

Public Comment Received



Stantec Consulting Services, Inc
111 E. Victoria Street, Santa Barbara, CA 93101

November 7, 2019

Attention: Mayor Paula Perotte and Councilmembers

City of Goleta
130 Cremona Drive
Goleta CA 9311

Dear Mayor and Councilmembers,

Reference: Goleta New Zoning Ordinance

My sincere thanks go to Staff, the Planning Commission, and yourselves for your hard work on the new zoning ordinance. I appreciate the opportunity to make comments at last night's Council meeting of November 5, 2019. In the interest of finishing my thoughts that spilled over the 3-minute mark, I am submitting my comments in writing.

Although I have not had the opportunity to read through the entire current draft of the ordinance, I want to highlight a few issues that I think warrant more consideration. I've organized my comments into four categories: 1) Timing and Applicability, 2) Non-Conformity, 3) Inland and Coastal Ordinance, 4) Correction of Potential Errors.

1. Timing and Applicability

Adoption process

I acknowledge and appreciate that this has been a years-long effort by the City, and that numerous meetings, workshops, and opportunities to comment have been provided.

What is concerning is that the version currently contemplated has not been in circulation for more than a couple of months; the previous version is dated August, while the current version is dated November. This means that citizens and interested parties have essentially had about two months to consider the current version.

It seems like the process is being unnecessarily sped up considerably right as it matters most. In looking at the documents available, it does not appear that a redline version that shows the differences between the August and November versions is available, so detecting the differences is no easy task.

The City should consider additional time - or release a version that clearly shows the most recent revisions. In addition, once Council has deliberated and potentially decided additional revisions are necessary, a redline version and clean version of the contemplated "Final Draft" should be circulated again for a final round of comment in the interest of quality and removal of any potential errors.

Reference: Goleta New Zoning Ordinance

Applicability/Sunset dates

The current version of the ordinance states “at the Applicant’s election, a project application that is determined to be complete prior to September 1, 2019, shall either: a. Be processed under the zoning regulations at the time of the determination; or b. Be processed under this Title.”

Considering that this version of the ordinance has not yet been acted upon by the City Council and additional changes may still be made, the September 1, 2019 date does not seem reasonable or appropriate.

The ordinance goes on to state, “The allowances under this provision shall sunset on December 31, 2021 if a project has not received all required land use entitlements, after which, the project shall be subject to all regulations of this Title.” (emphasis added).

There needs to be clarity on what “all required land use entitlements” means. Does this mean discretionary action (Director, PC or CC approval), or discretionary and ministerial approvals (Building Permits). What about permits from the Army Corps of Engineers (ACOE), Regional Water Quality Control Board (RWQCB) or California Department of Fish and Wildlife (CDFW)? Are these a part of the “all required land use entitlements”? What about projects in the Coastal Zone? Currently projects in the coastal zone are forwarded to CCC for final action, a process that can easily take 6+ additional months to be reviewed and docketed for a “local” hearing date. As well, there is no guarantee that the Coastal Commission will act swiftly on permits in process knowing that the updated ordinance is contemplated but not in effect. It is not unreasonable to assume that projects caught in this interim period won’t be scrutinized under both ordinances. As well, permits from ACOE and CDFW very regularly take more than six months.

As you know, the entitlement process in the City of Goleta is a long one and includes discretionary action (approval decision/hearing) and ministerial actions (e.g. building permits), along with permits from other agencies in some situations. A project can be deemed complete and not acted upon at a hearing for a period of years – there is at least one that I know of right now that was deemed complete more than a couple of years ago and still has not yet been acted upon by the City. The applicant has been very diligent, and it has still taken over two years.

In addition, CEQA challenges, appeals, lawsuits, and changing market conditions – all affect timing. I implore the council to extend the date and to clarify the language regarding “all land use entitlements” so as not to unfairly hobble developments currently in process. A complete application represents a major investment, and there are many steps and processes between Complete and “all required land use entitlements” that are far beyond an applicant’s control and add up to a significant amount of time – easily beyond two years.

Last, item 5 of this same policy reads, “Project Applications Not Deemed Complete. Projects for which an application has not been submitted and deemed complete prior to September 1, 2019 shall be subject to the regulations of this Title...”

Again, this date should not be any earlier than the City Council’s approval of whatever version is ultimately approved.

Reference: Goleta New Zoning Ordinance

2. Non-Conformity

§17.36.020 Establishment of Nonconformity item c reads, “Unpermitted Nonconformities. Any nonconforming use, structure, or lot not deemed to be legally permitted or created, shall be determined illegal and must be abandoned or permitted by the City within 90 days of notice from the Director”

I would argue that 90 days is not long enough to get plans drawn let alone to obtain most permit types from the City. I suggest this duration be reconsidered or clarified to dictate exactly what needs to be done within 90 days - such as submittal of an application, or enter into an agreement/abatement schedule with the City.

At the hearing, I made another comment about Development Plans being deemed non-conforming by the new ordinance. I am seeing now that this detail of the code has been updated in the November 2019 version. I support the change as it ensures that existing Development Plans remain conforming.

3. Consideration of Two Ordinances

I believe there is good reason to have an inland vs. a coastal zoning ordinance, especially since the majority of the City is not in the coastal zone.

In the currently-proposed combined format, the entire ordinance will be subject to review and comment by the California Coastal Commission (CCC). So as not to relinquish the City's discretion to the CCC, and to help stem unintended consequences of applying their will through the entire City, there should be two ordinances.

Two ordinances will also make it easier to make changes (or corrections) to the inland ordinance in the future should they become necessary.

If Council does not agree that two ordinances is a superior alternative, I strongly recommend that while the City is going through the CCC review process, that the City be careful to incorporate the CCC's suggestions to only apply to the Coastal Zone.

4. Correction of Errors

While no ordinance is perfect, I am concerned about the idea that errors can be fixed in the future and the associated perceived level of effort this will take.

Because the Inland and Coastal Zoning Ordinances are being combined, any future change will have to go through the Council review process and the CCC review process which takes a period of months or years.

Second, these errors will present themselves specific to an application or applications. It should not be the burden of a single applicant to be harnessed with a Zoning Ordinance Amendment to fix an error. Note that Amendments are subject to Council action. Since only very few application types/projects are elevated to Council review in the first place, this has the potential to elevate the level of scrutiny, cost and processing time beyond most applicant's ability to absorb it. It also has the potential to result in unnecessarily bringing a number of additional items to Council for consideration.

Imagine a small business owner applying for a minor permit subject to Director approval suddenly hamstrung by a months or years long process to fix an error in the code because it will in fact need to be

Reference: Goleta New Zoning Ordinance

acted upon by Council and CCC. Thus, any future changes made in the interest of fixing errors should be undertaken immediately and at the City's expense.

Thank you for considering these comments.

Regards,

Stantec Consulting Services, Inc



Ginger Andersen MCRP AICP
Land Use Planner
Phone: (805) 308-9170
Ginger.Andersen@Stantec.com

TO: Mayor Perotte, City Council Members, City Manager Greene and
Director Imhoff

RE: Comments from Goleta's NZO Hearing on November 5, 2019

At the November 5 NZO hearing, audience members were given the opportunity to go first in making comments on NZO-related topics that were not up for discussion that evening.

In the limited 3 minutes I was given, I did comment on a number of such topics. After the initial speakers and I concluded, the rest of the meeting focused on 5 other NZO topics that had been planned for discussion at that meeting. Time was devoted to each of those sections for council and staff discussion and deliberations on each.

At the end of the meeting, Council seemed to agree that at a future Council meeting on NZO, Council and staff would comment and deliberate on the topics and issues we "early" speakers had raised but had NOT been discussed or deliberated on by Council.

In order to facilitate such future deliberation and discussion, I am submitting below and attached the **issues** I raised in the early part of the meeting, as well as some **recommendations** for addressing each issue. Thank you for your commitment to deliberate on these areas in the future.

