 544-45 [describing such zoning ordinances as "invalid *ab initio*," that is, invalid from the day of enactment].)

The elaborate framework for determining whether to grant a downward adjustment to the SPA buffer is oddly disjointed from the General Plan, given that Policy CE 2.2 in the General Plan already states that the City may reduce the required SPA upland buffer below 100 feet (but not less than 25 feet) if (1) "there is no feasible alternative siting for development that will avoid the SPA upland buffer" and (2) "the project's impacts will not have significant adverse effects on streamside vegetation or the biotic quality of the stream." As described above, Section 17.30.070.B tasks the Planning Commission and City Council with making additional, ancillary lists of legal determinations that are fraught with the potential for dispute.

The staff report contemplates that the draft SPA zoning regulations could be revised "to align with the General Plan and address key stakeholder concerns." (NZO Staff Report, for November 5, 2019 at p. 4.) In light of the fatal defects detailed above, SyWest concurs with this recommendation.

Thank you for your kind consideration.

Sincerely,



Steven A. Amerikaner

cc. Anne Wells, Advance Planning Manager (AWELLS@CITYOFGOLETA.ORG)
Winnie Cai, Assistant City Attorney (WCAI@CITYOFGOLETA.ORG)
Robert Atkinson, SyWest Development (Robert_Atkinson@sywest.com)
Tracy LaTray, Development Manager, SyWest Development (Tracy_LaTray@sywest.com)

From: [L. Carlson](#)
To: [City Clerk Group](#)
Subject: Goleta Creeks, wetlands and habitats
Date: Thursday, October 31, 2019 1:17:31 PM

Please protect Goleta's creeks, wetlands, and habitats!

Dear Mayor Perotte and City Councilmembers,

I am writing you today to request that you adopt strong protections for creeks, wetlands, and habitats. I urge you to adopt a standalone provision in the New Zoning Ordinance that sets forth a process for determining when, upon an applicant's request, a reduction in the required setback from creeks may be granted. This provision should apply to any request to modify City zoning or policy requirements.

I support the recommendations made by the Environmental Defense Center and Urban Creeks Council to adopt the California Coastal Commission's language for analyzing when a setback may be reduced. The Coastal Commission's language was adopted by the County of Santa Barbara in its Coastal Zoning Ordinance and in the Eastern Goleta Valley Community Plan. Preserving and restoring Goleta's creeks is very important to our community and we thank you for your efforts to protect Goleta's watershed!

Sincerely,

*Lindy Carlson
Los Padres ForestWatch*

From: [Lindsey Bolton](#)
To: [City Clerk Group](#)
Subject: Creeks + Wetlands
Date: Thursday, October 31, 2019 1:27:06 PM

Dear Mayor Perotte and City Councilmembers,

I am writing you today to request that you adopt strong protections for creeks, wetlands, and habitats. I urge you to adopt a standalone provision in the New Zoning Ordinance that sets forth a process for determining when, upon an applicant's request, a reduction in the required setback from creeks may be granted. This provision should apply to any request to modify City zoning or policy requirements.

I support the recommendations made by the Environmental Defense Center and Urban Creeks Council to adopt the California Coastal Commission's language for analyzing when a setback may be reduced. The Coastal Commission's language was adopted by the County of Santa Barbara in its Coastal Zoning Ordinance and in the Eastern Goleta Valley Community Plan. Preserving and restoring Goleta's creeks is very important to our community and we thank you for your efforts to protect Goleta's watershed!

Sincerely,

Lindsey Bolton

From: [Jesse Bickley](#)
To: [City Clerk Group](#)
Subject: Please protect our creeks!
Date: Thursday, October 31, 2019 1:28:14 PM

Dear Mayor Perotte and City Councilmembers,

I am writing you today to request that you adopt strong protections for creeks, wetlands, and habitats. I urge you to adopt a standalone provision in the New Zoning Ordinance that sets forth a process for determining when, upon an applicant's request, a reduction in the required setback from creeks may be granted. This provision should apply to any request to modify City zoning or policy requirements.

I support the recommendations made by the Environmental Defense Center and Urban Creeks Council to adopt the California Coastal Commission's language for analyzing when a setback may be reduced. The Coastal Commission's language was adopted by the County of Santa Barbara in its Coastal Zoning Ordinance and in the Eastern Goleta Valley Community Plan. Preserving and restoring Goleta's creeks is very important to our community and we thank you for your efforts to protect Goleta's watershed!

Sincerely,
Jesse Bickley

From: [Bob Crocco](#)
To: [City Clerk Group](#)
Subject: Zoning Ordinance
Date: Thursday, October 31, 2019 1:58:58 PM

Dear Mayor Perotte and City Councilmembers,

I am writing you today to request that you adopt strong protections for creeks, wetlands, and habitats. I urge you to adopt a standalone provision in the New Zoning Ordinance that sets forth a process for determining when, upon an applicant's request, a reduction in the required setback from creeks may be granted. This provision should apply to any request to modify City zoning or policy requirements.

I support the recommendations made by the Environmental Defense Center and Urban Creeks Council to adopt the California Coastal Commission's language for analyzing when a setback may be reduced. The Coastal Commission's language was adopted by the County of Santa Barbara in its Coastal Zoning Ordinance and in the Eastern Goleta Valley Community Plan. Preserving and restoring Goleta's creeks is very important to our community and we thank you for your efforts to protect Goleta's watershed!

Sincerely,

Bob Crocco

Sent from my iPad

From: [Susan Shields](#)
To: [City Clerk Group](#)
Subject: Protection of creeks and wetlands within the City of Goleta
Date: Thursday, October 31, 2019 2:27:51 PM

To the Mayor and City Council of Goleta:

As a local resident who cares about the protection of creeks and wetlands in this area and their important role in the landscape and environment, I understand that in the past the City has approved reductions in the required 100-foot creek setback for new construction without analyzing the degree of compliance with the policy requirements.

I urge you to ensure that the New Zoning Ordinance include language developed by the California Coastal Commission and adopted by the County that clearly states the steps for determining if a reduction of the setback from creeks and riparian habitat may be granted upon an applicant's request. The provision should apply to any request to modify City zoning or policy requirements.

Susan Shields
3033 Calle Rosales, Santa Barbara CA 93105

From: [Lydia Deems](#)
To: [City Clerk Group](#)
Subject: Creek and wetland protection
Date: Thursday, October 31, 2019 2:47:45 PM

Dear Mayor Perotte and City Councilmembers,

I am writing you today to request that you adopt strong protections for creeks, wetlands, and habitats. I urge you to adopt a standalone provision in the New Zoning Ordinance that sets forth a process for determining when, upon an applicant's request, a reduction in the required setback from creeks may be granted. This provision should apply to any request to modify City zoning or policy requirements.

I support the recommendations made by the Environmental Defense Center and Urban Creeks Council to adopt the California Coastal Commission's language for analyzing when a setback may be reduced. The Coastal Commission's language was adopted by the County of Santa Barbara in its Coastal Zoning Ordinance and in the Eastern Goleta Valley Community Plan. Preserving and restoring Goleta's creeks is very important to our community and we thank you for your efforts to protect Goleta's watershed!

Sincerely

Lydia Deems

Santa Barbara

PS. I live in Santa Barbara but love to go birding and walking in Goleta. The creeks and wetlands provide habitat for birds and wildlife.

Sent from my iPhone

From: [Nytzen, Michael](#)
To: [Paula Perotte](#); [Kyle Richards](#); [Roger Aceves](#); [Stuart Kasdin](#); [James Kyriaco](#); [City Clerk Group](#)
Cc: [Anne Wells](#); [Peter Imhof](#); [Lorcan Drew \(drew@watermarkcap.com\)](#); [Menzer, Mitch](#)
Subject: New Zoning Ordinance: Letter from Ritz-Carlton Bacara
Date: Thursday, October 31, 2019 2:52:52 PM
Attachments: [image001.png](#)
[Bacara Letter for 11.5.19 City Council Meeting Item B.2. Adoption of the New Zoning Ordinance.pdf](#)

Good afternoon, all.

On behalf of the Ritz-Carlton Bacara, please see the attached letter concerning the New Zoning Ordinance.

Thank you in advance for your attention to this matter.

Regards,
Michael Nytzen



Michael Nytzen | Senior Land Use Project Manager
Paul Hastings LLP | 515 South Flower Street, Twenty-Fifth Floor, Los Angeles, CA 90071 | Direct:
+1.213.683.5713 | Main: +1.213.683.6000 | Fax: +1.213.996.3003 |
michaelnytzen@paulhastings.com | www.paulhastings.com

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Carey Watermark Investors Incorporated

October 30, 2019

VIA EMAIL

The Honorable Paula Perotte, Mayor of the City of Goleta
and Members of the Goleta City Council
Goleta City Hall
130 Cremona Drive, Suite B
Goleta, CA 93117

Re: City of Goleta New Zoning Ordinance, Hearing on November 5, 2019

Dear Mayor Perotte and Members of the City Council:

I am writing on behalf of CWI Santa Barbara Hotel, LP and CWI 2 Santa Barbara Hotel, LP, the owners of The Ritz-Carlton Bacara (the "Bacara") with respect to the proposed New Zoning Ordinance.

At several public hearings conducted by the Planning Commission and the City Council and in letters to staff, we expressed our concern that the proposed non-conforming use provisions of the New Zoning Ordinance would be detrimental to the continued operation of the Bacara. In addition, we were concerned that if the Bacara were damaged or destroyed, the non-conforming use provisions would prevent the prompt restoration of the project.

The Bacara was designed to fit on a challenging site and to create a unique experience with the highest architectural standards. The Bacara was approved under the County of Santa Barbara's previous zoning ordinance and underwent a comprehensive and rigorous approval and environmental review process. The County of Santa Barbara approved a Final Development Plan that was specifically tailored to the site. The August 2019 draft of the New Zoning Ordinance includes new Section 17.36.020(D), which excludes from the non-conforming use provisions any legally permitted project that was approved in a Development Plan. In addition, Section 17.36.020(D) allows the project to be promptly restored to its original condition if damaged or destroyed.

We are in full support of these changes to the non-conforming use provision in Section 17.36 and we urge the City Council to adopt this well-crafted solution, which addresses our concerns.

We would like to thank the Planning Commission and the staff members of the Planning and Environmental Review Department for working collaboratively with us on the New Zoning Ordinance to ensure that the Bacara will not be detrimentally affected.

Very truly yours,

Lorcan Drew
Vice President

A handwritten signature in blue ink that reads "Lorcan Drew".

cc: Mitchell B. Menzer, Esq.
Ms. Anne Wells
Mr. Peter Imhof

100798691.1

From: [Karen](#)
To: [City Clerk Group](#)
Subject: Please Protect Goleta Creeks
Date: Thursday, October 31, 2019 3:23:07 PM

Dear Mayor Perotte and City Councilmembers,

I am writing you today to request that you adopt strong protections for creeks, wetlands, and habitats. I urge you to adopt a standalone provision in the New Zoning Ordinance that sets forth a process for determining when, upon an applicant's request, a reduction in the required setback from creeks may be granted. This provision should apply to any request to modify City zoning or policy requirements.

I support recommendations made by the Environmental Defense Center and Urban Creeks Council to adopt the California Coastal Commission's language for analyzing when a setback may be reduced. The Coastal Commission's language was adopted by the County of Santa Barbara in its Coastal Zoning Ordinance and in the Eastern Goleta Valley Community Plan. Preserving and restoring Goleta's creeks is very important to our community and we thank you for your efforts to protect Goleta's watershed!

Sincerely,
Karen Dorfman
Goleta resident

From: [R&T Hellier-Cooley](#)
To: [City Clerk Group](#)
Subject: Goleta"s Watershed
Date: Thursday, October 31, 2019 6:30:33 PM

Dear Mayor Perotte and City Councilmembers,

We are concerned about Goleta's watersheds. We have taken part in creek cleanups in Goleta and have see firsthand the impact of urban encroachment on our creeks and wetlands. My and my wife's property also extends to the banks of one of the creeks that flows through Goleta. We treasure the sound of frogs and the wildlife that thrives there.

Please adopt a provision in the New Zoning Ordinance that vigorously protects a 100-foot creek setback from any development. We owe this to ourselves, our children, and the world.

Tim Cooley and Ruth Hellier

6000 La Goleta Road
Goleta, CA 93117

From: [Bill Woodbridge](#)
To: [City Clerk Group](#)
Subject: protect Goleta's creeks, wetlands and habitats!
Date: Thursday, October 31, 2019 6:45:35 PM

Dear Mayor Perotte and City Councilmembers,

I am writing you today to request that you adopt strong protections for creeks, wetlands, and habitats. I urge you to adopt a standalone provision in the New Zoning Ordinance that sets forth a process for determining when, upon an applicant's request, a reduction in the required setback from creeks may be granted. This provision should apply to any request to modify City zoning or policy requirements.

I support the recommendations made by the Environmental Defense Center and Urban Creeks Council to adopt the California Coastal Commission's language for analyzing when a setback may be reduced. The Coastal Commission's language was adopted by the County of Santa Barbara in its Coastal Zoning Ordinance and in the Eastern Goleta Valley Community Plan. Preserving and restoring Goleta's creeks is very important to our community and we thank you for your efforts to protect Goleta's watershed!

Sincerely,

*Bill Woodbridge
56 S. Patterson Ave. #207
93111*



October 31, 2019

Mayor Paula Perotte
City Hall, City Council Chambers
130 Cremona Drive, Suite B
Goleta, California 93117

Re: New Zoning Ordinance

Dear Mayor Perotte and City Councilmembers,

The State Coastal Conservancy strongly supports a New Zoning Ordinance (“NZO”) that implements the City of Goleta’s General Policy Conservation Element (“CE”) 2.2 concerning streamside protection areas (“SPAs”) and policies protecting other natural resources. A standalone provision is needed in the NZO that effectively sets forth a process, the required findings, and evidentiary requirements applicable to any request to modify City zoning or policy requirements. This approach will benefit the entire community by providing clarity and transparency to the process, which is currently lacking in the existing ordinance.

Setbacks from creeks, riparian habitat, ESHA, and wetlands provide a variety of important benefits to water quality, plants and wildlife, and people. This is especially important in light of climate changes projected to involve more frequent and extreme local weather impacts. Natural stream corridors and floodplain areas provide an important nature-based climate adaptation strategy to buffer surrounding communities from the impacts of flooding. The wider the natural buffer the less vulnerable the surrounding community is to those impacts.

Studies, ordinances, and government publications indicate that a 100-foot creek setback is the minimum needed to protect water quality, creek and riparian habitats, and wildlife according to many scientific studies, policy and public agency guidance documents. The City’s Policy CE 2.2 establishes strong protections for SPAs, requiring a minimum SPA upland buffer of 100-feet on both sides of the creek but also allows reductions of the SPA buffer upon finding that the minimum 100-foot buffer is infeasible, and the project will not significantly impact riparian vegetation or stream habitat. This policy has led to the City approving projects with reduced setbacks without properly evaluating the feasibility of the minimum 100-foot setback. Adoption of an ordinance to establish a process for determining whether the 100-foot minimum setback is infeasible and therefore can be reduced, will close this problematic loophole and is a wise planning approach.

1515 Clay Street, 10th Floor
Oakland, California 94612-1401
510-286-1015 Fax: 510-286-0470



The Coastal Commission's recommended standard language establishes a detailed and clear process for determining feasibility, and the County of Santa Barbara ("County") adopted the CCC's language as a general provision in its Coastal Zoning Ordinance and in the 2017 Eastern Goleta Valley Community Plan ("EGVCP"). The City could adopt this same language and be consistent with these other local plans. Additionally, adopting CCC recommended language in the City's NZO is strategic and could help speed the adoption process later when CCC begins the process to certify the City's proposed NZO.

We urge the City Council to consider the arguments above and include in the NZO a general provision based on the language recommended by the CCC, as described above. The NZO must include a clear and adequate process for determining feasibility with regards to SPA and ESHA buffer reductions in order to be effective at protecting Goleta's creeks and natural resources.

Sincerely,

A handwritten signature in blue ink that reads "Rachel Couch". The signature is written in a cursive, flowing style.

Rachel Couch, Project Manager
Central Coast Program

From: [monique sonoquie](#)
To: [City Clerk Group](#)
Subject: Creeks, Wetlands and Habitats
Date: Thursday, October 31, 2019 8:19:56 PM

Dear Mayor Perotte and City Councilmembers,

I am writing you today to request that you adopt strong protections for creeks, wetlands, and habitats. I urge you to adopt a standalone provision in the New Zoning Ordinance that sets forth a process for determining when, upon an applicant's request, a reduction in the required setback from creeks may be granted. This provision should apply to any request to modify City zoning or policy requirements.

I support the recommendations made by the Environmental Defense Center and Urban Creeks Council to adopt the California Coastal Commission's language for analyzing when a setback may be reduced. The Coastal Commission's language was adopted by the County of Santa Barbara in its Coastal Zoning Ordinance and in the Eastern Goleta Valley Community Plan. Preserving and restoring Goleta's creeks is very important to our community and we thank you for your efforts to protect Goleta's watershed!

*Sincerely,
Monique Sonoquie*

From: [Anne Diamond](#)
To: [City Clerk Group](#)
Subject: Protect creeks, wetlands and fragile habitats
Date: Thursday, October 31, 2019 10:24:33 PM

Dear Mayor Perotte and City Councilmembers,

I am writing you today to request that you adopt strong protections for creeks, wetlands, and habitats. I urge you to adopt a standalone provision in the New Zoning Ordinance that sets forth a process for determining when, upon an applicant's request, a reduction in the required setback from creeks may be granted. This provision should apply to any request to modify City zoning or policy requirements.

I support the recommendations made by the Environmental Defense Center and Urban Creeks Council to adopt the California Coastal Commission's language for analyzing when a setback may be reduced. The Coastal Commission's language was adopted by the County of Santa Barbara in its Coastal Zoning Ordinance and in the Eastern Goleta Valley Community Plan. Preserving and restoring Goleta's creeks is very important to our community and we thank you for your efforts to protect Goleta's watershed!

Sincerely,
Anne Diamond

From: [Kristie Klose](#)
To: [City Clerk Group](#)
Subject: Attn: City Council and City Clerk
Date: Thursday, October 31, 2019 10:36:42 PM

Dear Mayor Perotte and City Councilmembers,

I am writing you today to request that you adopt strong protections for creeks, wetlands, and habitats. I urge you to adopt a standalone provision in the New Zoning Ordinance that sets forth a process for determining when, upon an applicant's request, a reduction in the required setback from creeks may be granted. This provision should apply to any request to modify City zoning or policy requirements.

I support the recommendations made by the Environmental Defense Center and Urban Creeks Council to adopt the California Coastal Commission's language for analyzing when a setback may be reduced. The Coastal Commission's language was adopted by the County of Santa Barbara in its Coastal Zoning Ordinance and in the Eastern Goleta Valley Community Plan. Preserving and restoring Goleta's creeks is very important to our community and we thank you for your efforts to protect Goleta's watershed!

Sincerely,
Kristie Klose, PhD

From: [Rittershaus, Olga](#)
To: [City Clerk Group](#)
Cc: [Amerikaner, Steven](#); imhof@cityofgoleta.org; [Anne Wells](#); [Winnie Cai](#); [Diaz, Jessica L.](#)
Subject: New Zoning Ordinance
Date: Friday, November 01, 2019 11:52:30 AM
Attachments: [BHFS Letter to Mayor Paula Perotte and City Councilmembers, City of Goleta re New Zoning Ordinance.pdf](#)
Importance: High

Dear Sir/Madam:

Attached please find a letter from Steven A. Amerikaner, on behalf of Sywest Development, owner of the site of the former Goleta Drive-In Theatre at 907 S. Kellogg Avenue, regarding the above-referenced matter. Would you kindly distribute a copy to the Honorable Mayor Perotte and the City Councilmembers at your earliest convenience.

If you have any questions, please do not hesitate to contact our office.

Sincerely,

Olga Rittershaus
Assistant to Steven A. Amerikaner

Olga Rittershaus

Legal Secretary

Brownstein Hyatt Farber Schreck, LLP

1021 Anacapa Street, 2nd Floor

Santa Barbara, CA 93101

805.882.1467 tel

ORittershaus@bhfs.com

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November 1, 2019

Steven A. Amerikaner
Attorney at Law
805.882.1407 tel
805.965.4333 fax
samerikaner@bhfs.com

BY EMAIL (CITYCLERKGROUP@CITYOFGOLETA.ORG)

Honorable Mayor Paula Perotte and City Councilmembers
City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117

RE: New Zoning Ordinance

Dear Honorable Mayor Perotte and City Councilmembers:

This letter is submitted on behalf of SyWest Development, owner of the site of the former Goleta Drive-in Theatre at 907 S. Kellogg Avenue.¹ We write to respectfully request more time for affected stakeholders to digest the significant changes that the Planning Commission has recommended to the City of Goleta's New Zoning Ordinance ("NZO"), and to urge the City Council to consider the NZO's serious consequences for project applicants who have been diligently seeking permits under the existing code.

As noted in the staff report for your November 5, 2019 meeting, the NZO has been years in the making and subject to an extensive calendar of public hearings and workshops. Most recently in this years-long process, the Planning Commission during the course of the three hearings held in September and October 2019 recommended substantial and little-publicized changes with significant import to affected property owners. More time is needed for those affected to fully understand these provisions and have the opportunity to meaningfully participate in the public process. The City has spent too much time and resources developing the NZO to abruptly short-change the process in a rush to render a determination on key policy issues.

In particular, two areas of recently-made revisions are of particularly serious concern.

First, the exemption for Projects with a Completed Application has been narrowed to the point of creating serious risks and inequities. In the August 2019 draft, Projects with a Completed Application were exempted from the new NZO, which is a sound policy given the substantial investment required by a property owner who has achieved a completed application. In the most recent version, this exemption has been limited by a 27 month sunset provision (see section 17.01.040.E (4) and (5)). This short sunset provision is unrealistic and inequitable, given the fact that a project can take three or four years to get from Completed Application to Approval, particularly given the complexities of the environmental review process and the possibility of litigation that imposes substantially more delay.

In my experience, a jurisdiction that is enacting a comprehensive new code will recognize the legitimate investment-backed expectations of applicants who have been seeking permits under the old code. (An

¹ A few days ago, SyWest submitted a letter directly to the City Attorney raising substantial legal issues. We understand that letter has been distributed to the City Council and staff.

example is the City of Santa Barbara, which enacted a comprehensive commercial growth limitation some years ago. The City allowed projects which were "in the pipeline" to proceed through to completion.) This type of planning policy is enacted as a matter of simple fairness and good planning. The recent NZO changes fail to honor this principle.

Second, Section 17.30.070 sets forth an elaborate framework for the City to consider a reduction to the required streamside protection area ("SPA") upland buffer. This framework provides no meaningful guidance to City decision-makers, no certainty to property owners, and no transparency to interested stakeholders. Instead, the proposed policy merely elevates determinations over SPA buffers to a labyrinthine level of complexity. As drafted, Section 17.30.070 would conscript the City Council and Planning Commission into applying legal standards as to what constitutes a regulatory taking – a task that confounds even judges and seasoned legal practitioners. The framework includes three sets of overlapping and ambiguous findings that provide fertile ground for litigation and dispute, many of which draw City decision-makers into the impossible task of adjudicating theoretical takings claims. For these reasons, and as set forth in further detail in our October 29, 2019 letter to the City Attorney, SyWest requests that the language of Section 17.30.070 be revised to address these fatal defects.

The recent changes to the NZO are both substantial and not well publicized in the community. There are many property owners who will be very interested in the new provisions applicable to properties near SPAs, but who do not know about those provisions. There are other property owners who have already achieved application completeness, but may not realize that they will be subject to a 27 month time limit to secure their permits. We respectfully suggest that the City should make specific efforts to notify these two classes of owners about the NZO changes that will have such a dramatic effect on them.

We urge the Council to defer action on the NZO until these issues can be fully addressed.

Thank you for your kind consideration.

Sincerely,



Steven A. Amerikaner

cc: Peter T. Imhof, Planning & Environmental Review Department Director (imhof@cityofgoleta.org)
Anne Wells, Advance Planning Manager (awells@cityofgoleta.org)
Winnie Cai, Assistant City Attorney (wcai@cityofgoleta.org)



THE GOODLAND COALITION



November 1, 2019

Mayor Paula Perotte
City Hall, City Council Chambers
130 Cremona Drive, Suite B
Goleta, California 93117

Re: Local Groups and Residents Seek Strong Protections for Natural Resources in the City of Goleta's New Zoning Ordinance

Dear Mayor Perotte and City Councilmembers,

The undersigned community organizations and residents advocate for a robust ordinance in the New Zoning Ordinance ("NZO") that adequately implements the City of Goleta's General Policy Conservation Element ("CE") 2.2 concerning streamside protection areas ("SPAs") and other policies protecting natural resources. Our organizations represent thousands of your constituents, and we speak with a unified voice. Our community groups support the Environmental Defense Center ("EDC") and Urban Creeks Council's ("UCC") recommendation for the City to adopt a standalone provision that effectively sets forth a process, the required findings, and evidentiary requirements to inform the City's determination of feasibility with regards to reductions in setbacks for SPAs and other important resources. This clarity and transparency will benefit not only City decisionmakers, but also applicants and interested members of the public.

November 1, 2019

Groups and Residents Seek Strong Protections for Natural Resources in City's New Zoning Ordinance
Page 2

Setbacks from creeks, riparian habitat, ESHA, and wetlands provide a variety of important benefits to water quality, plants and wildlife, and people. Policy CE 2.2 establishes strong protections for SPAs, requiring a minimum SPA upland buffer of 100-feet on both sides of the creek. Studies, ordinances, and government publications indicate that a 100-foot creek setback is the bare minimum needed to protect water quality, creek and riparian habitats, and wildlife. However, Policy CE 2.2 allows reductions of the SPA buffer upon finding that the minimum 100-foot buffer is infeasible, and the project will not significantly impact riparian vegetation or stream habitat. For years, the City has struggled with the implementation of this Policy, approving projects with reduced setbacks without evaluating the feasibility of the minimum 100-foot setback. The City must adopt an ordinance to establish a process for determining whether the 100-foot minimum setback is infeasible and therefore can be reduced.

Our groups support the development of a standalone provision that would apply to any request to modify City zoning or policy requirements. The need for a clear process for assessing feasibility was echoed repeatedly by the City's Planning Commissioners at the NZO Workshops as well as at the Planning Commission hearings held on September 9, September 23, and October 7.

The provision proposed by EDC and UCC is based on standard language frequently recommended by the California Coastal Commission ("CCC"). The CCC's standard language establishes a detailed and clear process for determining feasibility. The County of Santa Barbara ("County") adopted the CCC's language as a general provision in its Coastal Zoning Ordinance and in the 2017 Eastern Goleta Valley Community Plan ("EGVCP"). It is logical for the City to adopt this same language in the NZO because it was recommended by the CCC for the EGVCP and the County adopted this language without controversy.

Additionally, adopting language recommended by the CCC in the City's NZO is strategic because the CCC is required to certify the City's proposed NZO. In order to avoid future delays and unexpected surprises, it is important for the City to consider what language the CCC will require later in the adoption process.

We urge the City Council to include in the NZO a general provision applicable to any request to modify City zoning or policy requirements based on the language recommended by the CCC. In order to protect and enhance the City's vital creeks and natural resources, the NZO must include a clear and adequate process for determining feasibility with regards to buffer reductions.