* * *

**ZONING COMMENTS ON GOLETA'S NZO BY
GEORGE RELLES
NOVEMBER 12, 2019**

A. View Protection Development Standards Section 17.20.040 B.

Issue: This section heading, "To minimize impacts to public views..." lists 10 development practices that "must be used." However, the heading is modified by the phrase "where applicable."

The meaning of "where applicable" is unclear and undefined. So it is unclear when and how this phrase might create exceptions to the required, intended and listed mitigations.

Recommendation:

1. Please seek to include some language in the NZO that clarifies and limits how "where applicable" will erode or negate the overall intent of minimizing impacts.
2. Please seek to clarify when these 10 development practices would NOT be applicable.
3. Apply these same recommendations anywhere else in the NZO that "the phrase "where applicable" is used.

* * *

B. Exempt Signs 17.40.030, Sections T and U regarding Protected, Non-Commercial Speech**Issues:**

1. The sections T and U discriminate against residential property owners, vastly favoring the free and political speech rights of COMMERCIAL property. Commercial property signs can be 4 times larger and 50% higher than residential ones.
2. In addition, both sections could lead to confusion or a chilling effect by being silent on how many signs can be placed on either kind of property.

Recommendations:

1. There should be no difference between residential and commercial property regarding the signs' allowable area and height. There is no justification for giving commercial property owners more protected speech rights than residential property owners.
2. There should be a statement that there is no limit on the number of signs. Especially during election season, many will want to display multiple signs for multiple candidates and initiatives.

* * *

C. Findings for Approval Section 17.52.070, Section 1**Issue:**

1. Section 1, requiring "adequate infrastructure and public services available to serve the proposed development...", does not define what "adequate" means. One can readily identify if a water meter has been issued or what necessary police and fire response time standards are.

BUT what standards will be used to determine if there are adequate schools, parks, roads, bikeways, transit, etc.?,

2. In the list of required infrastructure and services, the word "planned" is used to modify only the word "transportation." This could cause unacceptable transportation impacts and hardships for an indefinite and potentially unlimited period. Accepting only "planned" transportation, may allow a project to go forward even if there's no funding for needed transportation, or a date certain of when the actual mitigation will occur.

Recommendations:

1. Please require language or reference to where one can find objective standards for the word "adequate" for each of the infrastructure and public services required.

2. Please require language LIMITING how the word "planned" in front of "transportation" will operate, in order to ensure that adequate transportation will be complete when the project is complete.

* * *

D. Substantial Conformity 17.52.100, d. Process

Issue: This section has the potential for abuse by stating "A Substantial Conformity Determination is not subject to public noticing, a public hearing or appeal." There is no good reason to risk potential abuse of discretion (however slight) when the burden of providing public notice, hearing and appeal is very low.

Recommendations:

1. Do not deprive the public of at least a **potential** notice, hearing and appeal.

2. Replace the proposed language regarding Substantial Conformity Determinations to provide the public

a. Email notice only to those who sign up for such notice, and

b. A public hearing only if a member of the public requests it, and

c. An appeal ability (likely to be few) to Goleta's Planning Commission.

Thank you for your attention and deliberations on these issues.

Respectfully,

George Relles, Goleta Resident

From: [Will Holmes](#)
To: [City Clerk Group](#)
Subject: please protect our environment
Date: Thursday, November 21, 2019 11:50:50 AM

To Whom It May Concern:

Please protect our county's creeks, habitats and wetlands by enforcing required setbacks.

Thank you!

Will Holmes
Carpinteria

From: [Jim Little](#)
To: [City Clerk Group](#)
Subject: In Support of Zoning Ordinance Setbacks that Protect Riparian Areas
Date: Friday, November 22, 2019 7:16:55 AM

Good Morning,

As a former long-time resident of Santa Barbara who has spent much time in Goleta, I write to you in support of provisions in your zoning ordinance that provide adequate, enforced and enforceable setbacks that protect creeks and riparian habitat from encroaching development.

Our wild open spaces/animal habitat have disappeared so quickly over the years in the face of new development. I've witnessed it firsthand, having moved with my family to the Mesa in the '50s. Please ensure that what remains of our wild natural heritage is protected for plant and animal (including human) life of all kinds.

Sincerely,

James R. Little
292 Avenida de la Vereda
Ojai, CA
93023

From: [Karen](#)
To: [City Clerk Group](#)
Subject: Protect Goleta's creeks, wetlands, and habitats
Date: Thursday, November 21, 2019 12:36:31 PM

Please protect Goleta's creeks, wetlands, and habitats! Enforce appropriate setbacks.

Thank you,
Karen Dorfman
Goleta resident

From: [Jesse Bickley](#)
To: [City Clerk Group](#)
Subject: Protect Goleta's creeks, wetlands, and habitats!
Date: Thursday, November 21, 2019 1:17:59 PM

To Whom It May Concern,

This community wants strong protections for these resources through the enforcement of required setbacks, where feasible. The Zoning Ordinance must include language that clearly states the steps for determining if the required setback from creeks and riparian habitat may be reduced upon an applicant's request. This provision would have broad applicability and therefore should apply to any request to modify City zoning or policy requirements.

Thank you,
Jesse

From: [Jennifer Hone](#)
To: [City Clerk Group](#)
Subject: Council meeting on Dec 3, concern about creeks
Date: Thursday, November 21, 2019 2:58:52 PM

Please forward to council members:

Dear members, as a concerned citizen, I wish to express my opinion regarding zoning and setbacks for creeks/ waterways. I want to see **strong protections for these resources by enforcing the required setbacks, where feasible.** Please include language that clearly states the steps for determining if the required setback from creeks and riparian habitat may be reduced upon an applicant's request. This provision should apply to any request to modify City zoning or policy requirements.

Thank you.

Jennifer Hone
93110
mrpoohcat@gmail.com

From: [leon.juskalian](#)
To: [City Clerk Group](#)
Subject: LEE JUSKALIAN
Date: Thursday, November 21, 2019 3:15:33 PM

We want stronger protections for creeks, wetlands and wildlife habitat please
Thank you

From: [Robin Birney](#)
To: [City Clerk Group](#)
Subject: Protect our creeks, habitats and wetlands
Date: Friday, November 22, 2019 11:57:31 AM

I would like to request that you protect Goleta's creeks, habitats and wetlands. Thank you

Andy Newkirk

From: Andy Newkirk
Sent: Wednesday, November 27, 2019 9:04 AM
To: Andy Newkirk
Subject: FW: Comment Re: The City Council will conduct a Public Hearing to consider the Adoption of the New Zoning Ordinance

From: Andrew Bermant <abermant@me.com>
Sent: Friday, November 22, 2019 12:23 PM
To: Cindy Moore <cmoore@cityofgoleta.org>
Subject: Comment Re: The City Council will conduct a Public Hearing to consider the Adoption of the New Zoning Ordinance

Cindy,

Just received the updated NZO in the email below. For all intents and purposes, it looks great. It will be a really amazing accomplishment when the CC finally approves the ordinance.

I have only one comment that just keeps jumping out at me: while allowing Large RCF's in the RP District makes perfect sense (it's what I proposed w/Belmont at the Village at Los Carneros), allowing Large RCF's in the single-family RS district is a recipe for conflict/disaster. I suggest the City really think about leaving the CU remain in place for for the RS District and instead allow Large RCF's as-of-right in the OI District where such use will be in in close proximity to the Hospital. I'll give you one simple reason among others: Noise. Large RCF's often require recurring emergency fire and ambulatory services. The sirens would be significantly disruptive to single family neighborhoods. Siting these facilities close to hospital/institutional resources would reduce the noise impact from such uses and less adversely im[pact] office and institutional uses, especially at night. Makes sense?

If you think there is any chance of the City Council considering the foregoing, let me know and I'd be please to submit a letter for their consideration. Or, perhaps this email will suffice (which would save me some time). Let me know.

All my best and hope the new round results in approval!