Sincerely,

Tara Messing, Staff Attorney
Environmental Defense Center

Dan McCarter, President
Urban Creeks Council

November 1, 2019

Groups and Residents Seek Strong Protections for Natural Resources in City's New Zoning Ordinance

Page 3

Katherine Emery, PhD, Executive Director
Santa Barbara Audubon Society

Kira Redmond, Executive Director
Santa Barbara Channelkeeper

Hillary Hauser, Executive Director
Heal the Ocean

Anushna Patel, Outreach and Education Coordinator
Coastal Fund

Mark Morey, Chemistry PhD, Chair
Santa Barbara Chapter of Surfrider Foundation

George Relles
The Goodland Coalition

Richard Halsey, Director
California Chaparral Institute

Marell Brooks, President
Citizens Planning Association

Cristina Sandoval, PhD
Goleta resident

CHILDREN'S



RESOURCE & REFERRAL OF SANTA BARBARA COUNTY

The mission of Children's Resource & Referral of Santa Barbara County is to develop strong and healthy families by providing education, care, and resource systems to children, their parents, and caregivers, with a special emphasis on low income and under-represented children and families.

www.sbfcc.org

TO: City Council
RE: New Zoning Ordinance for Child Care

Dear City Council,

On behalf of Children's Resource & Referral of Santa Barbara County, we would like to thank the Goleta City Staff, Planning Commission and Council for the work that has been done to support access to child care throughout the City of Goleta. We would ask that the City Council approve the New Zoning Ordinance on November 5, 2019.

As the Resource & Referral for Santa Barbara County, it is our responsibility to support increasing access to quality child care. Through our Quality Programs we are able to support individuals through start-up of new family child care sites, and expansion of existing family child care sites. Our goal is simple, create more quality child care spaces for children. Unfortunately, when there is heavy regulation, this process can be long, costly and ultimately discouraging. The proposed changes enable Early Childhood Educators, working toward becoming a Licensed Child Care Provider, to obtain their license with fewer barriers.

With more parents in the workforce than ever before, there is a great need to create and sustain quality child care for families. Every parent needs the peace of mind that their child is healthy, safe, and is being prepared for success in school. Children need a secure, nurturing and educational learning environment to grow and thrive. In turn, Employers need a workforce that is focused, engaged and work-ready. When there is access to high-quality child care for all children, these necessities become possibilities.

Research shows that "high quality, intensive early care and education programs for low-income children can have lasting positive effects such as greater school success, higher graduation rates, lower juvenile crime, decreased need for special education services later and lower adolescent pregnancy rates." Quality Early Childhood Education and Child Care from Birth to Kindergarten, (Pediatrics Vol. 115 No. 1 January 1, 2005, pp. 187 -191.)

We are excited that Goleta has taken the lead with your work on increased access to child care. As Children's Resource & Referral, we would like to share this model that Goleta has designed and advocate for this across our County and even further advocate for California State implementation.

Michelle Lee Graham
Chief Executive Officer

Jacqui Banta
Chief Operating Officer

[Handwritten signatures and notes: "LH", "Beverly", "Miriam", "Rachel", "Paul", "Denise", "W.P.H.", "Paul Pedilla", "Christine"]

From: [Jean Zeibak](#)
To: [City Clerk Group](#)
Subject: Protect creeks, wetlands and habitats
Date: Saturday, November 02, 2019 5:41:42 PM

Sent from my iPhone

From: [Steve Ferry](#)
To: [City Clerk Group](#)
Subject: Please protect Goleta's creeks!
Date: Saturday, November 02, 2019 11:44:21 AM

Dear Mayor Perotte and City Councilmembers:

I am a member of Santa Barbara Audubon Society. I regularly enjoy birding along Goleta's creeks. I know the importance of creeks in maintaining the abundance and health of our local birdlife. I'm writing to urge that you adopt strong protections for creeks, wetlands, and habitats. Please adopt a standalone provision in the New Zoning Ordinance that sets forth a process for determining when, upon an applicant's request, a reduction in the required setback from creeks may be granted. This provision should apply to any request to modify City zoning or policy requirements.

I support the recommendations made by the Environmental Defense Center and Urban Creeks Council to adopt the California Coastal Commission's language for analyzing when a setback may be reduced. The Coastal Commission's language was adopted by the County of Santa Barbara in its Coastal Zoning Ordinance and in the Eastern Goleta Valley Community Plan. Preserving and restoring Goleta's creeks is very important to me and other members of our community. Thank you for your efforts to protect Goleta's watersheds!

Regards,

Stephen Ferry
Camino Galeana

From: [Deborah Lopez](#)
To: [City Clerk Group](#)
Subject: Fwd: Comments on NZO
Date: Sunday, November 03, 2019 4:54:14 PM
Attachments: [NZO 10-5-2019.docx](#)
[ATT00001.htm](#)

Sent from my iPhone

Begin forwarded message:

From: <masseybarb@aol.com>
Date: November 3, 2019 at 1:32:06 PM PST
To: <jkyriaco@cityofgoleta.org>, <krichards@cityofgoleta.org>, <pperotte@cityofgoleta.org>, <skasdin@cityofgoleta.org>, <raceves@cityofgoleta.org>
Cc: <pimhof@cityofgoleta.org>, <dlopez@cityofgoleta.org>, <masseybarb@aol.com>
Subject: Comments on NZO

Good afternoon,

I know you are thrilled to get one more letter with comments on the NZO. MY comments are attached. These are the issues that are important to the citizens. I hope that you will listen to what the community says and not be pushed into bad decisions by the Planning staff.

Mayor and Councilmembers,

These are my comments on the November version of the NZO.

17.07.020 Large Residential Care Facilities should not be permitted in RS and RP districts. It would be even more intrusive than having a Boardinghouse or Motel in the neighborhood. No one in a single family neighborhood wants up to 13 people living next door. It brings extra noise, traffic, parking problems, and potentially law enforcement problems. Homeowners bought their homes in RS and RP zones because they wanted quiet, peaceful, low traffic, family neighborhoods where they would have a stable environment. Large Residential Care Facilities are inappropriate for single family neighborhoods.

17.07.020 Animal keeping should require a Minor CUP in RS and RP districts. The potential noise, odors, and traffic problems need to be considered in relation to the adjacent residences.

17.07.050 C. Small-Scale Units should have the Parking Requirements placed back in the Zoning Ordinance. Medium and High Density Residential development should provide required parking for Small-Scale Units because some residents will have cars and all will have visitors. A developer shouldn't be able to dump his parking shortage problem on the community.

17.16.040 B.3. and C. Under Residential and Non-Residential Uses Restrictions the ALUP Table 4-1 is mentioned a number of times but is not included in the NZO. Table 4-1 is not easy to find online and the Table should be included in this document. It is only three pages long and could easily be reduced to fit on one page.

17.16.040 D. In the Runway 7 Safety Corridor the word "uses" should replace "features" for what is allowed. Features is the wrong word, it isn't as specific. The appropriate word is "uses".

Table 17.24.080 Under Structures Allowed Above the Height Limit, the section from Chimneys through Domes should be limited to 10%. It is important to protect our views and these features don't improve it but do obstruct it.

17.24.090 C.1.a. Chain-link fencing should have a covering to block the public's view of what is behind the fence.

17.24.130 Outdoor Storage There should be a time limit on temporary storage of construction materials. Too many developments run into problems and take years to finish or to restart a project. The public shouldn't have to look at the piles of construction materials. Many of these lots look like junk yards. If a chain link fence is used for screening it must have a covering to block the view.

17.30.070 and 17.30.080 I strongly support incorporating EDC's draft language setting forth a process, required findings, and evidentiary requirements for decisions on allowing reductions to creek setbacks.

IV-48 17.30.080 The Streamside Protection Area buffer should be a 50 foot minimum buffer like other ESHAs. Just because the General Plan permits reductions to 25 feet doesn't mean that is what the public wants. It was lowered from 50 feet in the original General Plan to 25 feet by a developer's City Council. If necessary, place the 50 foot buffer in the NZO and then amend the General Plan to a 50 foot minimum buffer. The approval of the NZO should be delayed if it is necessary to achieve 50 foot. buffers. After all these years there is no big rush to finish the NZO at any particular time.

17.30.140(B) The Coastal Sage Scrub buffer should be 50 feet, not be reduced to 25 ft. Coastal Sage Scrub is excellent habitat and should be protected for a variety of wildlife. That use it

17.30.160(C) The buffer for Native Grasslands should be returned to 20 feet.

17.37.030 C.4.e. Under Oil and Gas Facilities setbacks should never be allowed to be reduced to less than 25 feet. C.4.e. should be deleted. Less than 25 feet is no real buffer at all.

17.38.010 D. This Purpose to minimize parking is not in the current Zoning Ordinance standards and shouldn't be added to it now. Unfortunately our transit system is inadequate and has limited hours. Many residential streets are covered with cars due to current standards not providing adequate parking spaces. One of the complaints I hear from residents is that we need more parking. They expect the City to fix the problem not make it worse. The only ones who benefit from few parking spaces is the developer. Please delete Purpose D. because it is a bad idea.

Table 17.38.040 (A) An addition should be made to Single dwelling units over 3,000 sq. ft. to have an additional covered parking space. Also "All required spaces shall be provided within a garage" should be added. These provisions are in City Ordinance 03-05 passed in 2003 and they should be retained.

17.38.050 Parking reductions should only be allowed as part of a Discretionary Review.

17.38.050 C.1. Transportation Demand Management is questionable, usually more credit is given than the actual reduction achieved. Transit Accessibility doesn't mean that it will be used instead of a car. Many people run errands or shop at lunch or on the way home and need their cars to carry things. There is more reliance on cars because we don't have an adequate transit system. Both the routes and hours of our transit system are very limited. Before there will be a serious reduction in the use of cars, a system is needed that covers all of Goleta with expanded routes and hours.

17.38.050(D) Giving parking credits for new projects and redevelopment in Old Town will only make an already horrible parking problem worse. This is the time to improve Old Town, not continue substandard parking that hurts the entire community most especially the residents. Reductions in parking for Old Town Redevelopment is the wrong thing to do.

17.38.070 C.1.a. Off-Site Parking should be prohibited in residential districts. There is already a parking shortage and this would only worsen it. The only one helped is the developer who can cram more buildings in too little space. City streets should not be used to meet a developers Residential parking requirements.

17.38.070 C.1.b. The Additional Parking provision is totally inappropriate in Single-Unit Dwellings in Residential Zones. This is turning neighborhoods into vehicle storage lots. It is a terrible addition to the Zoning Ordinance.

17.38.080 A.1. No trailer or RV should be permitted outside an enclosed structure or fully screened area in residentially zoned lots. This degrades the appearance of the neighborhood and decreases the value of homes. Trailers and RVs should be prohibited in the front setbacks. At a minimum all RVs stored on residential property should be screened from view

17.40.030 Window signs should not be exempt; they should be prohibited in residential zone districts. They are not appropriate in residential neighborhoods.

17.52.050 Public notification is extremely important especially if the City really wants public engagement.

The requirement for story poles is very important and can't be left for the DRB to request because staff consistently keeps it from happening. There needs to be standards for story poles. They should be strong poles that show the location and outline the structure, mass, bulk, in three dimensions. More specific standards can be made later but there needs to be something in the NZO now.

I strongly support the Planning Commission's recommendations on Noticing as listed here from page 6 of the November 5th staff report.

Noticing. The Planning Commission recommendation includes expanded requirements for noticing of proposed development. These provisions, which can be found in Section 17.52.050, include:

- 1) story poles for all new structures over 20 feet in height, except for single-unit dwellings,
- 2) on-site posted notices at a minimum size of eight square feet in residential districts and 32 square feet in all non-residential districts,
- 3) mailed noticing for all projects, regardless of the number notices to be mailed,
- 4) a requirement that all mailed and emailed noticing be translated into Spanish, and
- 5) press releases for all proposed development over 10,000 square feet, released at the point of Conceptual Review in front of the Design Review Board, in order to notify the public of the pending project early in the review process.

On-site Posted Notices: The Planning Commission did not provide a permit or approval trigger for the larger on-site noticing in the proposed NZO. Staff believe there should be a threshold provided. If not, even the smallest of projects, such as a new sign in a commercial district, would need a 32 square-foot on-site notice.

- Mailed Notices: The Planning Commission recommended removal of an allowance

for publishing notice in a newspaper rather than providing mailed notice, if the recipients would number over 1,000. This is an existing allowance in the City's current zoning ordinances and under state law. Newspaper notice is most often utilized when the City has a project that would require citywide notification. By removing the newspaper notice allowance, the City would incur significant cost for noticing items like new zoning regulations and General Plan amendments.

17.52.050C.1. Mailed noticed should continue to be provided if the recipients would number over 1,000. The newspaper notice is inadequate, few people get the News-Press and the number who gets the Independent is limited. To have adequate public notice there should be mailed notices.

17.58.060 B. Grading and lighting plans should be included at the DRB's Preliminary Review.

17.58.060 The DRB's Required Findings should have the Finding that "The project proposed would be consistent with the General Plan.". This is an issue that is not always considered when reviewing a project and is sometimes discouraged by staff when it is. The General Plan is something that should always be considered on any project the Board or Commissions review. For that reason I am asking to have consistency with the General Plan a Finding.

17.62.020 B.1. RS and RP districts should only be allowed to increase the height by 20% in both Coastal and Inland Zones.

Thank you for considering my comments, Barbara

From: [Thea Howard](#)
To: [City Clerk Group](#)
Subject: goleta creeks and wetlands
Date: Sunday, November 03, 2019 6:39:26 PM

dear goleta city councilmembers:

I respectfully and strongly request that the City of Goleta adopt strong protections for creeks, wetlands, and habitats. I urge you to adopt a standalone provision in the New Zoning Ordinance that sets a process for determining when a reduction in the required setback from creeks may be granted. I support the recommendations made by the EDC and UCC to adopt the California Coastal Commission's language for analyzing when a setback may be reduced. This Coastal Commission language was adopted by the County of Santa Barbara in its Coastal Zoning Ordinance and in the Eastern Goleta Valley Community Plan.

thank you for your attention. i know you are as concerned as i am that we protect these sensitive and crucial areas.

Thea Howard

As long as space remains and as long as beings remain,
until then I too shall remain to dispel the miseries of the world.

From: Cecilia Brown [<mailto:brownknight1@cox.net>]
Sent: Sunday, November 03, 2019 8:31 PM
To: Deborah Lopez <dlopez@cityofgoleta.org>
Cc: brownknight1@cox.net
Subject: Comment letter for Nov 5th City Council meeting

Dear Madame City Clerk: Please accept my letter at the attachment for Tuesday's council meeting.

Thank you for your assistance.

Hope you are enjoying this beautiful fall weather.

Cecilia Brown

November, 3, 2019

Re: Comments for Nov 5th City Council Meeting on Adoption of New Zoning Ordinance

Dear Madame Mayor Perotte and Councilmembers,

Congratulations on getting to the adoption phase of the long-awaited zoning ordinance for the City of Goleta. For those of us who have participated in this effort since 2013, we look forward to its conclusion, as I am sure you do too. I want to thank staff for their endurance and robust and inclusive outreach process; the Planning Commission for the detailed and thorough review of the NZO and accommodating those who showed up at many of their hearings to testify. It was a time intensive effort but worth it!

The two items below were not fully addressed by the last Planning Commission hearing, but deserve further consideration. The first item was only introduced at the very end of the last PC hearing with little deliberation. The 2nd item was not considered but needs to be because of its importance to what the lighting ordinance is trying to achieve. Request the material presented below be added to the applicable NZO sections. Thank you for considering my comments. I hope they have been helpful. Cecilia Brown

Section 17.52.050 Noticing.

Story poles as a form of public notification is additive to any other required on site noticing described in this section. Story poles, as a 3-D visual notice, enhance the public's, staff's, and decision maker's understanding of the nature of a project's massing in relationship to its surroundings and how it may affect the viewshed and neighborhood compatibility.

Staff's proposed standard for story poles noticing is: "for all new structures over 20ft in height, except for single unit dwellings." Circumstances may warrant story poles for other projects: consider them for *existing commercial, office, industrial multi-family, mixed use, or single unit dwelling projects where a building height or yard/setback variance or modification or a significant increase in the footprint is requested.*" And, if there is a project undergoing DRB review that doesn't fall into the above categories but DRB believes that story poles are warranted, then that project should be subject to story poles.

Until detailed story pole guidelines and procedures are developed, request this descriptor of the expected outcome for a story pole installation be added where they are mentioned in this section: *three-dimensional, full-scale, silhouette structures that outline the location, bulk and mass that a proposed structure will occupy on a site and which accurately outlines the building's major wall planes, gables and ridges.*

Section 17. 35.060 Lighting

This section is a great improvement over the current regulations, particularly with the requirement for a lighting plan. Unfortunately there are some needed numerical development standards missing from the ordinance. Without this information, decision makers can't determine the compliance of an applicant's project lighting with the city's development standards and the intent of the ordinance which is to ensure "Dark Sky" lighting standards.

As an example, the lighting plan requires applicants to provide project "total site lumens." This is important to know in a lighting plan because this information indicates whether the project site is over lighted. So, if the NZO requires the applicant to provide the info, there needs to be a corresponding NZO standard for decision makers to use to see if the project complies with it. **But, there is no NZO standard for "total site lumens."** Decision makers can't evaluate this lighting plan parameter if there is no standard for them to use.

Fortunately, there is a way to remedy this omission. Use the information from the International Dark Sky Association Model Lighting Ordinance (see link below and pages 13 and 25) on how to figure out a standard for total allowed site lumens. Its not rocket science, it just requires the city to make a decision on which standards to use from the MLO and then some easy math to figure out total site lumens for each project when it is reviewed. Therefore, **request the city add a numerical development standard in the lighting ordinance for "total site lumens."**

https://www.darksky.org/wp-content/uploads/bsk-pdf-manager/16_MLO_FINAL_JUNE2011.PDF

From: [Vince Semonsen](#)
To: [City Clerk Group](#)
Subject: Creek Protections
Date: Monday, November 04, 2019 8:47:12 AM

Dear Mayor Perotte and City Councilmembers,

I support strong protections for creeks, wetlands, and habitats.

I urge you to adopt a standalone provision in the New Zoning Ordinance that sets forth a process for determining when, upon an applicant's request, a reduction in the required setback from creeks may be granted. This provision should apply to any request to modify City zoning or policy requirements.

As a local biologist I've seen first hand the encroachment and development within our watersheds and along our creek corridors. Preserving and restoring Goleta's creeks is very important to our community and I thank you for your efforts to protect Goleta's watershed!

Sincerely,
Vince Semonsen

From: [Eileen Monahan](#)
To: [City Clerk Group](#)
Subject: Letter for Nov 5 Council meeting
Date: Monday, November 04, 2019 10:23:22 AM
Attachments: [image003.png](#)
[Nov 4.19LetterEMonahan.docx](#)

Good morning – please find attached a letter for the November 5, 2019 City Council meeting.

Thank you
Eileen Monahan



Eileen Monahan Consulting
Creative Early Care and Education Solutions
eileen@eileenmonahanconsulting.com

To: Goleta City Council
RE: Child Care Ordinance
Date: November 4, 2019
From: Eileen Monahan

Honorable Paula Perotte and Goleta City Council Members,

I would like to commend you, the Goleta City Council, the Goleta Planning Commission and the amazing Planning Department Staff for creating the model child care policies that the Council will vote on November 5.

I have witnessed the process from the very beginning, starting with the former iteration of child care policies for the City through the development of these policies - the result of a very thorough ordinance revision process. Throughout, I have observed the Board, Commission and Staff listen to constituents, research best practices and community need, and respond quickly and positively to those of us who have provided input.

The results of these ordinance changes will be immediate. As a child care advocate and consultant, I have worked with a number of child care operators who have explored various properties in the City of Goleta for child care sites over the years. Not one has been successful, mostly because the long and costly land use process made the acquisition of the properties and the securing of financing too arduous. To be clear, this challenge is true for many of the other cities and counties across the state. But Goleta has risen to the challenge by creating policies geared towards developing child care and removing barriers, rather than allowing the burden of development to rest on the shoulders of child care operators. At least 3 current operators will be actively renewing their search, knowing that these policies will help them create more spaces for Goleta. Soon, children and their parents will have access to more high quality child care that they so desperately need.

Looking forward, please consider:

1. A child care plan for the city, starting with mapping of existing facilities and need, then developing strategies to ensure that there is sufficient child care for all who need it in the city.
2. An in-lieu fee program for development projects – many examples exist.
3. Other ways to encourage child care, such as specific support at the front desk and on the website, walking through the new process with child care operators and identifying any remaining issues, and considering child care in any new development.
4. Ways to facilitate church and business partnerships with child care.
5. An additional Element in the General Plan, specific to child care.
6. Sharing your model policies with other local cities and the county and offer support as they amend their policies.

Thank you for your diligence, your concern for Goleta's children and families, and your interest in community input. I am proud to be a Goleta resident.

Best,
Eileen Monahan
eileen@eileenmonahanconsulting.com

From: [Taundra Pitchford](#)
To: [City Clerk Group](#)
Subject: letter of support
Date: Monday, November 04, 2019 10:52:12 AM
Attachments: [Goleta letter of support.doc](#)

Good morning City of Goleta,

Please see attached letter of support for the New Zoning Ordinance for child care.

Thank you,

Taundra Pitchford

Manager, Early Care and Education
Child Care Planning Council
Santa Barbara County Education Office
tpitchford@sbceo.org
805-964-4711x4473 office
805-705-8240 cell



November 3, 2019

Goleta City Council
Goleta Planning Commission

Dear City Council and Planning Commission members,

As the coordinator of the local Child Care Planning Council, I want to thank you for the support you've shown for child care and the ways that the city has helped pave the way for more child care in Goleta. It is desperately needed, not just for residents, but for the employees of the existing and future businesses that operate here

Our findings from our 2015 Child Care Needs Assessment show there are less than 18,000 early care and education spaces for the estimated 35,000 children needing care in in Santa Barbara County. In other words, there are close to two children for every one space overall. The greatest need is for infants and toddlers. With the shortage of child care in our area, making it more accessible is crucial in providing success for our children. **We just need more high quality child care!**

The changes that are being made now, with the changes to the zoning policies and development fees and the assignment of planning staff time will certainly have an impact that will provide a benefit for a long time.

I urge you to approve the New Zoning Ordinance on November 5, 2019 and continue to review all the ways that the city can influence the development of child care resources in the community.

Thank you,

Taundra Pitchford

Manager, Early Care and Education
Child Care Planning Council
Santa Barbara County Education Office
tpitchford@sbceo.org

From: [Franky Viveros](#)
To: [City Clerk Group](#)
Subject: CONGRATULATIONS!!!
Date: Monday, November 04, 2019 11:03:21 AM
Attachments: [image001.png](#)

Congratulations for the Child Care Ordinance, City of Goleta!

You did it! This is going to be such a great move for our city. I look forward in to seeing how this grows.

Congratulations!

Franky Viveros, B.A.

Children's Center Program Director
Isla Vista Youth Projects

Childrens Center
6842 Phelps Road
Goleta, CA 93117
Office: 805-968-0488
Fax: 805-968-1771
frankyv@ivyp.org



Supporting children and families
in Goleta and Isla Vista

From: [Annette Muse](#)
To: [City Clerk Group](#)
Subject: Thank you
Date: Monday, November 04, 2019 11:04:43 AM

Goleta City Council, Planning Commission and Staff,

On behalf of the University of California, Santa Barbara Early Childhood Care and Education Services, I want to thank you for your work and effort to change the City ordinances and making it easier to start much needed child care programs in the area.

Congratulations!

Best,
Annette

Annette Muse M.A., Ed.
Director
University of California Santa Barbara
Early Childhood Care and Education Services
805.893.3347
annette.muse@sa.ucsb.edu

From: [Deborah Lopez](#)
To: [City Clerk Group](#)
Subject: FW: public comment on Nov. 5 Council agenda
Date: Monday, November 04, 2019 11:36:24 AM
Attachments: [comment to City 11-5-19.docx](#)

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

From: Victor Cox [<mailto:vic.cox.freelance@gmail.com>]
Sent: Monday, November 04, 2019 11:08 AM
To: Deborah Lopez <dlopez@cityofgoleta.org>
Subject: public comment on Nov. 5 Council agenda

Hi Deborah,

Hope you had a great Halloween. Attached is our comment for circulation to Mayor and Councilmembers.

Thank for your help.

Vic & Inge

Nov. 3, 2019 DRAFT

Esteemed Mayor Perotte and Goleta Councilmembers,

Comments on Item # B1 And B2

Why is Council allowing so little time for the residents to understand the staff-proposed wholesale changes to city rules for buildings, governance structures and what's left of the City's environmentally important open space? Staff has changed the order and content of the NZO making it very difficult to understand.

The package approach to changing the building codes is premature in our opinion since some of the new rules seem to hinge on yet to be approved changes in relevant ordinances (the NZO). Why the rush to meet apparently artificial deadlines without understanding all the work done by the Planning Commission?

Also, in our experience, every time staff pushes for quick decisions from Council the results are not beneficial to most Goletans, especially those with lower-incomes. Go across Los Carneros Ave. from City Hall and see what too much housing crammed into too small an area looks like. This is why more time and thought are needed on these decisions. Ask yourselves why doesn't the City require every new development to have adequate open space for residents?

Another example is the (so far as I know) park playground equipment gathering dust in the former Direct Relief warehouse (or somewhere) because rushed, inadequate planning resulted in the purchase of these items with no detailed plan or preparation for where these items were to be situated. The Parks Master Plan calls for each and every park scheduled for change to be done in an inclusive, thorough manner before starting the changes. However, it will be up to Council to make that happen.

Multiple contradictions exist in the "final" NOP draft. For example:

Section 17.30.050 Development Standards: Why is it that a required buffer of at least 100 feet is not mentioned?

D. States new development must not degrade water quality.....lagoons, creeks, wetlands BUT the buffer can be reduced by the "Review Authority." If only one person can make this happen it goes against tradition as well as what is wanted in Goleta.

Section 17.30.060 Makes an exception for the use of insecticides, herbicides, fertilizers within a 100 feet ESHA. Use of these chemicals will damage the ESHA not enhance it.

Section 17.30.070 B The Review Authority may increase or decrease the width of the Streamside Protection Area (SPA) at the time of environmental review. One person should NOT have the power to increase or decrease a requires SPA area. It has to go in front of the Planning Commission and/or City Council.

There are many other ordinary citizens like us who believe we've have had too much density added to Goleta's existing infrastructure at the expense of open space and green areas, and that it's time to pause and think about where we're going so rapidly. At the least, We'd like to see the Council have a rigorous debate on Goleta's future-- before it's too late.

Thank you for listening.

Vic & Inge Cox
Goleta resident since 1983

From: emagik5@aol.com
To: [City Clerk Group](#)
Subject: Thank you!!
Date: Monday, November 04, 2019 1:15:42 PM

On behalf of all child care but particularly as a preschool business owner who consistently is looking to expand, I want to thank you for putting children first!!! It is wonderful progress moving forward.

Thank you

Erika Ronchietto

The learningden preschool

From: Cecilia Brown <brownknight1@cox.net>
Sent: Monday, November 04, 2019 10:29 AM
To: Anne Wells <awells@cityofgoleta.org>
Cc: Peter Imhof <pimhof@cityofgoleta.org>; brownknight1@cox.net
Subject: Last minute thoughts about NZO

Hi Anne! Getting closer to the goal of getting the NZO approved. Well done to you and your staff for their persistence and dedication to this effort. Hard to believe you've (and several of us) have been at this since 2013!

1. Would you please consider adding more info about just exactly what telecom facilities are regulated by the NZO. From the NZO Chapter 17.42.010 Telecommunication Facilities (p.vi-173) Section A (*in italics below*) seems to pertain to large cell facilities only in the public right of way. Large cell sites also now exist on private property, The FCC didn't change how jurisdictions can regulate large cells on public property, only small cells in the public right of way. Therefore, I proposed a revision for Chapter 17.42.010 subsection A.: These facilities include small cell facilities on private property and large cell facilities on private and public property.