Andrew

Begin forwarded message:

From: City of Goleta <goleta@public.govdelivery.com>
Subject: The City Council will conduct a Public Hearing to consider the Adoption of the New Zoning Ordinance
Date: November 22, 2019 at 10:34:05 AM PST
To: abermant@me.com
Reply-To: goleta@public.govdelivery.com

The City Council will conduct a Public Hearing to consider the Adoption of the New Zoning Ordinance

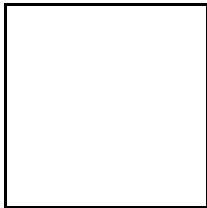
The City Council will conduct a Public Hearing to consider the Adoption of the New Zoning Ordinance at its meeting on Tuesday, December 3, 2019, at 5:30 P.M. Due to the nature of this item, we are releasing it early to allow the public to have ample time to review. The item can be found here:

[Adoption of the New Zoning Ordinance](#)

The complete packet of the December 3, 2019 City Council meeting agenda will be released on November 27, 2019. Written submittals concerning agenda items may be sent to the City Clerk's e-mail: cityclerkgroup@cityofgoleta.org; or mail: Attn: City Council and City Clerk at 130 Cremona Drive, Suite B Goleta, California 93117. In order to be disseminated to the City Council for consideration during the Council meeting, written information must be submitted to the City Clerk no later than Monday, December 1, 2019, at noon. Material received after this time may not be reviewed by the City Council prior to the meeting.

Questions? [Contact Us](#)

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This email was sent to abermant@me.com using GovDelivery Communications Cloud on behalf of: City of Goleta · 130 Cremona Drive, Suite B · Goleta, CA 93117

From: [Click My Cause](#)
To: reports@clickmycause.com
Subject: Comments supporting strong protections for Goleta"s creeks
Date: Monday, November 25, 2019 12:48:31 PM
Attachments: [Comments supporting strong protections for Goleta"s creeks \(2019-11-25_71\).txt](#)

*** 2 constituents want you to know their views regarding **Protect Our Creeks** ***

November 25, 2019

Hello,

Attached please find new messages to you from your constituents regarding this issue. Each message includes the constituent's name, street address, and email address.

Forwarded on behalf of **Environmental Defense Center** by Click My Cause

Click My Cause - Empowering positive social impact since 2016

2019-11-25

Report on Protect Our Creeks

2 responding constituents

Leigh Readey, leighreadey@gmail.com

2141 Ridge Ln, Santa Barbara, CA 93103

Please protect Goleta creeks in the Goleta New Zoning Ordinance affecting Goleta's precious creeks, habitats and wetlands. Please include in the Zoning Ordinance language clearly stating the steps for determining if the required setback from creeks and riparian habitat may be reduced upon an applicant's request. This provision should apply broadly to any request to modify City zoning or policy requirements.

Linda Krop, lkrop@cox.net

5290 Overpass Road Unit 6, Santa Barbara, CA 93111

Please protect Goleta creeks in the Goleta New Zoning Ordinance affecting Goleta's precious creeks, habitats and wetlands. Please include in the Zoning Ordinance language clearly stating the steps for determining if the required setback from creeks and riparian habitat may be reduced upon an applicant's request. This provision should apply broadly to any request to modify City zoning or policy requirements.

From: [Darren Carter](#)
To: [City Clerk Group](#)
Subject: Protect the Gaviota Coast and our Creeks!
Date: Sunday, November 24, 2019 7:32:44 PM

To whom it may concern,

We strongly urge you to protect our creeks, wetlands, and habitats in and around the Gaviota Coast and Goleta. Our community wants you to know that we want robust protections for these resources by enforcing the required setbacks – these are absolutely critical to the stability of these precious resources. My wife and I spend a lot of time in these areas and they are critical to our local hangout spots, our hikes, and our home.

Thank you for standing up for what is right – we appreciate it.

Darren Carter
Resident of Santa Barbara

2019-11-26

Report on Protect Our Creeks

Melissa Bower, m-bower@earthlink.net

1095 Garcia Rd., Santa Barbara, CA 93103

Please protect Goleta creeks in the Goleta New Zoning Ordinance affecting Goleta's precious creeks, habitats and wetlands. Please include in the Zoning Ordinance language clearly stating the steps for determining if the required setback from creeks and riparian habitat may be reduced upon an applicant's request. This provision should apply broadly to any request to modify City zoning or policy requirements.

Brian, bearnewt@gmail.com

158 Verona Ave, Goleta, CA 93117

Please protect Goleta creeks in the Goleta New Zoning Ordinance affecting Goleta's precious creeks, habitats and wetlands. Please include in the Zoning Ordinance language clearly stating the steps for determining if the required setback from creeks and riparian habitat may be reduced upon an applicant's request. This provision should apply broadly to any request to modify City zoning or policy requirements.

Goleta's creeks and buffer areas are very important to our community, providing habitats for numerous rare species, natural water filtration and groundwater recharge, areas for recreation, trails and open spaces, outdoor labs for researchers and students of all ages, natural flood and erosion protection, and areas for quiet reflection and contemplation. However, many sections of Goleta's creeks have been channelized, diverted, dammed, and degraded, and as a result are polluted and offer fewer benefits. Creek setbacks are the most proactive way to protect creeks and enhance the values Goletans hold dear. Please ensure effective setbacks are maintained consistent with the General Plan and only reduced when found to be infeasible and when reduction would not significantly harm our valuable creeks and riparian areas.

From: [Tara Messing](#)
To: [City Clerk Group](#)
Cc: [Linda Krop](#); [Brian Trautwein](#)
Subject: EDC and UCC Comment Letter on Goleta NZO for 12/3 City Council Hearing
Date: Tuesday, November 26, 2019 5:13:43 PM
Attachments: [EDC and UCC Comments on NZO CC hearing on Dec 3 2019 11 26.pdf](#)

Hello,

Attached please find the comment letter submitted today by the Environmental Defense Center and Urban Creeks Council on the City of Goleta's New Zoning Ordinance in advance of the December 3rd hearing. Please confirm receipt.

Best,
Tara



November 26, 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 City 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 urge the City Council to adopt our proposed revisions to Sections 17.01.040 and 17.30.070 of the City's NZO attached hereto as Exhibit A. Third, we concur with the City's approach for the NZO to apply to both the inland and coastal portions of the City.

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 environmental law firm that protects and enhances the environment in Santa Barbara, Ventura, and San Luis Obispo counties through education, advocacy, and legal action.

I. It is in the Best Interests of the City to Undertake Consultation with the CCC Now Prior to Additional Adoption Hearings.

City staff must communicate with CCC staff now about the substance of the NZO to encourage a good faith discussion between the agencies. Over the past several months, EDC and UCC have repeatedly asked for City staff and CCC staff to coordinate on 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, duplicative efforts, and unexpected surprises during the CCC certification process.

Initiating discussions with CCC staff prior to the adoption process is also recommended by the CCC's South Central Coast/South Coast District Director, Steve Hudson, and is a common practice that has been adopted by many jurisdictions, including the City of Carpinteria and the City of Santa Barbara. For example, as detailed in a staff memorandum dated November 13, 2019 concerning the City of Carpinteria's Coastal Land Use Plan/General Plan update, the City of Carpinteria and CCC coordinated and worked together on the update *prior* to releasing public drafts.¹ Additionally, the City of Santa Barbara recently conducted a Local Coastal Program ("LCP") amendment process. In a staff report dated June 6, 2018 to the City of Santa Barbara Planning Commission regarding the LCP update, staff explained that they had engaged in "extensive consultations" with CCC staff throughout the LCP update process.² City of Santa Barbara staff recognized in the report that "...it is in the best interest of both the City and CCC to undertake extensive consultation up front prior to any hearings on the LCP Amendment."³ Notably, as evidenced in the staff report, City of Santa Barbara staff only had a few issues to bring to the Planning Commission.⁴ These examples further demonstrate the importance of pausing the City's NZO adoption process now to give City staff time to coordinate with the CCC staff, as is standard practice. 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. EDC and UCC's Recommended Language from the CCC Ensures Strong Protections for Creeks and Habitats by Informing the Requisite Analysis Upon an Applicant's Request to Alter City Zoning or Policy Requirements.