The requirements of this Chapter apply to all telecommunication facilities within the City, not otherwise regulated by the City, pursuant to GMC 12.20, Wireless Facilities in Public Road Rights-of-Way, that transmit and/or receive wireless electromagnetic signals, including but not limited to personal communications services (cellular and paging) and radio and television broadcast facilities.

A. These facilities include small cell facilities on private property and large cell facilities in the public right-of-way.

2. When you brief the council on Tuesday on Planning Commission recommendations on noticing would you please explain, by example, the kinds of projects (e.g. shopping center, industrial building, hotel, small subdivisions) subject to DP, CUPs so the council understands the scope of the proposed notice. It may be the case that you want to limit the 4x8 signs to bigger projects like those I list. That was my intent in requesting the bigger signs. I don't have kind words about the yellow plastic signs, (see attachment) the City uses for notification. Not much notification if what was written on them has since disappeared! Onward to a better kind of sign for noticing!

3. Attached is my comment ltr to the council. Appreciate the consideration of the storypoles in noticing section, but might need further consideration re: the threshold of "all new buildings over 20ft less single family homes" which might be overly broad. Maybe better the listing I include? (Would have liked PC and DRB to have reviewed this). However, there needs to be a provision for DRB to request storypoles for *any kind* of project if they feel it warrants it. As Peter has said, there will be opportunities in following yearly ZO updates to fix errors. Hope not too many what with all your effort. Have a great day, and thanks for all.

Cecilia Brown

November, 3, 2019

Re: Comments for Nov 5th City Council Meeting on Adoption of New Zoning Ordinance

Dear Madame Mayor Perotte and Councilmembers,

Congratulations on getting to the adoption phase of the long-awaited zoning ordinance for the City of Goleta. For those of us who have participated in this effort since 2013, we look forward to its conclusion, as I am sure you do too. I want to thank staff for their endurance and robust and inclusive outreach process; the Planning Commission for the detailed and thorough review of the NZO and accommodating those who showed up at many of their hearings to testify. It was a time intensive effort but worth it!

The two items below were not fully addressed by the last Planning Commission hearing, but deserve further consideration. The first item was only introduced at the very end of the last PC hearing with little deliberation. The 2nd item was not considered but needs to be because of its importance to what the lighting ordinance is trying to achieve. Request the material presented below be added to the applicable NZO sections. Thank you for considering my comments. I hope they have been helpful. Cecilia Brown

Section 17.52.050 Noticing.

Story poles as a form of public notification is additive to any other required on site noticing described in this section. Story poles, as a 3-D visual notice, enhance the public's, staff's, and decision maker's understanding of the nature of a project's massing in relationship to its surroundings and how it may affect the viewshed and neighborhood compatibility.

Staff's proposed standard for story poles noticing is: "for all new structures over 20ft in height, except for single unit dwellings." Circumstances may warrant story poles for other projects: consider them for *existing commercial, office, industrial multi-family, mixed use, or single unit dwelling projects where a building height or yard/setback variance or modification or a significant increase in the footprint is requested.*" And, if there is a project undergoing DRB review that doesn't fall into the above categories but DRB believes that story poles are warranted, then that project should be subject to story poles.

Until detailed story pole guidelines and procedures are developed, request this descriptor of the expected outcome for a story pole installation be added where they are mentioned in this section: *three-dimensional, full-scale, silhouette structures that outline the location, bulk and mass that a proposed structure will occupy on a site and which accurately outlines the building's major wall planes, gables and ridges.*

Section 17. 35.060 Lighting

This section is a great improvement over the current regulations, particularly with the requirement for a lighting plan. Unfortunately there are some needed numerical development standards missing from the ordinance. Without this information, decision makers can't determine the compliance of an applicant's project lighting with the city's development standards and the intent of the ordinance which is to ensure "Dark Sky" lighting standards.

As an example, the lighting plan requires applicants to provide project "total site lumens." This is important to know in a lighting plan because this information indicates whether the project site is over lighted. So, if the NZO requires the applicant to provide the info, there needs to be a corresponding NZO standard for decision makers to use to see if the project complies with it. **But, there is no NZO standard for "total site lumens."** Decision makers can't evaluate this lighting plan parameter if there is no standard for them to use.

Fortunately, there is a way to remedy this omission. Use the information from the International Dark Sky Association Model Lighting Ordinance (see link below and pages 13 and 25) on how to figure out a standard for total allowed site lumens. Its not rocket science, it just requires the city to make a decision on which standards to use from the MLO and then some easy math to figure out total site lumens for each project when it is reviewed. Therefore, **request the city add a numerical development standard in the lighting ordinance for "total site lumens."**

https://www.darksky.org/wp-content/uploads/bsk-pdf-manager/16_MLO_FINAL_JUNE2011.PDF



From: [Tara Messing](#)
To: [City Clerk Group](#)
Subject: EDC and UCC Comment Letter for 11/5 City Council Hearing
Date: Monday, November 04, 2019 12:00:50 PM
Attachments: [EDC comment ltr to CC re NZO Exhibit A FINAL 2019 11 04.pdf](#)

Hello,

Attached please find the comment letter on the City of Goleta's New Zoning Ordinance submitted by the Environmental Defense Center on behalf of Urban Creeks Council and EDC in advance of the November 5th City Council hearing.

Best,
Tara



November 4, 2019

Mayor Perotte and Councilmembers
Attn: City Council and City Clerk
130 Cremona Drive, Suite B
Goleta, California 93117
cityclerkgroup@cityofgoleta.org

Submitted electronically via cityclerkgroup@cityofgoleta.org

Re: Environmental Defense Center and Urban Creeks Council's Comments on the City of Goleta's New Zoning Ordinance

Dear Mayor Perotte and Councilmembers:

The Environmental Defense Center ("EDC"), on behalf of Santa Barbara Urban Creeks Council ("UCC") and EDC, submits these comments regarding the City of Goleta's ("City") draft New Zoning Ordinance ("NZO"). First, we respectfully request that the City Council direct staff to consult with the California Coastal Commission ("CCC") staff before proceeding forward with the NZO adoption process to ensure an informed and efficient certification process. Second, we are continuing to work with the City Attorneys and staff to develop a provision in the NZO applicable to any request to modify City zoning or policy requirements, including requests to reduce the required 100-foot setback from streamside protection areas ("SPAs"), that complies with the language recommended by the CCC for considering modification requests.

UCC is a non-profit grassroots organization dedicated to protecting and restoring streams and watersheds in Santa Barbara County ("County"). Over the past thirty years, UCC has partnered with a number of organizations on creek restoration projects and has been committed to educating people of all ages about the values of creeks. UCC has members who live and recreate in Goleta and Santa Barbara. EDC is a non-profit, public interest law firm that protects and enhances the environment in Santa Barbara, Ventura, and San Luis Obispo counties through education, advocacy, and legal action.

I. CCC Staff Must Be Involved in the NZO Process Now to Avoid Delays and Surprises Down-the-Line.

We sincerely appreciate the time and effort that City staff, attorneys, and decision-makers have made to ensure that the NZO reflects the unique characteristics of the City. However, the CCC also plays a key role in the NZO process as the agency tasked with safeguarding the goals and policies of the seminal California Coastal Act. City staff must communicate with CCC staff now about the proposed provisions in the NZO to encourage a good faith discussion between the agencies about the substance of the NZO. It is important for the City to receive input from the CCC *before* the City Council adopts the NZO to ensure that the City is adopting an NZO that adequately carries out the policies of the Coastal Act at the local level. Moreover, communicating with the CCC staff at this point in the process is critical to avoid future delays and unexpected surprises during the CCC certification process. For these reasons, we respectfully ask that the City Council direct staff to consult with CCC staff before continuing with the City Council adoption process for the NZO.

II. The NZO Must Set Forth the Findings and Evidentiary Requirements Necessary to Inform Modifications to City Zoning or Policy Requirements to Ensure Strong Protections for Goleta's Natural Resources.

For years, the City has struggled with the implementation of the City's General Plan Policy Conservation Element ("CE") 2.2 concerning SPAs.¹ Despite the Policy's strong protections for creeks and riparian habitats, the City has previously approved projects with reduced creek setbacks without the necessary findings and evidence to support claims that adherence to the minimum 100-foot setback was infeasible. For this reason, EDC, on behalf of our clients, is advocating for the development of an ordinance that identifies the findings that must be made and the evidence that is required upon a request to modify City zoning or policy requirements. The NZO has existing provisions that govern modifications to City zoning or policy requirements and could be expanded upon to comply with the CCC language, such as Chapter 17.62 regarding modifications and Section 17.01.040(A)(2) concerning private property takings. The section could then be cited to in the provisions governing SPA buffer reductions.

The need for a clear process for evaluating reductions to creek setbacks was echoed repeatedly by the City's Planning Commissioners at the NZO Workshops as well as at the Planning Commission hearings held on September 9, 2019, September 23, 2019, and October 7, 2019.² Ultimately the Planning Commission's recommendation to the City Council is to incorporate EDC's recommended language in the NZO provisions governing SPA buffer reductions.

¹ City of Goleta, General Plan, Ch. 4 Conservation Element at 4-13 to 4-14.

² City of Goleta, Response to Planning Commission Comments, available at: <http://nebula.wsimg.com/8714bb8793746cd61a460185ef09ae69?AccessKeyId=8B11547F66E8794DD29E&disposition=0&alloworigin=1>.

The language recommended by EDC and UCC is based on findings and evidence developed by the CCC for making economically viable use determinations, which is directly relevant to assessing the feasibility of adherence to the setbacks required under the General Plan. The CCC's language was adopted by the County in Article II of the Coastal Zoning Ordinance, which is incorporated by reference in the Eastern Goleta Valley Community Plan ("EGVCP"). (See Exhibit A.³)

A. Setbacks from Creeks, ESHA, Wetlands, and Habitat are Vital Tools to Protect Natural Resources, Property, and the Public.

Studies, ordinances, and government publications indicate that a 100-foot creek setback is the bare minimum needed to protect water quality, creek and riparian habitats, and wildlife.⁴ Setbacks provide a variety of important benefits to water quality, plants and wildlife, and people. Vegetation, leaves, microbes, and soil found within the setback area serve to minimize water pollution by breaking down and filtering pollutants, such as oil and grease, sediment, fertilizers, and harmful pathogens. Setbacks also safeguard habitats for nesting birds, such as birds of prey, and endangered species, like the Southern California steelhead. For example, the white-tailed kite is a fully protected species in California that has been all but eliminated from the City due to loss of nesting and foraging habitats.⁵ Moreover, from 2010 through 2015, four of the thirty-eight steelhead observed in southern California were spotted in a waterway within the City.⁶ In 2017, one of seven steelhead observed in southern California spawned in a Goleta creek.⁷ In order for steelhead to persist in the City's waters, adherence to the minimum 100-foot SPA requirement under Policy CE 2.2 is vital. Finally, setbacks protect life and property from the devastating impacts due to flooding, streambank erosion, and debris flows—the threat of which is heightened today due to climate change.

B. EDC and UCC Have Been Working Towards a Robust Creek Protection Ordinance Since 2014.

In 2014, EDC conducted a case study of reductions to riparian setbacks for various development projects in the City. Based on this study, EDC discovered that the required 100-

³ Letter from the California Coastal Commission to Joan Hartmann, Chair of the Board of Supervisors for the County of Santa Barbara, regarding Santa Barbara County Local Coastal Program Amendment No. LCP-4-STV-17-0048-1 (Eastern Goleta Valley Community Plan) (August 18, 2017) ("Exhibit A").

⁴ James M. McElfish, Jr., Rebecca L. Kihlslinger, and Sandra Nichols, *Setting Buffer Sizes for Wetlands*, Volume 30, no. 2, National Wetlands Newsletter at 7 (Buffers of 100 feet or larger are effective at nitrogen removal and wildlife protection) (2008); *See also* United States Environmental Protection Agency, *Aquatic Buffer Model Ordinance* at 4-5.

⁵ Email from Mark Holmgren, Wildlife Biologist, to Brian Trautwein, Environmental Analyst/Watershed Program Coordinator for the Environmental Defense Center (August 21, 2019); *See also* Gail Brown, *White-tailed Kites Under Siege Says Researcher* (November 3, 1998), available at <https://www.news.ucsb.edu/1998/011182/white-tailed-kite-under-siege-says-researcher>.

⁶ Rosi Dagit, Senior Conservation Biologist, Resource Conservation District of the Santa Monica Mountains, *So Cal Steelhead Sightings southern DPS* (March 2015).

⁷ Memorandum from Mark H. Capelli, Steelhead Recovery Coordinator for the Southern California Branch of the National Marine Fisheries Service, to File (March 30, 2017).

foot setback under General Plan Policy CE 2.2 was often significantly reduced to approximately 50 to 25 feet and that these approvals were made without the analysis required by Policy CE 2.2(a).⁸

The Village at Los Carneros Project (“Project”) is one of numerous examples which demonstrates the need for a stand-alone provision that would apply to any request to modify City zoning or policy requirements affecting creeks, ESHA, wetlands, and other natural resources. There, the applicant proposed to reduce the Village at Los Carneros SPA by fifty percent. The 465-unit residential Project was proposed with a maximum 50-foot setback from Tecolotito Creek. Public comments on the 2014 Draft Environmental Impact Report (“EIR”) noted that the Project was inconsistent with Policy CE 2.2 because the Project did not have a 100-foot SPA and there was no evidence that a 100-foot SPA was infeasible. The Final EIR determined that several factors “make it difficult to achieve an alternative site plan that provides a 100-foot wide upland buffer....” Moreover, the Final EIR concluded that, “[a] minimum 100 foot wide upland buffer along the entire length of the creek would reduce the number of units that could be built by as much as 30 percent....” Ultimately, the 100-foot SPA buffer was determined to be infeasible and the Project was deemed “consistent with this Policy [CE 2.2].”

Before the Project was approved by the City, EDC and UCC asked the applicant to voluntarily comply with Policy CE 2.2 by providing a minimum 100-foot SPA. In response, the applicant voluntarily redesigned the Project to comply with the Policy’s 100-foot SPA buffer. The redesigned Project retained all 465 units, confirming that the 100-foot SPA was in fact feasible. This Project underscores the need for an ordinance in the NZO that implements the language under Policy CE 2.2. The NZO must not keep the status quo by allowing decision-makers to reduce SPAs below 100 feet without adequate analysis or evidence that a minimum 100-foot SPA is infeasible. To ensure proper implementation of Policy CE 2.2, the City must adopt an ordinance that sets forth an effective process for making feasibility determinations.