For years, the City has struggled with the implementation of the City's General Plan Policy Conservation Element ("CE") 2.2 concerning Streamside Protection Areas ("SPAs").⁵ Despite the Policy's strong protections for creeks and riparian habitats, the City has previously

¹ Staff memorandum dated November 13, 2019 concerning the City of Carpinteria's Coastal Land Use Plan/General Plan update.

² Staff report dated June 6, 2018 to the City of Santa Barbara Planning Commission regarding the City of Santa Barbara Local Coastal Program Amendment.

³ *Id.* at 4.

⁴ *Id.* at 5-6.

⁵ City of Goleta, General Plan, Ch. 4 Conservation Element at 4-13 to 4-14.

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 and our clients are 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 change City zoning or policy requirements to allow for a reasonable economic use.

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, 2019.⁶ 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.

A. EDC's and UCC's Recommendations are Consistent with, and Implement, the General Plan.

On November 2, 2019, the City Attorney provided EDC with proposed text for Section 17.30.070 regarding SPAs.⁷ The proposed revisions set forth four findings based on General Plan Policy CE 2.2(a)-(b) upon an applicant's request to reduce the minimum 100-foot creek setback:

- "a. The reduction in the SPA upland buffer will not have a significant adverse effect on streamside vegetation or the biotic quality of the stream;
- b. There is no feasible alternative siting for the proposed project that will avoid an incursion into the SPA upland buffer;
- c. In the absence of a reduction in the SPA upland buffer, the applicant cannot make reasonable economic use of the parcel; and
- d. The approved amount of reduction in the SPA upland buffer is no greater than necessary to allow a reasonable economic use of the parcel."⁸

The initial two findings (a)-(b) are based on General Plan Policy CE 2.2(a), which focuses on whether alternative siting of the development is feasible and if the project's impacts will have a significant adverse effect. The findings under subsections (c)-(d) relate to Policy CE 2.2(b), which assesses whether an applicant would be deprived of a "reasonable economic use" of their property if the 100-foot setback is imposed. Subsection (b) explicitly states that "[i]f the provisions above would result in any legal parcel created prior to the date of this plan being

⁶ City of Goleta, Response to Planning Commission Comments, available at: <http://nebula.wsimg.com/8714bb8793746cd61a460185ef09ae69?AccessKeyId=8B11547F66E8794DD29E&disposition=0&alloworigin=1>.

⁷ Proposed revisions to Section 17.30.070 provided by the City Attorney to EDC on November 2, 2019. ("Exhibit B").

⁸ City of Goleta, General Plan, Ch. 4 Conservation Element at 4-13 to 4-14.

made unusable in its entirety for any purpose allowed by the land use plan, exceptions to the foregoing may be made to allow a reasonable economic use of the parcel, subject to approval of a conditional use permit.”⁹ Thus, the four findings proposed by the City Attorney are based upon and consistent with General Plan Policy CE 2.2(a)-(b).

With regards to findings (c)-(d), assessing whether adherence to City zoning or policy requirements would preclude an applicant's “reasonable economic use” of their property equates to a takings analysis, which has broader applicability throughout the NZO than simply SPA buffer reductions. The CCC uses the phrase “reasonable economic use” in the context of evaluating whether adherence to a policy or other requirement would constitute an unconstitutional taking of private property without just compensation.¹⁰ The City of Santa Barbara also utilizes a “reasonable economic use” analysis in its Land Use Plan Policy 1.2-3 concerning private property takings based on suggestions by the CCC during the City of Santa Barbara's recent LCP amendment. It is therefore well-established by the CCC and other jurisdictions that “reasonable economic use” is applied in the context of a takings analysis.

Based on the foregoing, EDC revised the City Attorney's proposed text by pulling out the “reasonable economic use” analysis from the SPA section and placing it into the NZO's existing Section 17.01.040 regarding property takings.¹¹ As revised, Section 17.01.040(c) identifies the evidence that the Review Authority may rely on to determine whether adherence to a policy or requirement would preclude a reasonable economic use of property, such as compliance with the 100-foot SPA buffer.¹² The information set forth therein is based on CCC's language. Section 17.01.040(d) states the findings that must be made upon determining that deviation from a provision or standard is necessary to provide a reasonable economic use.¹³ These findings are also based on CCC's recommended language. Adopting such provisions will provide City decision-makers with a systemic approach for evaluating whether to allow a certain amount of development to provide for reasonable economic use of property. The process will also ensure that these decisions are based on adequate findings and evidence.

We therefore urge the City Council to direct staff to adopt our proposed revisions to Sections 17.01.040 and 17.30.070, which are consistent with General Plan Policy CE 2.2 and based on recommended language from the CCC.

B. EDC's and UCC's Recommendations are Based on Language Created by the CCC and Adopted—Without Controversy—in Neighboring Jurisdictions.

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 in the NZO generated by the CCC to inform decisionmakers' analysis when an applicant asserts that the application of a

⁹ *Id.*

¹⁰ California Coastal Commission, *Draft Residential Adaption Policy Guidance; Interpretive Guidelines for Addressing Sea Level Rise in Local Coastal Programs* at 64 (March 2018). (Excerpt attached as “Exhibit C”).

¹¹ Exhibit A.

¹² *Id.*

¹³ *Id.*

zoning or policy requirement would preclude a reasonable economic use of their property. The CCC's standard language establishes a detailed and clear process for evaluating whether adherence to a policy or ordinance would not provide a "reasonable economic use" (or an "economically viable use"). The CCC language offers a straightforward process for decision-makers to help navigate such an analysis and arrive at a legally defensible determination.

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 Eastern Goleta Valley Community Plan ("EGVCP"). Furthermore, on July 16, 2019, the City of Santa Barbara adopted findings substantially similar to Section 35-192.6 of the County's Coastal Zoning Ordinance for its 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.

The foregoing examples wholly defeat the unsubstantiated allegations previously made during public comment that adoption of the CCC language would cause the Review Authority to make determinations beyond the scope of their expertise. To the contrary, Planning Commission and City Council decisionmakers are in the position of evaluating whether a particular ordinance or policy requirement would preclude a reasonable economic use of property. It is thus imperative for the NZO to set forth a comprehensive process for making a legally defensible decision when an applicant raises this argument.

C. The City Continues to Grapple with Implementing Policy CE 2.2 as Evidenced by the Pending Amendment to the Kellogg (formerly Schwan) Self-Storage Project.

The Kellogg (formerly Schwan) Self-Storage Project ("Project") was approved by the City's Planning Commission on October 24, 2011 with a 50-foot SPA absent evidence that the 100-foot SPA required by Policy CE 2.2 was infeasible.¹⁴ Currently, the applicant is proposing an amendment to the Project ("Addendum No. 2"), which would "allow for the addition of 326 gross square feet and the rearranging of interior spaces, which results in an additional 2,738 net square feet of floor area and an increase in the number of storage units from 863 units to 1,043 units."¹⁵ In addition to increasing the total number of units and square footage of the Project, Addendum No. 2 proposes to increase the creek setback from 50-feet to 75-feet.¹⁶ It is clear that

¹⁴ City of Goleta, *Kellogg Crossing Self-Storage Development Plan Approval Project Page* (November 25, 2019) <https://www.cityofgoleta.org/city-hall/planning-and-environmental-review/ceqa-review/kellogg-crossing-formerly-schwan-self-storage-development-plan-amendment>; See also City of Goleta, *Notice of Pending Action by Director of the Planning and Environmental Review Department* at 1 (November 25, 2019).

¹⁵ City of Goleta, *Notice of Pending Action by Director of the Planning and Environmental Review Department* at 1 (November 25, 2019).

¹⁶ City of Goleta, *Kellogg Crossing (Formerly Schwan) Self-Storage Development Plan Amendment*, available at: <https://www.cityofgoleta.org/city-hall/planning-and-environmental-review/ceqa-review/kellogg-crossing-formerly-schwan-self-storage-development-plan-amendment>.

the Project could have originally been designed, redesigned, or amended by the City to impose an SPA buffer requirement of at least 75 feet. This example further supports EDC and UCC's request for an effective ordinance to implement Policy CE 2.2.¹⁷

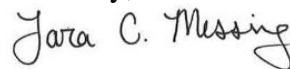
III. The NZO Must Apply to Both the Coastal and Inland Portions of the City, as Drafted by City Staff and Approved by the Planning Commission.

The City's NZO must apply to both the inland and coastal portions of the City. All sections of creeks must be treated the same. Bifurcating the NZO will open-the-door for the application of weaker standards for creek protection in inland areas.

IV. Conclusion

For the foregoing reasons, we respectfully request that the City Council direct staff to consult with CCC staff before proceeding forward with the NZO adoption process to ensure an informed and efficient certification process. We have made this request repeatedly over the past several months, but it is not too late to initiate coordination now. Second, we urge the City Council to adopt our proposed revisions to Sections 17.01.040 and 17.30.070 of the NZO. Third, we concur with the City's approach for the NZO to apply to both the inland and coastal portions of the City.

Sincerely,



Tara C. Messing
Staff Attorney

cc: Santa Barbara Urban Creeks Council

Exhibits:

A – EDC Proposed Revisions to Sections 17.01.040 and 17.30.070 of the City of Goleta's Draft New Zoning Ordinance submitted to City Attorney on November 14, 2019.

B – Proposed revisions to Section 17.30.070 provided by the City Attorney to EDC on November 2, 2019.

C – Excerpt from California Coastal Commission, *Draft Residential Adaption Policy Guidance; Interpretive Guidelines for Addressing Sea Level Rise in Local Coastal Programs* (March 2018).

¹⁷ EDC has also identified the Village at Los Carneros Project as another example which demonstrates the need for a standalone provision that would apply to any request to alter City zoning or policy requirements affecting creeks and other habitats. There, the applicant proposed to reduce the SPA by fifty percent. The 465-unit residential Project was proposed with a maximum 50-foot setback from Tecolotito Creek. Ultimately, the 100-foot SPA buffer was determined to be infeasible and the Project was deemed "consistent with this Policy [CE 2.2]." However, 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 Policy CE 2.2.

EXHIBIT A



November 14, 2019

Michael Jenkins
City Attorney
130 Cremona Drive, Suite B
Goleta, CA 93117
(805) 961-7533
Michael.Jenkins@bbklaw.com

Submitted electronically via Michael.Jenkins@bbklaw.com

Re: EDC Proposed Revisions to the City of Goleta's Draft New Zoning Ordinance

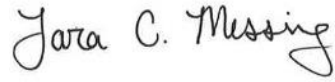
Dear Mr. Jenkins,

The following comments are submitted by the Environmental Defense Center ("EDC") on behalf of Santa Barbara Urban Creeks Council ("UCC") and EDC regarding proposed revisions to Sections 17.01.040 and 17.30.070 of the City of Goleta's ("City") Draft New Zoning Ordinance. Attached hereto as Attachment A are our proposed revisions to Sections 17.01.040 and 17.30.070. EDC revised Section 17.01.040 based on the version set forth in the Planning Commission Recommended New Zoning Ordinance. Changes to Section 17.30.070 are based on the proposed text drafted and sent electronically to EDC by the City Attorneys on November 2, 2019.

UCC is a non-profit grassroots organization dedicated to protecting and restoring streams and watersheds in Santa Barbara 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.

We appreciate your consideration and look forward to continuing to work with the City to ensure strong protections for Goleta's creeks, wetlands, and other vital natural resources.

Sincerely,

A handwritten signature in black ink that reads "Tara C. Messing". The script is cursive and fluid.

Tara C. Messing

cc: Santa Barbara Urban Creeks Council
Peter Imhof
Michelle Greene
Anne Wells

Attachments:

A – EDC Proposed Revisions to Sections 17.01.040 and 17.30.070 of the City of Goleta's Draft New Zoning Ordinance

EXHIBIT A



TO: Michael Jenkins, Goleta City Attorney
FROM: Tara Messing, EDC Staff Attorney
Re: EDC Proposed Revisions to the City of Goleta's Draft New Zoning Ordinance
Date: November 14, 2019

17.01.040 Applicability

A. General Rules for Applicability of Zoning Regulations.

1. Timing. All development within the City shall be subject to the development standards and regulations herein upon the effective date of this Title.

2. Private Property Takings.

a. This ~~Title-Zoning Ordinance~~ is not intended, and shall not be construed as authorizing the City acting pursuant to this ~~Title-Zoning Ordinance~~ to exercise its power in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This ~~Section-Zoning Ordinance~~ is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

b. Where ~~strict-full~~ adherence to the provisions and standards of this Title-Zoning Ordinance would preclude ~~all economically beneficial~~ a reasonable economic use of a lawfully created ~~private~~ property ~~as a whole~~, the City may allow the minimum use and development of the property necessary to avoid an unconstitutional taking of private property without just compensation ~~apply the provisions of this Title to the maximum extent possible to avoid an unconstitutional taking of private property~~. However, where proposed use or development of property would violate background principles of property law, such as nuisance law or public trust doctrine, then the City shall fully apply this ~~Title-Zoning Ordinance~~ as applicable. Continued use of an existing structure, including with any permissible repair and maintenance, may provide a reasonable economic use. If development is allowed pursuant to this section, it must be consistent with all policies and standards of the General Plan and Zoning Ordinance to the maximum extent feasible.

c. If full adherence to this Title-Zoning Ordinance would preclude a reasonable economic use of property, the Review Authority shall request that the applicant provide the following information, unless the Review Authority determines that one or more of the particular categories of information is not relevant to its analysis. The information shall pertain to the

Commented [TM1]: EDC uses the phrase "reasonable economic use" in these revisions in order to be consistent with the City of Goleta's General Plan policies. EDC reserves the right to revise the phrase "reasonable economic use" as used herein later in the process, particularly during the California Coastal Commission review and certification process.

entirety of all parcels that are geographically contiguous and held by the applicant in common ownership at the time of the application.

- i. The date the applicant purchased or otherwise acquired the property, and from whom.
- ii. The purchase price paid by the applicant for the property.
- iii. 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.
- iv. 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.
- v. Any development restrictions or other restrictions on use, other than government regulatory restrictions, that applied to the property at the time the applicant acquired it, or which have been imposed after acquisition.
- vi. 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.
- vii. 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.
- viii. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.
- ix. 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.
- x. 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.
- xi. 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.
- xii. Any additional information that the County requires to make the determination.

d. ~~Where strict adherence to this Title would constitute an unconstitutional taking, The~~ Review Authority may, at its sole discretion, ~~waive an application or parts of an application~~ allow deviation from provisions or standards of the Zoning Ordinance to provide a reasonable economic use only if the following findings can be made supported with substantial evidence. ~~The waiver shall:~~

- i. Based on the economic information provided by the applicant and reviewed by a City-approved, third-party economic consultant, as well as any other relevant evidence, the provisions and/or standards of the Zoning Ordinance would not provide a reasonable economic use of the applicant's property.

- ii. Application of the provisions and/or standards of the Zoning Ordinance would unreasonably interfere with the applicant's reasonable investment-backed expectations.
- iii. Extend only as far as necessary to allow some economically beneficial use of the property; The use and project design, siting, and size are the minimum necessary to avoid a taking.
- iv. The use proposed by the applicant is consistent with the applicable zoning.
- vii. The project is the least environmentally damaging alternative and is consistent with all provisions of the Zoning Ordinance other than the provisions for which the exception is requested.
- viii. Comply ~~The project complies~~ with ~~CEQA and all~~ other applicable state and federal laws.
- viii. The development will not be a public nuisance or violate other background principles of the State's law of property, e.g. public trust doctrine. If the project would violate any such background principle of property law, the development shall be denied. Not constitute a nuisance.