EDC summarized its findings and recommendations from the case study in a letter dated February 19, 2014 to Anne Wells, Advance Planning Manager for the City.⁹ Shortly thereafter, EDC and several local groups had a meeting with City staff and the former City attorney to discuss the City’s repeated failure to conduct an adequate analysis of feasibility prior to a decision on an SPA buffer reduction. The meeting confirmed the need for an ordinance to establish a process for making a reduced setback determination if an applicant asserts that the setback is infeasible. Since 2018, EDC, on behalf of its clients, has been working with staff and the City Attorneys to develop such an ordinance.

⁸ Feasibility analyses are not necessarily included in environmental review documents pursuant to the California Environmental Quality Act (“CEQA”). CEQA documents evaluate whether the project will have significant adverse impacts. Thus, analyzing the feasibility of alternative siting is ultimately left up to the decision-makers and can be based on evidence outside of the scope of the CEQA documents.

⁹ Letter to Anne Wells, Advance Planning Manager for the City of Goleta, from Brian Trautwein, Environmental Analyst and Watershed Program Coordinator for the Environmental Defense Center (February 19, 2014).

C. EDC and UCC are Working with the City of Goleta to Develop a Process for Evaluating When a City Zoning or Policy Requirement May Be Modified Upon Request.

Throughout this NZO process, EDC and UCC, along with a host of other local groups and Goleta residents, have advocated for the adoption of language that mirrors the CCC's Suggested Modification No. 13 to the County's EGVCP Local Coastal Program Amendment. The CCC's standard language establishes a detailed and clear process for evaluating whether adherence to a policy or ordinance would not provide an economically viable use. This type of analysis is standard practice for decision-makers when an applicant asserts that the application of a zoning or policy requirement would preclude a reasonable use of their property. The CCC language offers a straightforward process for decision-makers to help navigate such an analysis and arrive at a legally defensible determination.

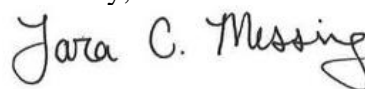
Moreover, the County adopted the CCC's suggested language in Sections 35-192.4 through 35-192.6 in the County's Coastal Zoning Ordinance, without controversy, and these sections are incorporated by reference in Policy EGV-1.5 of the EGVCP. (See Exhibit A.) It is logical for the City to adopt this same language in the NZO because it was recommended by the CCC for the nearby EGVCP and the County adopted this language. Furthermore, on July 16, 2019, the City of Santa Barbara also adopted findings substantially similar to Section 35-192.6 of the County's Coastal Zoning Ordinance for Policy 1.2-3 governing "Property Takings" based on suggestions by the CCC during the City of Santa Barbara's recent Land Use Plan ("LUP") update. The CCC certified the updated Coastal LUP in August of 2019 and the findings recommended by the CCC are incorporated in the City's Coastal LUP.

Finally, adopting language previously recommended by the CCC in the City's NZO is strategic because the CCC is required to certify the City's proposed NZO. Thus, in order to avoid future delays and unexpected surprises, it is important for the City to consider what language the CCC will require later in the adoption process.

III. Conclusion

For the foregoing reasons, we respectfully request that the City Council direct staff to consult with CCC staff before proceeding with the adoption process to ensure CCC review of the NZO prior to adoption. We also will continue to work with City staff and the City Attorneys to develop an ordinance in the NZO applicable to any request to modify City zoning or policy requirements, including setbacks from SPAs, based on standard language recommended by the CCC regarding such requests.

Sincerely,



Tara C. Messing
Staff Attorney

cc: Santa Barbara Urban Creeks Council

Attachments:

A – Excerpt from Letter from the California Coastal Commission to Joan Hartmann, Chair of the Board of Supervisors for the County of Santa Barbara (August 18, 2017)

EXHIBIT A

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



August 18, 2017

Joan Hartmann, Chair
Board of Supervisors
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101

RE: Santa Barbara County Local Coastal Program Amendment No. LCP-4-STB-17-0048-1 (Eastern Goleta Valley Community Plan)

Dear Honorable Chair Hartmann and Supervisors:

On August 10, 2017 the Coastal Commission approved the subject Local Coastal Program (LCP) amendment with suggested modifications. The Commission's resolution of certification is contained in the staff report dated July 27, 2017. The suggested modifications, as approved by the Commission on August 10, 2017, are attached to this correspondence.

Section 13544 of the Commission's Administrative Regulations requires that after certification the Executive Director of the Commission shall transmit copies of the resolution of certification and any suggested modifications and findings to the governing authority, and any interested persons or agencies. Further, the certification shall not be deemed final and effective until all of the following occur:

- (a) The local government with jurisdiction over the area governed by the Local Coastal Program, by action of its governing body: (1) acknowledges receipt of the Commission's resolution of certification, including any terms or modifications suggested for final certification; (2) accepts and agrees to any such terms and modifications and takes whatever formal action is required to satisfy the terms and modifications; and (3) agrees to issue coastal development permits for the total area included in the certified Local Coastal Program. Unless the local government takes the action described above the Commission's certification with suggested modifications *shall expire six months* from the date of the Commission's action.
- (b) The Executive Director of the Commission determines in writing that the local government's action and the notification procedures for appealable development required pursuant to Article 17, Section 2 are legally adequate to satisfy any specific requirements set forth in the Commission's certification order.
- (c) The Executive Director reports the determination to the Commission at its next regularly scheduled public meeting and the Commission does not object to the Executive Director's determination. If a majority of the Commissioners present object to the Executive Director's determination and find that the local government action does not conform to the provisions of the Commission's action

to certify the Local Coastal Program Amendment, the Commission shall review the local government's action and notification procedures pursuant to Articles 9-12 as if it were a resubmittal.

- (d) Notice of the certification of the Local Coastal Program Amendment shall be filed with the Secretary of Resources Agency for posting and inspection as provided in Public Resources Code Section 21080.5(d)(2)(v).

The Commission and staff greatly appreciate the County's consideration of this matter.

Authorized on behalf of the California Coastal Commission by:

John Ainsworth
Executive Director



By: Megan Sinkula
Coastal Program Analyst

Cc: Dianne Black, Santa Barbara County Planning and Development Department

In the Coastal Zone, when siting a new dwelling or addition on a parcel, the goal should be to disturb as little vegetation as possible, with a priority placed on retaining healthy, native species and those trees that, by definition are protected (i.e., mature native trees that do not pose a threat to health and safety).² Fire prevention measures should also be considered. Refer to fire hazard prevention requirements in Section 10, page 55.

SUGGESTED MODIFICATIONS TO THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE

The County's proposed amendment language to the certified Implementation Plan/Coastal Zoning Ordinance is shown in straight type. Language approved by the Commission to be modified is shown in ~~line-out~~ and underline.

SUGGESTED MODIFICATION NO. 13

Article II Coastal Zoning Ordinance

Section 35-192.4 *Economically Viable Use.* If an applicant asserts that the application of the policies and standards contained in the Local Coastal Program regarding use of property within the Eastern Goleta Valley Community Plan area would constitute a taking of private property without just compensation, the applicant shall apply for an economic viability determination in conjunction with the associated Coastal Development Permit application and shall be subject to the provisions of this section.

Section 35-192.5 *Economically Viable Use Determination.* The application for an economic viability determination shall include the entirety of all parcels that are geographically contiguous and held by the applicant in common ownership at the time of the application. Before any application for a Coastal Development Permit and economic viability determination is accepted for processing, the applicant shall provide the following information, unless the County determines that one or more of the particular categories of information is not relevant to its analysis:

1. The date the applicant purchased or otherwise acquired the property, and from whom.
2. The purchase price paid by the applicant for the property.
3. The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at that time.
4. The general plan, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition.
5. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in subsection 4 above, that applied to the

² Eastern Goleta Valley Community Plan Policy ECO-EGV-4.1 (COASTAL)

- property at the time the applicant acquired it, or which have been imposed after acquisition.
6. Any change in the size of the property since the time the applicant acquired it, including a discussion of the nature of the change, the circumstances and the relevant dates.
 7. A discussion of whether the applicant has sold or leased a portion of, or interest in, the property since the time of purchase, indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the property that were sold or leased.
 8. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.
 9. Any offers to buy all or a portion of the property which the applicant solicited or received, including the approximate date of the offer and offered price.
 10. The applicant's costs associated with the ownership of the property, annualized for each of the last five calendar years, including property taxes, property assessments, debt service costs (such as mortgage and interest costs), and operation and management costs.
 11. Apart from any rents received from the leasing of all or a portion of the property, any income generated by the use of all or a portion of the property over the last five calendar years. If there is any such income to report it should be listed on an annualized basis along with a description of the uses that generate or has generated such income.
 12. Any additional information that the County requires to make the determination.

Section 35-192.6 Supplemental Findings for Approval of Coastal Development Permit. A Coastal Development Permit that allows a deviation from a policy or standard of the Local Coastal Program to provide a reasonable use may be approved or conditionally approved only if the appropriate governing body, either the Planning Commission or Board of Supervisors, makes the following supplemental findings in addition to the findings required in Section 35-169 (Coastal Development Permits):

1. Based on the economic information provided by the applicant, as well as any other relevant evidence, each use allowed by the Local Coastal Program policies and/or standards would not provide an economically viable use of the applicant's property.
2. Application of the Local Coastal Program policies and/or standards would unreasonably interfere with the applicant's investment-backed expectations.
3. The use proposed by the applicant is consistent with the applicable zoning.
4. The use and project design, siting, and size are the minimum necessary to avoid a taking.
5. The project is the least environmentally damaging alternative and is consistent with all provisions of the certified Local Coastal Program other than the provisions for which the exception is requested.
6. The development will not be a public nuisance or violate other "background principles of the State's law of property," as that phrase was used in the U.S. Supreme Court's decision in *Lucas v. South Carolina Coastal Council*, 505 U.S.

1003, 1028-30 (e.g., public trust doctrine). If it would violate any such background principle of property law, the development shall be denied.

From: [Pancho Gomez](#)
To: [City Clerk Group](#)
Subject: Creek, wetland, and other habitat protection
Date: Monday, November 04, 2019 4:02:44 PM

I am writing you today to request that you adopt strong protections for creeks, wetlands, and habitats. I urge you to adopt a standalone provision in the New Zoning Ordinance that sets forth a process for determining when, upon an applicant's request, a reduction in the required setback from creeks may be granted. This provision should apply to any request to modify City zoning or policy requirements.

I support the recommendations made by the Environmental Defense Center and Urban Creeks Council to adopt the California Coastal Commission's language for analyzing when a setback may be reduced. The Coastal Commission's language was adopted by the County of Santa Barbara in its Coastal Zoning Ordinance and in the Eastern Goleta Valley Community Plan. Preserving and restoring Goleta's creeks is very important to our community and we thank you for your efforts to protect Goleta's watershed!

Though I am not a Goleta/Santa Barbara resident, I reside in the 805 and have seen how environmental protection in Santa Barbara County influences similar programs in SLO County and vice versa.

Sincerely,

Pancho Gomez

Pancho Gomez
All Good
PO Box 203, Morro Bay, CA 93443
P (805) 528-4000
F (805) 528-4667
www.allgoodproducts.com



From: Vijaya <vjinsb@gmail.com>

Date: November 4, 2019 at 4:09:11 PM PST

To: <pperotte@cityofgoleta.org>, <krichards@cityofgoleta.org>, Stuart Kasdin <skasdin@cityofgoleta.org>, <jkyriaco@cityofgoleta.org>, <raceves@cityofgoleta.org>

Cc: <dlopez@cityofgoleta.org>, Cheryl Rogers <cherplan2@cox.net>, Jean Holmes <jeanholmes@earthlink.net>, Linda Phillips <lindakp5@cox.net>, Anita Baldwin <asbaldwin@cox.net>

Subject: Nov 5 Goleta NZO Hearing: League Statement

Reply-To: <vjinsb@gmail.com>

Please find attached, comments on the Goleta NZO from the League of Women Voters of Santa Barbara.

Vijaya Jammalamadaka, President

805-462-7126

[League of Women Voters of Santa Barbara](#)

Empowering Voters. Defending Democracy.



November 4, 2019

Mayor and City Councilmembers
City of Goleta City Hall
130 Cremona Dr., Suite B
Goleta, CA. 93117

SUBJECT: Adoption of the New Zoning Ordinance

Dear Mayor Perotte and City Councilmembers:

The League of Women Voters of Santa Barbara (League) has followed the New Zoning Ordinance process. We recognize the hard work of the planning staff as well as the reviews and input by the community and the Planning Commission.

The Planning Commission has voted to approve the proposed NZO, contingent upon the initiation and adoption of the relevant General Plan Amendments. These include,

- amending the Housing Element to include rental inclusionary housing;

The League would like to hear the details of this amendment, e.g., the percentage of the proposed project that would be required to be inclusionary housing. We recommend at least 15% consistent with the existing requirement for for-sale housing.

- amending the Conservation Element to revise standards for environmentally sensitive habitat area buffers for *protection of streams, lagoons and native woodland/savannas;*

The League supports the Environmental Defense Center request, to include the California Coastal Commission criteria to determine feasibility of changing the 100-foot setback. Although the Review Authority will rely on the CEQA document through the major CUP process, having the Coastal Commission criteria in the NZO would be stronger. Please have staff to incorporate the California Coastal Commission's language in the New Zoning Ordinance and revise the General Plan accordingly.

- amending the Land Use Element to allow Large Residential Care Facilities in single-family and planned residential land use zones.

The League supports this amendment.

Please contact Cheryl Rogers, LWVSB Sustainable Communities Committee at cherplan2@cox.net or myself at president@lwvsantabarbara.org with any questions.