3. Applicability to Property. This Title applies, to the extent permitted by law, to all property within the corporate limits of the City.
4. Compliance with Regulations. Land or buildings may be used and structures may be erected or altered only in accordance with the provisions of this Title.
5. Applicability to the City. The City will ensure that all public buildings and facilities comply with the same development standards and regulations as would be applicable to private development.
6. Applicability to Other Agencies. Other governmental agencies, including State and federal, are exempt from the provisions of this Title only to the extent that the agency's property cannot be lawfully regulated by the City.

17.30.070 Streamside Protection Areas

A. Purpose and Applicability. The purpose of a Streamside Protection Area (SPA) designation in the General Plan is to preserve and enhance the SPA in order to protect the associated riparian habitats and ecosystems as well as the water quality of streams. The SPA consists of the creek channel, wetlands and/or riparian vegetation related to the creek hydrology and an adjacent upland buffer area ~~the riparian vegetation in the buffer area adjacent to streams.~~

B. Required SPA Buffer. The SPA upland buffer must be a minimum of 100 feet outward on both sides of the ~~stream/creek~~, measured from the top of the bank or the outer limit of the wetlands and/or riparian vegetation, whichever feature is further from the creek. The Review Authority may allow portions of a SPA upland buffer to be less than 100 feet wide, but not less than 25 feet wide, based on a site specific assessment ~~may expand or reduce the upland buffer on~~ a case-by-case basis, as provided in this Section.

C. Reduction in the SPA Buffer.

1. Upon request of an applicant, the Review Authority may allow portions of a SPA upland buffer to be less than 100 feet, as such measurement is prescribed in paragraph B above, but not less than 25 feet, with approval of a Major Conditional Use Permit, provided the Review Authority finds, on the basis of substantial evidence in the record, that:

a. The reduction in the SPA upland buffer will not have a significant adverse effect on streamside vegetation or the biotic quality of the stream;

b. There is no feasible alternative siting for the proposed project that will avoid an incursion into the SPA upland buffer;

c. In the absence of a reduction in the SPA upland buffer, the applicant cannot make reasonable economic use of the ~~parcel~~property; and

d. The approved amount of reduction in the SPA upland buffer is no greater than necessary to allow a reasonable economic use of the ~~parcel~~property.

2. Upon receipt of an application for an SPA upland buffer reduction, the Director may direct preparation by a City-selected, ~~third-party consultant biologist~~ of a Biological Report, ~~an economic/financial analysis~~ and/or any other study or report the Director deems necessary in his or her reasonable discretion, at the applicant's expense, to assist the Review Authority in making ~~the above~~ findings ~~(a)-(b)~~. At the request of the Director, the applicant shall provide information that the Director deems necessary, in his or her reasonable discretion, ~~to produce the above referenced studies or reports, including but not limited to financial data, land appraisal data, acquisition cost, land development/construction cost data, prospectuses, and financial/revenue projections. The application will not be deemed complete until the required reports are completed to the Director's satisfaction.~~

To assist the Review Authority in making findings (c)-(d), refer to Section 17.01.040 of this Zoning Ordinance. Any deviation from a policy or standard of the General Plan or Zoning Ordinance to provide a reasonable economic use of property may only be allowed if the application is approved by the Review Authority consistent with Section 17.01.040.

The application will not be deemed complete until the required reports are completed to the Director's satisfaction.

D. Expansion of the SPA Buffer. In connection with consideration of any discretionary entitlement for a ~~parcel~~property adjoining a creek, the Review Authority may expand the SPA upland buffer beyond 100 feet at the Review Authority's discretion to preserve and enhance the SPA in order to protect the associated riparian habitats, ecosystems, and/or water quality as necessary to avoid a significant adverse effect on streamside vegetation or the biotic quality of the stream. The buffer may be expanded provided that the applicant may still make reasonable economic use of the ~~parcel~~property.

E. ~~Definitions.~~ The following definitions shall apply for purposes of carrying out the provisions of this Section 17.30.070:

~~“No feasible alternative siting” shall mean that the size, configuration, topography and development constraints of the parcel would not allow development of the parcel in any manner consistent with the allowable uses and design and development standards applicable in the zone and allow a reasonable economic use of the parcel without incursion into the SPA upland buffer.~~

~~“Reasonable economic use of the parcel” shall mean, considering all relevant factors:~~

~~1. For a commercial, industrial, multiple family residential or other investment project on the parcel, the applicant is able to generate positive net operating income and obtain a fair return on its investment in light of what the applicant knew or should have known about the City imposed restrictions on use of the property. Factors excluded from the evaluation of fair return shall include matters that could not be reasonably foreseen by and that are outside the control of the applicant, as well as avoidable, unreasonable or unnecessary expenses.~~

~~2. For a single family residential project on the parcel, the applicant is able to construct, taking into account any other modifications allowed by the Review Authority, a single family residential dwelling (with standard attendant features, such as driveways, porches and fences) that is reasonably comparable in size and functionality to residential dwellings on similar size parcels in the vicinity under the same zoning classification.~~

~~“Significant adverse effect” shall mean a substantial or potentially substantial adverse change in the physical condition of the streamside vegetation and the stream as that phrase is understood and used in the California Environmental Quality Act (Section 21000 *et seq.* of the California Public Resources Code) and implementing regulations.~~

EXHIBIT B

17.30.070 Streamside Protection Areas

A. Purpose and Applicability. The purpose of a Streamside Protection Area (SPA) designation in the General Plan is to preserve and enhance the SPA in order to protect the associated riparian habitats and ecosystems as well as the water quality of streams. The SPA consists of the riparian vegetation in the buffer area adjacent to streams.

B. Required SPA Buffer. The SPA upland buffer must be 100 feet outward on both sides of the stream, measured from the top of the bank or the outer limit of the riparian vegetation, whichever feature is further from the creek. The Review Authority may expand or reduce the upland buffer on a case-by-case basis, as provided in this Section.

C. Reduction in the SPA Buffer.

1. Upon request of an applicant, the Review Authority may allow portions of a SPA upland buffer to be less than 100 feet, as such measurement is prescribed in paragraph B above, but not less than 25 feet, with approval of a Major Conditional Use Permit, provided the Review Authority finds, on the basis of substantial evidence in the record, that:

a. The reduction in the SPA upland buffer will not have a significant adverse effect on streamside vegetation or the biotic quality of the stream;

b. There is no feasible alternative siting for the proposed project that will avoid an incursion into the SPA upland buffer;

c. In the absence of a reduction in the SPA upland buffer, the applicant cannot make reasonable economic use of the parcel; and

d. The approved amount of reduction in the SPA upland buffer is no greater than necessary to allow a reasonable economic use of the parcel.

2. Upon receipt of an application for an SPA upland buffer reduction, the Director may direct preparation by a City-selected consultant of a Biological Report, an economic/financial analysis and/or any other study or report the Director deems necessary in his or her reasonable discretion, at the applicant's expense, to assist the Review Authority in making the above findings. At the request of the Director, the applicant shall provide information that the Director deems necessary, in his or her reasonable discretion, to produce the above-referenced studies or reports, including but not limited to financial data, land appraisal data, acquisition cost, land development/construction cost data, prospectuses, and financial/revenue projections. The application will not be deemed complete until the required reports are completed to the Director's satisfaction.

D. Expansion of the SPA Buffer. In connection with consideration of any discretionary entitlement for a parcel adjoining a creek, the Review Authority may expand the SPA upland buffer beyond 100 feet as necessary to avoid a significant adverse effect on streamside

vegetation or the biotic quality of the stream. The buffer may be expanded provided that the applicant may still make reasonable economic use of the parcel.

E. Definitions. The following definitions shall apply for purposes of carrying out the provisions of this Section 17.30.070:

“No feasible alternative siting” shall mean that the size, configuration, topography and development constraints of the parcel would not allow development of the parcel in any manner consistent with the allowable uses and design and development standards applicable in the zone and allow a reasonable economic use of the parcel without incursion into the SPA upland buffer.