Sincerely,

Vijaya Jammalamadaka

Vijaya Jammalamadaka
President

CITY OF GOLETA
CALIFORNIA

WYNMARK

November 4, 2019

NOV 04 2019

1125 Vereda del Ciervo
Goleta, CA 93117

Mayor and Councilmembers
City of Goleta
130 Cremona Drive
Goleta, CA. 93117

RECEIVED

Tel: (805) 968-2921
Fax: (805) 968-7147

RE: City of Goleta New Zoning Ordinance

Dear Mayor and Councilmembers,

In the early 1980s, I headed up the team that created Article II and Article III of the Santa Barbara County Code, also known as the Coastal Zoning Ordinance and the Inland Zoning Ordinance. The only thing that is important about that fact is that I understand the effort that it takes to create a zoning ordinance and shepherd such a document through the public process. It is with a memory of that experience that I want to commend your staff for enduring and completing that process. Of all of the planning documents that are created, the zoning ordinance has to be one of the driest and least exciting to write, but the one that is used most frequently on a daily basis. I would also like to thank your Council for funding and supporting this program, which is a program that enables the City of Goleta to have its own, new zoning ordinance – an ordinance that is current and not over 3 decades old.

Like any new tool or software program, this New Zoning Ordinance (NZO) is not perfect and will have “bugs” that will surface over time. It is my hope that we can view this document as a dynamic tool that gets refined as time goes on and the need arises. Heck, Apple comes out with system upgrades every time I turn around. It is in that vein that I suggest that the City Council consider annual reviews and revisions to the New Zoning Ordinance for the next few years. Possibly staff could keep a log of issues with the NZO as the year goes on and any needed changes could be considered at a designated anniversary date. I believe that this would give the public comfort in knowing that the NZO is not a “set in stone” document but rather a planning document that is subject to revision and correction.

In closing, thank you for directing and supporting the creation of a new zoning ordinance for the City of Goleta, and my hat is off to the staff for making it happen!

Sincerely,



Kimberly Schizas
Vice-President, Wynmark

MG



Attorneys At Law

PAUL A. GRAZIANO*†
JOHN H. PARKE
BRADLEY E. LUNDGREN
JAMES M. SWEENEY

DAVID E. GRAFF*
JOSEPH R. BILLINGS
IAN L. ELSENHEIMER

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CHRISTOPHER E. HAHN
TIMOTHY R. DEAKYNE
OF COUNSEL

GEORGE H. ALLEN
(1921-2010)

*Certified Specialist: Estate Planning,
Trust and Probate Law
†Certified Specialist: Taxation Law
The State Bar of California
Board of Legal Specialization

kkimbell@aklaw.net

October 31, 2019

Members of Goleta City Council
City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117

Re: General Plan Amendment to City's Housing Element

Ladies and Gentlemen:

I support Hersel Mikaelian and am writing to summarize the key points in his letter of October 31, 2019, regarding senior care housing.

Goleta is woefully deficient in providing for senior care housing. After a careful review, it appears that Goleta only has about 250 beds for assisted senior care housing within the City limits. This is entirely due to zoning limitations.

The current pending zoning ordinance attempts to enable more senior care housing by permitting it in residential zones. That is a good step forward, for it is entirely logical to allow seniors to live a residential zone along with everyone else.

To remedy the situation, the pending zoning ordinance and general plan amendment will allow senior care housing in residential zones with a conditional use permit; however, it restricts the location of large senior care facilities (with more than 6 residents) to being 300 feet apart.

We strongly urge you to modify that 300 foot spacing requirement to allow large senior care facilities to exist within the 300 foot spacing area so long as approved by a conditional use permit. This will enable the possibility of larger senior care facilities in the few remaining places in Goleta where they could be built.

Members of Goleta City Council

October 31, 2019


Page 2

Mr. Mikaelian has a four and a half acre property with water and all utilities installed and allocated to it in a residential zone. This is one of the few areas in Goleta where senior care housing could feasibly be implemented. It is in a neighborhood with churches, an athletic club, the library, the Elks Lodge and Fairview Gardens all located in amongst single family zoned neighborhoods.

By removing or allowing exceptions to the 300 foot spacing requirement, you will enable the possibility of more senior care facilities in the residential zones. It is only fair and right to allow seniors to live in those zones where they lived for so many years prior to needing assisted care.

Very truly yours,

ALLEN & KIMBELL, LLP

By 
Charles D. Kimbell

CDK/dob

cc: Hersel Mikaelian

664822

Todd A. Amspoker
Susan M. Basham
Kristen M. R. Blabey
Shannon D. Boyd
Timothy M. Cary
Melissa J. Fassett
Ian M. Fisher
Arthur R. Gaudi
Cameron Goodman
Christopher E. Haskell
Emily B. Harrington
James H. Hurley, Jr.
Eric P. Hvolbøll
Mark S. Manion
Steven K. McGuire

Our File Number:
23042-1



PRICE, POSTEL & PARMA LLP

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Mailing Address: P.O. Box 99
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Ryan D. Zick

CAMERON PARK OFFICE

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Cameron Park, CA 95682-7652
Ph (805) 962-0011
Fax (805) 965-3978

November 5, 2019

CITY OF GOLETA
CALIFORNIA

NOV 05 2019

RECEIVED

VIA PERSONAL DELIVERY

City of Goleta
City Council
City Hall, Council Chambers
130 Cremona Drive, Suite B
Goleta, CA

Re: Newland Property, 5544 Hollister Avenue (APN 071-090-036)
Proposed Adoption of New Zoning Ordinance, November 5, 2019

Dear Members of the City Council:

This firm represents the Newland Family, owners of the above-referenced property. The property is located at the corner of Hollister Avenue and Dearborn Place, just to the west of the interchange between Highway 217 and Hollister Avenue.

The subject property has been in the Newland Family for approximately 100 years. It originally was part of a large walnut ranch. Currently there are several old residential cottages on the property, which are rented. The property is designated as "Recreation" in the City's existing General Plan, but is zoned for residential purposes, with a designation of DR-10.

The property is subject several acquisitions by the City for two major public works projects now proceeding – the Ekwil Fowler Project and Phase II of the San Jose Creek Project. Eminent domain proceedings have already been filed against our clients by the City. These two

City Council
City of Goleta
November 5, 2019
Page 2

projects, and the property to be acquired for them, will have a devastating impact on the remainder of the property. In particular, the Ekwil Fowler Project includes a traffic roundabout on the southeast corner of the property, which will result in a substantial limitation on vehicular access to the remaining cottages on the property. Our clients intend to make substantial claims for property value and severance damages as a result of these proposed takings.

The City's proposed new zoning ordinance would effect a zoning change of our clients' property to Open Space (OS). In addition, the new zoning ordinance has significantly increased regulation regarding Environmentally Sensitive Habitat Areas (ESHA). The existing depiction of the ESHA on our clients' property (attached), together with the increased restrictions in the zoning ordinance, would essentially prevent any development on the property at all. Our clients do not understand that a reputable biologist was responsible for the ESHA area depicted on the property, and were never consulted about the ESHA area. The ESHA designation, the new ESHA restrictions, and the new zoning designation constitute a complete taking of our clients' property.

Our clients are very disappointed that the City intends to take this action, which is for no apparent purpose other than to freeze development so that the property can be acquired cheaply by the City. The property has enjoyed its residential zoning status since the City's incorporation and before, while in County jurisdiction. Our clients therefore have an expectation that this zoning will continue indefinitely into the future.

This matter will move into protracted litigation if the City pursues adoption of the new zoning ordinance. The City has already filed eminent domain proceedings against our clients for property rights allegedly necessary for the San Jose Creek Project and the Roundabout Project. We have already filed a cross-complaint in that litigation, seeking recovery for inverse condemnation. Our clients' recovery for inverse condemnation will be completely justified if the City pursues adoption of the new zoning ordinance.

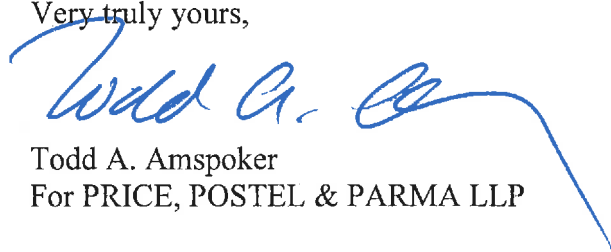
There is no apparent reason for rezoning our clients' property other than to allow the City to acquire it at a cheap price. The property has been operated with residential structures for more than 75 years. The City apparently does not have any actual plans to use the property for park purposes. Pursuing an appropriate residential development on the property would be a far better use of the City's resources, and our clients' resources.

We have enclosed pertinent maps and diagrams which illustrate the points made in this letter.

City Council
City of Goleta
November 5, 2019
Page 3

Based upon the foregoing, and on behalf of our clients, we respectfully request that the City maintain the existing zoning on the property. In the alternative, the City should acquire the entirety of the property for a fair price.

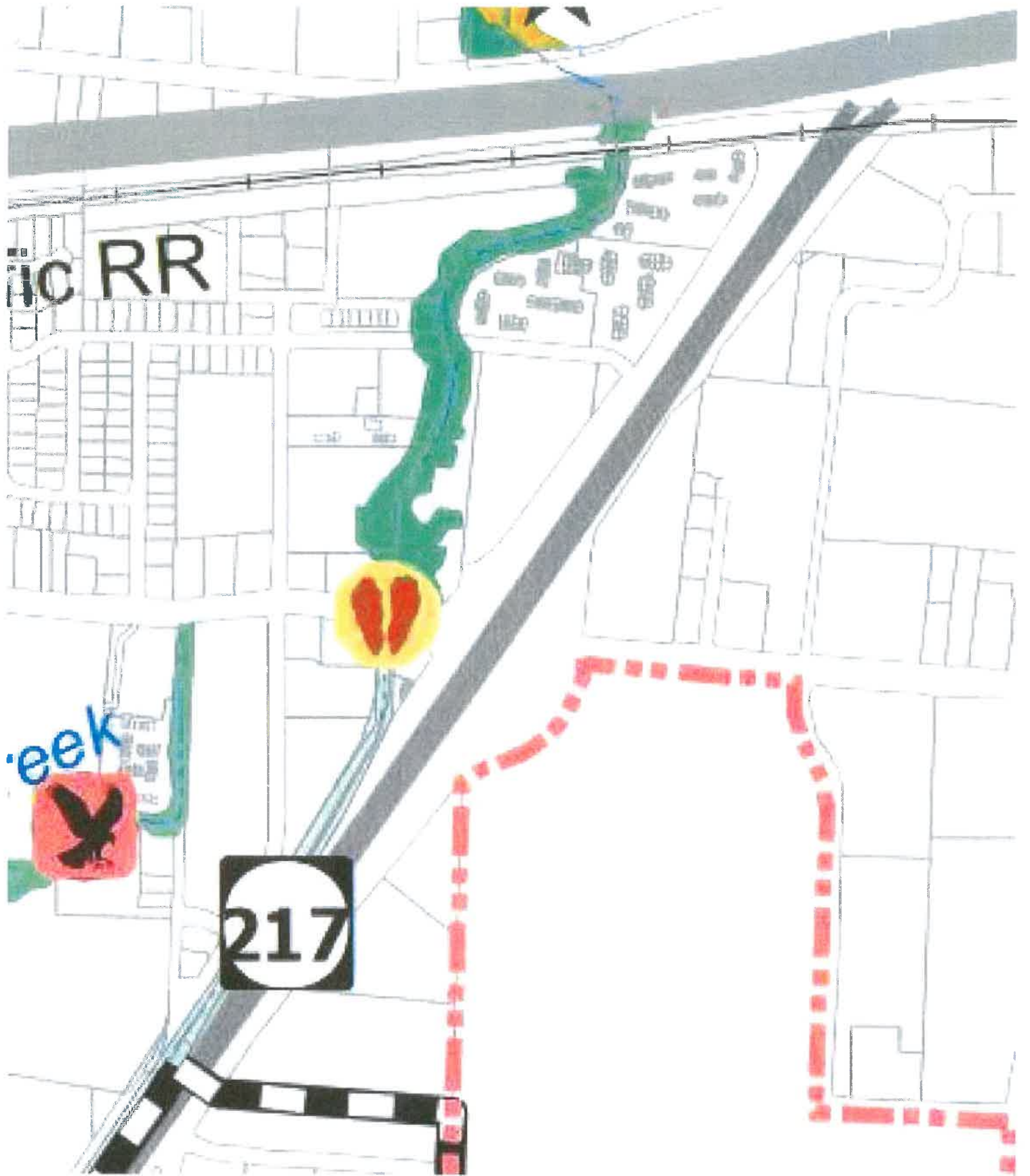
Very truly yours,

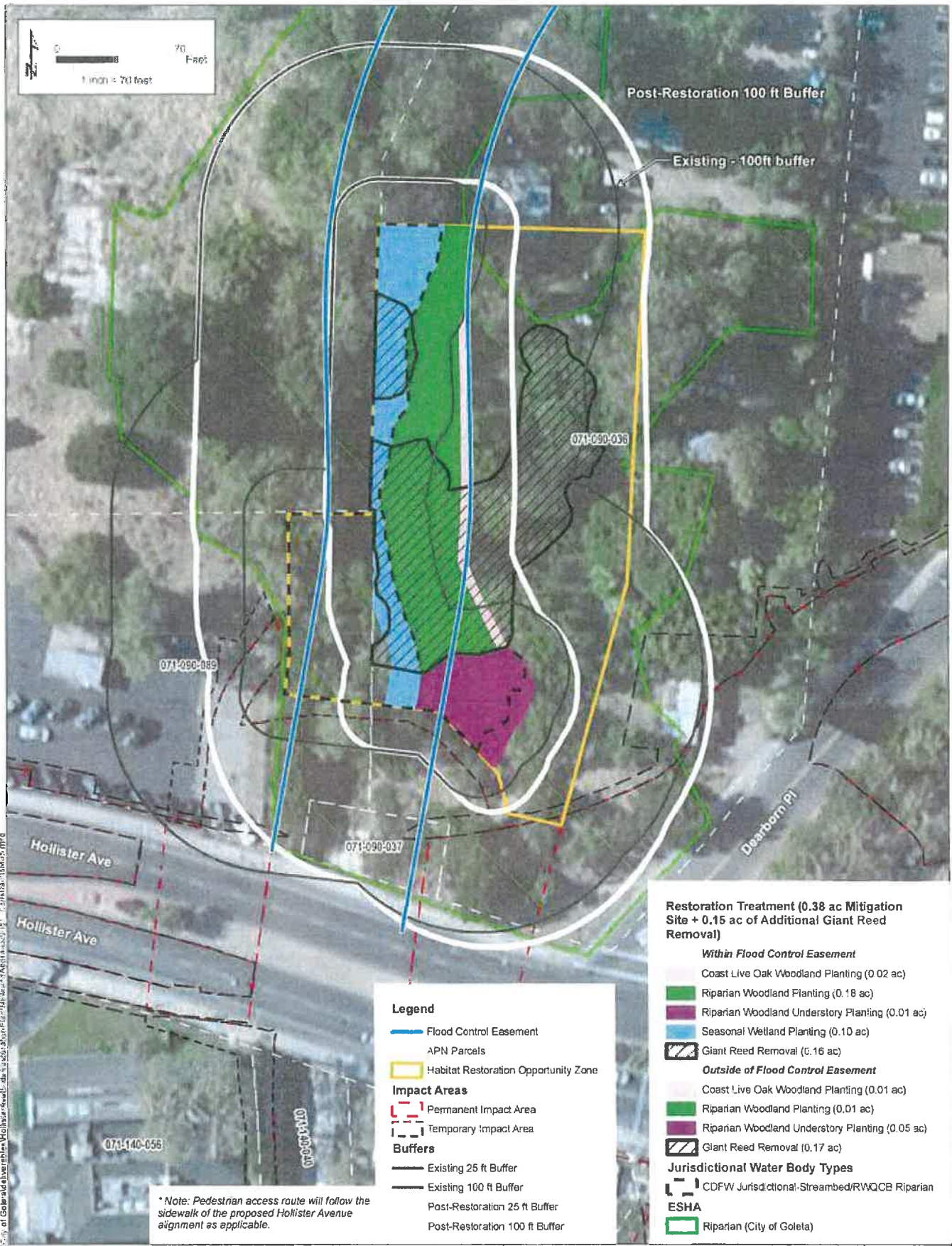


Todd A. Amspoker
For PRICE, POSTEL & PARMA LLP

TAA:ks
Enclosures

cc: Jeff Newland





* Note: Pedestrian access route will follow the sidewalk of the proposed Hollister Avenue alignment as applicable.

Legend

- Flood Control Easement
- APN Parcels
- Habitat Restoration Opportunity Zone
- Impact Areas**
- Permanent Impact Area
- Temporary Impact Area
- Buffers**
- Existing 25 ft Buffer
- Existing 100 ft Buffer
- Post-Restoration 25 ft Buffer
- Post-Restoration 100 ft Buffer

Restoration Treatment (0.38 ac Mitigation Site + 0.15 ac of Additional Giant Reed Removal)

Within Flood Control Easement

- Coast Live Oak Woodland Planting (0.02 ac)
- Riparian Woodland Planting (0.18 ac)
- Riparian Woodland Understory Planting (0.01 ac)
- Seasonal Wetland Planting (0.10 ac)
- Giant Reed Removal (0.16 ac)

Outside of Flood Control Easement

- Coast Live Oak Woodland Planting (0.01 ac)
- Riparian Woodland Planting (0.01 ac)
- Riparian Woodland Understory Planting (0.05 ac)
- Giant Reed Removal (0.17 ac)

Jurisdictional Water Body Types

- CDFW Jurisdictional-Streambed/RWQCB Riparian
- ESHA**
- Riparian (City of Goleta)

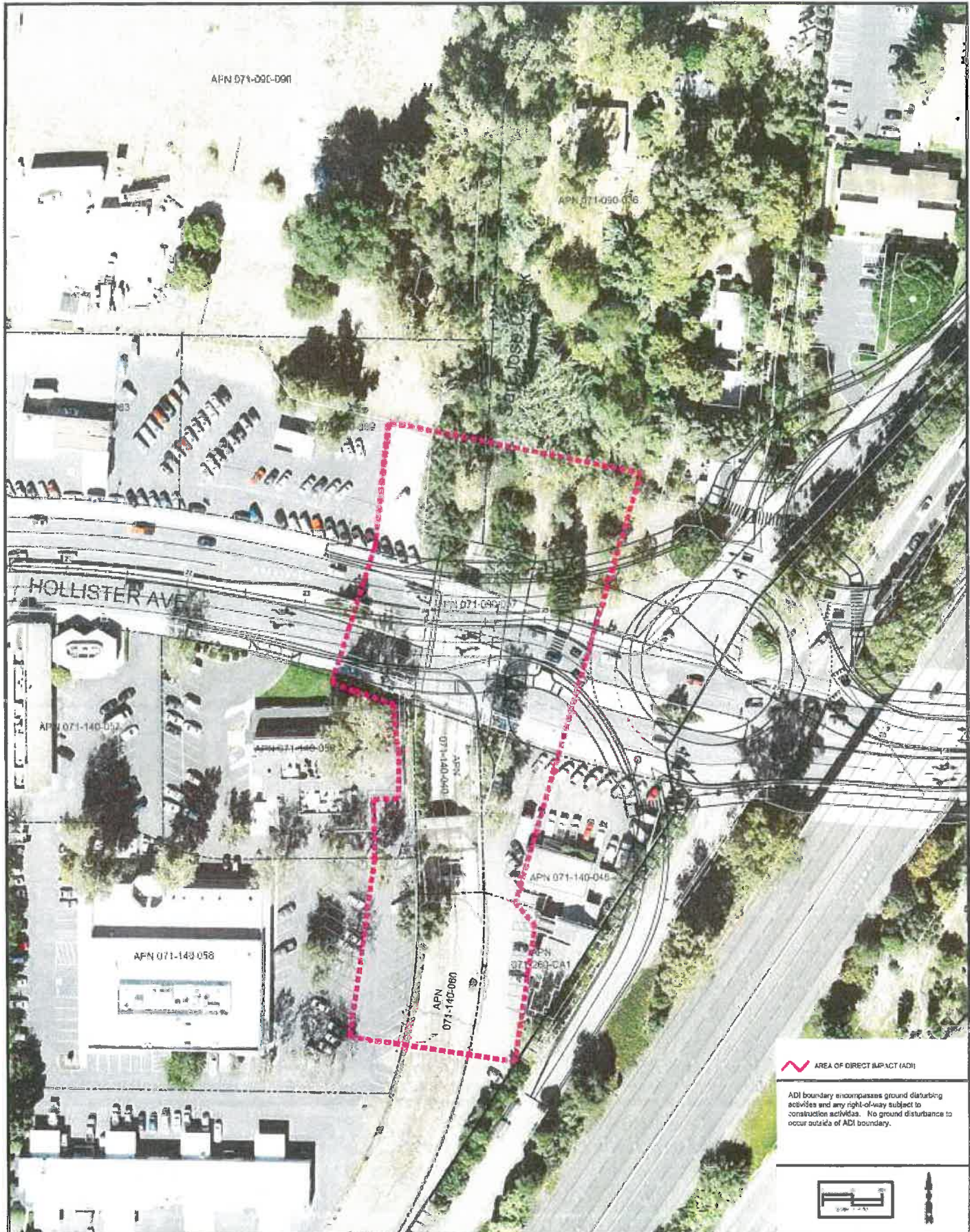
Hollister Avenue
 Bridge Replacement Project
 City of Goleta, CA
 05-SB-0-GLTA BRLS-5481 (013)
AECOM


Source: [1] Esri World Imagery
 NAIP2016, USDA FSA, 7/13/2016.

Figure 1. Constraints Map

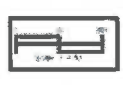
2017

V:\Projects\GIS\Project\05-SB-0-GLTA BRLS-5481 (013)\Map\05-SB-0-GLTA BRLS-5481 (013)_ConstraintsMap.mxd



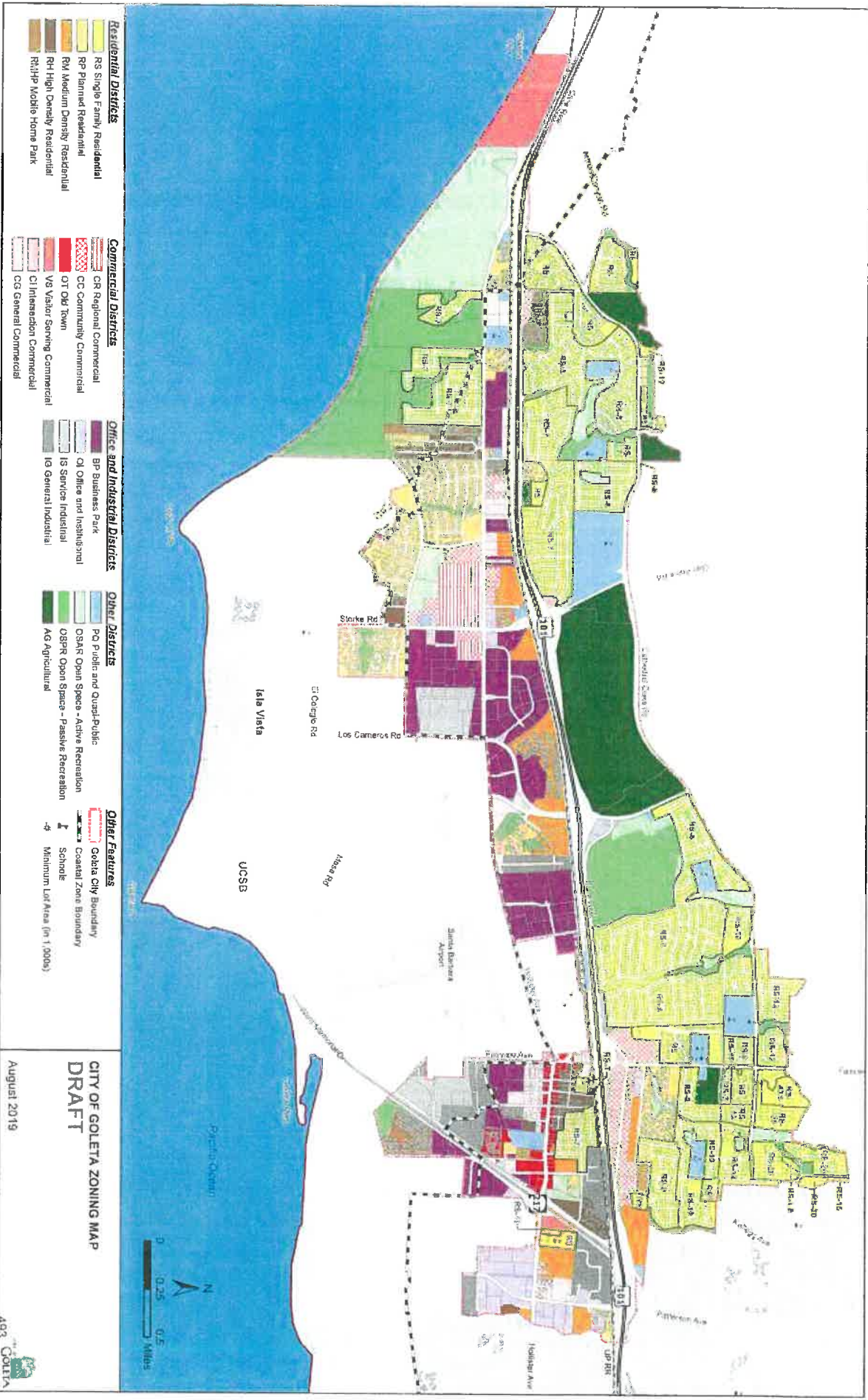
 AREA OF DIRECT IMPACT (ADI)

ADI boundary encompasses ground disturbing activities and any right-of-way subject to construction activities. No ground disturbance to occur outside of ADI boundary.



<p>LOCAL AGENCY APPROVAL</p> <p>CITY OF GALETA DEPARTMENT OF PUBLIC WORKS</p> <p>DATE _____</p>	<p>CALTRANS APPROVAL</p> <p>CALTRANS DISTRICT 3 PROFESSIONALLY QUALIFIED STAFF</p> <p>DATE _____</p>	<p>CALTRANS DLAE APPROVAL</p> <p>DISTRICT 3 LOCAL ASSISTANCE ENGINEER</p> <p>DATE _____</p>	<p>CITY OF GALETA DEPARTMENT OF PUBLIC WORKS 130 CREMONA DRIVE, SUITE B • GOLETA • CA • 93117 TEL. (805) 991-7500 • FAX (805) 685-2635</p>	<p>HOLLISTER AVE BRIDGE REPLACEMENT BRIDGE No. 51C-0027 CONTRACT No. 2013-028 FEDERAL AID PROJECT No. BRLS-5481(013) AREA OF POTENTIAL EFFECT MAP</p>	<p>SHEET 1 OF 1 SHEETS</p>
---	--	---	--	---	------------------------------------

PLAN DATE: 02/26/15



- Residential Districts**
- RS Single Family Residential
 - RP Planned Residential
 - RM Medium Density Residential
 - RU High Density Residential
 - RHHP Mobile Home Park

- Commercial Districts**
- CR Regional Commercial
 - CC Community Commercial
 - OT Old Town
 - VS Vision Serving Commercial
 - CI Intersection Commercial
 - CG General Commercial

- Office and Industrial Districts**
- BP Business Park
 - CI Office and Institutional
 - IS Service Industrial
 - IG General Industrial

- Other Districts**
- PQ Public and Quasi-Public
 - OSAR Open Space - Active Recreation
 - OSPR Open Space - Passive Recreation
 - AG Agricultural

- Other Features**
- Golden Gate City Boundary
 - Coastal Zone Boundary
 - School
 - Minimum Lot Area (in 1,000s)

CITY OF GOLETA ZONING MAP
DRAFT
 August 2019