“Reasonable economic use of the parcel” shall mean, considering all relevant factors:

1. For a commercial, industrial, multiple-family residential or other investment project on the parcel, the applicant is able to generate positive net operating income and obtain a fair return on its investment in light of what the applicant knew or should have known about the City-imposed restrictions on use of the property. Factors excluded from the evaluation of fair return shall include matters that could not be reasonably foreseen by and that are outside the control of the applicant, as well as avoidable, unreasonable or unnecessary expenses.

2. For a single-family residential project on the parcel, the applicant is able to construct, taking into account any other modifications allowed by the Review Authority, a single-family residential dwelling (with standard attendant features, such as driveways, porches and fences) that is reasonably comparable in size and functionality to residential dwellings on similar size parcels in the vicinity under the same zoning classification.

“Significant adverse effect” shall mean a substantial or potentially substantial adverse change in the physical condition of the streamside vegetation and the stream as that phrase is understood and used in the California Environmental Quality Act (Section 21000 *et seq.* of the California Public Resources Code) and implementing regulations.

EXHIBIT C



CALIFORNIA COASTAL COMMISSION RESIDENTIAL ADAPTATION POLICY GUIDANCE

Interpretive Guidelines for Addressing Sea Level Rise in Local Coastal Programs



Oceanside



King Salmon



Ventura



Solana Beach

Photo Credit: Mary Matella

MARCH 2018

REVISED

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CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
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DRAFT RESIDENTIAL ADAPTATION POLICY GUIDANCE

March 2018

*This report was prepared with financial assistance from National Oceanic and Atmospheric Administration
(NOAA) FY 2014 grant NA14NOS4190046*

How to Use this Document

Use this document as:	This document is <u>NOT</u> :
Interpretive Guidelines	Regulations
<p><i>This Guidance is advisory. It provides the Commission’s direction on how local governments can address sea level rise issues in Local Coastal Programs consistent with the Coastal Act. The guidance is not a regulatory document or legal standard of review for the actions that the Commission or local governments may take under the Coastal Act. Such actions are subject to the applicable requirements of the Coastal Act, the federal Coastal Zone Management Act, certified Local Coastal Programs, and other applicable laws and regulations as applied in the context of the evidence in the record for that action.</i></p>	
Examples to modify	A substitute for consultation with CCC staff
<p><i>This Guidance contains model policies that may need to be customized before they can be incorporated into individual LCPs. In addition, not all policies are applicable in every jurisdiction. Commission staff can assist local governments with using the Guidance to develop policies that help prepare for sea level rise impacts in their communities.</i></p>	
Policy options for consideration	A checklist
<p><i>Not all of the content will be applicable to all jurisdictions. Jurisdictions should consider the policy options that are relevant to their specific situation, rather than view the options as a checklist of requirements.</i></p>	

Table of Contents

Summary	1
1. Background.....	4
Coastal Resources at Risk	5
Importance of LCPs	6
Shoreline Residential Development Types/Patterns	7
2. Policy Recommendations for All Hazardous Areas	17
Evaluate and Communicate Risks Using Best Available Science.....	17
Disclose Risks and Require Property Owners to Assume Risks.....	18
Avoid and Minimize Hazard Risks through Siting and Design.....	18
Plan for Future Removal of Threatened Development.....	19
Regulate Redevelopment.....	19
Prepare for Emergency Permits	20
Develop Adaptation Plan	20
3. Developing Adaptation Strategies for Specific Areas.....	22
Analyzing Alternative Adaptation Strategies	24
Siting New Development (Avoid)	25
Hard Shoreline Armoring (Protect)	25
Soft Shoreline Protection (Protect).....	26
Adaptive Design (Accommodate).....	27
Managed Retreat (Relocation/Realignment)	28
4. Legal Considerations	31
Relevant Coastal Act Policies.....	31
Adaptation Strategies for Development Constructed after January 1, 1977	33
Public Trust Doctrine	36
Background on Public Trust Doctrine.....	36
Coastal Commission and Local Government Public Trust Authority and Duties	37
The Public Trust and Sea Level Rise Adaptation	39
General Principles of Takings Law.....	40
Addressing Takings Concerns	42
Takings Analysis Policy	44

5. Implementing Adaptation Strategies	46
LCP Planning Steps	46
Adaptation Pathways	47
Regional Coordination.....	49
Coordination and Alignment with Other Planning-Related Processes	50
Funding Opportunities	50
6. Model Policy Language.....	52
A. UNDERSTANDING SEA LEVEL RISE HAZARDS	52
Best Available Science	52
A.1 Identifying and Using Best Available Science.....	52
A.2 Identifying Planning Horizons	53
A.3 Mapping Coastal Hazards.....	53
Site-specific Coastal Hazard Studies.....	55
A.4 Site-specific Coastal Hazard Report Required.....	55
A.5 Coastal Hazard Report Contents	55
Assumption of Risk.....	57
A.6 Assumption of Risk.....	57
Real Estate Disclosure	58
A.7 Real Estate Disclosure of Hazards	58
B. AVOID SITING NEW DEVELOPMENT AND/OR PERPETUATING REDEVELOPMENT IN HAZARD AREAS....	59
B.1 Siting to Protect Coastal Resources and Minimize Hazards.....	59
B.2 Removal Plan Conditions for New Development in Hazardous Areas.....	60
B.3 Reliance on Shoreline Armoring.....	61
B.4 Bluff Face Development	61
B.5 Determining Bluff Setback Line	61
B.6 Minor Development in Hazardous Areas	61
B.7 Redevelopment	63
B.8 Nonconforming Structures in Areas Subject to Coastal Hazards	63
Land Division	64
B.9 Restrict Land Division in Hazardous Areas	64
Exceptions	64
B.10 Takings Analysis.....	64
C. DESIGN FOR THE HAZARD	64

Adaptive Design	65
C.1 Adaptive Design	65
C.2 Design Guidelines to Reduce Greenhouse Gas Emissions	65
D. MOVING DEVELOPMENT AWAY FROM HAZARDS	65
Managed Retreat	65
D.1 Removal Conditions/Development Duration	65
D.2 Contingency Funds.....	66
D.3 Mean High Tide Line (MHTL) Survey Conditions	66
E. MOVING HAZARDS AWAY FROM DEVELOPMENT	67
E.1 Habitat Buffers	67
E.2 Soft Shoreline Protection	68
E.3 Avoid Adverse Impacts from Stormwater and Dry Weather Discharges	68
E.4 Flood Hazard Mitigation	68
F. BUILDING BARRIERS TO PROTECT FROM HAZARDS	69
Shoreline Armoring	69
F.1 Shoreline and Bluff Protective Devices	70
F.2 Prioritization of Types of Shoreline Protection	70
F.3 Siting and Design to Avoid and to Mitigate Impacts	70
F.4 Repair and Maintenance of Shoreline Protective Devices	71
F.5 Evaluation of Existing Shoreline Armoring	71
F.6 Shoreline Armoring Duration	71
F.7 Shoreline Armoring Mitigation Period	72
F.8 Shoreline Armoring Monitoring and Mean High Tide Line Surveys	72
F.9 Limits on Future Shoreline Armoring	73
F.10 Bulkheads for Waterfront Development.....	73
F.11 Emergency Permits.....	74
G. COMMUNITY SCALE ADAPTATION PLANNING	76
Developing Adaptation Planning Information	76
G.1 Management of Sea Level Rise Hazards	76
G.2 Adaptation Plan	78
G.3 Adaptation Plan for Highly Vulnerable Areas	78
Sea Level Rise Overlay Zones	78
G.4 Sea Level Rise Hazard Overlay Zone	79

G.5 Beach Open Space Zone	79
Community Scale: Beach and Dune Adaptation	79
G.6 Beach Nourishment	79
Community Scale: Bluff Erosion Adaptation	79
G.7 Improve Drainage on Bluffs to Reduce Erosion	79
Trigger-Based Adaptation Approaches	80
G.8 Repetitive Loss	80
G.9 Beach Management Plan	80
G.10 Managed Retreat Program	81
Transfer of Development Rights	82
G.11 Transfer of Development Rights Program	82
Financing Adaptation	82
G.12 Geologic Hazard Abatement Districts (GHADs) and County Service Areas (CSAs)	82
G.13 Aligning LCPs with LHMPs	82
APPENDIX A. FUNDING OPPORTUNITIES FOR LCP PLANNING AND IMPLEMENTATION	83

List of Tables and Figures

Table 1. Shore development typology groups with associated subtypes	8
Table 2. List of model policy options	15
Table 3. Crosswalk of policies and LCP planning steps	47
Figure 1. Coastal squeeze process resulting in beach loss	5
Figure 2. Marin county communities show diverse geomorphic types with residential development	10
Figure 3. Strategies for adaptation to sea level rise.	22
Figure 4. Planning Framework	24
Figure 5. Analytical steps for considering shoreline armoring to protect residential structures	35
Figure 6. Hypothetical example of adaptation pathway using flood duration and flood extent triggers ...	49

Land Division

B.9 Restrict Land Division in Hazardous Areas

Limit land divisions, including lot line adjustments, in areas vulnerable to coastal hazards, including hazards exacerbated by sea level rise. Prohibit the creation of new lots (including adjusted lots) in such areas, unless it is demonstrated either that: 1) the new lot(s) would be permanently protected for open space, public access, or other similar purposes consistent with the LCP, or 2) resultant parcels contain a buildable area in which development on new lots would comply with LCP policies protecting coastal resources, would remain located on private property despite the migration of the public trust boundary, not require the future construction or augmentation of a shoreline protective device, be adequately served by public services (e.g., water, sewer, and safe, legal, all-weather access as applicable) over the anticipated duration of the development, and otherwise be consistent with all LCP policies.

Exceptions

Note: Despite the Coastal Act's requirements to minimize hazards and protect coastal resources, local governments must still ensure that actions on coastal development permits do not result in an unconstitutional taking of private property. Many LCPs already contain takings policies to address this need. The model language below notes that background principles of property law like the public trust doctrine or nuisance abatement might change the context of decisions related to sea level rise adaptation actions in the future. This policy helps clarify when a taking might not be a consideration.

Communities might also create adaptation plans on a neighborhood scale (see Model Policy G.3—Adaptation Plan for Highly Vulnerable Areas) to provide strategies for hazardous areas where development must be approved to avoid an unconstitutional taking of private property.

B.10 Takings Analysis

Where full adherence with all LCP policies, including for setbacks and other hazard avoidance measures, would preclude a reasonable economic use of the property as a whole, the [**city or county, or Commission if on appeal**] may allow the minimum economic use and/or development of the property necessary to avoid an unconstitutional taking of private property without just compensation. There is no taking that needs to be avoided if the proposed development constitutes a nuisance or is otherwise prohibited pursuant to other background principles of property law (e.g., public trust doctrine). Continued use of an existing structure, including with any permissible repair and maintenance (which may be exempt from permitting requirements), may provide a reasonable economic use. If development is allowed pursuant to this policy, it must be consistent with all LCP policies to the maximum extent feasible.

C. DESIGN FOR THE HAZARD

Note: The Coastal Act requires hazards to be minimized. Accommodation strategies rely on methods that modify existing developments or design new developments to minimize hazard risks and thus increase the resiliency of development to the impacts of sea level rise. Design options for accommodation can be an important part of phasing a community's response to sea level rise impacts, especially when it is not feasible to avoid hazards altogether. The policy below is general, but could be customized to the applicable hazards a community is confronting. Also see Model Policy E.4 for flood hazard mitigation design options.

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

From: Carey, Barbara@Coastal [Barbara.Carey@coastal.ca.gov]

Received: Tuesday, 26 Nov 2019, 4:47PM

To: Peter Imhof [pimhof@cityofgoleta.org]; Anne Wells [awells@cityofgoleta.org]

CC: Hudson, Steve@Coastal [Steve.Hudson@coastal.ca.gov]

Subject: Comment letter for NZO hearing on 12/3/2019

Hi Peter and Anne—

Attached is Commission staff's comment letter for the NZO hearing before the City Council next week.
Hard copy to follow by mail.

Thank you for your consideration of our comments.

Thanks, Barbara

Barbara Carey | District Manager

California Coastal Commission | South Central Coast District

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(805) 585-1800

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CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
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(805) 585-1800



November 26, 2019

Mayor Perotte and Councilmembers
130 Cremona Drive, Suite B
Goleta, California 93117

Subject: City Council consideration of New Zoning Ordinance

Dear Mayor Perotte and Councilmembers:

I am writing with regard to the City Council's consideration of the City of Goleta New Zoning Ordinance. While it is our understanding that the zoning ordinance would not be adopted as part of a proposed local coastal program (LCP) at this time, it has been indicated by City of Goleta staff that it may be adopted as such in the near future. In recent discussions between our respective staffs, it was indicated that the City may submit the existing Goleta General Plan and the New Zoning Ordinance to the Coastal Commission for consideration as an LCP, with the understanding that staff coordination may occur after submittal.

We would like to request that the City Council consider a revised process for LCP development that would allow for City and Commission staff coordination and City Council adoption of any necessary changes agreed upon by our respective staffs prior to (rather than after) formal submittal of an LCP to the Coastal Commission. Such a collaborative process would allow our respective staffs to work together to most efficiently address and resolve any potential issues relating to consistency between the City's draft LCP and the Coastal Act while minimizing the number of potential suggested modifications by the Commission that might be necessary during the formal certification process.

Local Coastal Programs (LCPs) are comprised of the local government's (1) land use plans, (2) zoning ordinances, (3) zoning district maps and (4) other implementing actions which provide the goals, objectives, principles, standards, maps, and other provisions that direct the physical development and use of land and water that meet the requirements of, and implement the provisions and policies of the Coastal Act. LCPs may be developed in a number of different formats, but typically consist of at least two parts: 1) land use plan (LUP); and 2) implementation program (IP). The standard of review to certify the LUP is consistency with the Chapter 3 policies of the Coastal Act. The standard of review for an IP is that it conforms with and is adequate to carry out the Land Use Plan.

As part of a Coastal Commission LCP grant to the City, there was extensive staff coordination on a draft Goleta Land Use Plan in 2015-2016. This coordination included meetings, phone conversations, and the exchange of written comments and responses between City and Commission staff members. That effort (including a summary of significant issues that needed to be addressed to ensure LUP consistency with the Coastal Act) was addressed in detail in our May 3, 2016 letter which is attached for your information. Unfortunately, many of the previously

identified issues identified by that effort were never addressed or incorporated in the City's draft LUP. As discussed in our May 3, 2016 letter, these changes are necessary in order for the LUP to be found consistent with the Coastal Act. At that time, City staff explained to us that the 2014 Draft LUP primarily reflected the policies of the Goleta General Plan, and that planning staff did not believe it had the ability to agree to substantive changes to the parallel LUP language at a staff level without input from the City Council.

We think there would be great value in further staff coordination on a draft LCP. We recommend that the City Council authorize City staff to coordinate with Commission staff to identify and resolve any potential issues necessary for the LUP to be found consistent with the Coastal Act and a LIP consistent with the LUP. To facilitate this process, we further recommend that the City staff bring the draft LUP and IP back to the City Council for adoption with any necessary changes before they are submitted to the Commission for approval as an LCP. This process will ensure maximum transparency and local public input on the LCP. It will also allow the City Council to consider necessary changes coordinated between City and Commission staff and to narrow areas of disagreement further. Submittal of a revised LCP would allow for more streamlined processing by Commission staff where additional coordination (if necessary) could focus on a much shorter list of remaining issues. This process would greatly increase the likelihood of successful adoption and certification of a City of Goleta LCP that would meet the needs of the City while ensuring consistency with the Coastal Act.

Thank you very much for considering our comments. We would welcome an opportunity to meet with your staff and City Council representatives to further discuss LCP development and staff coordination opportunities.

Sincerely,



Steven M. Hudson
District Director

Attachment: May 3, 2016 letter to Jennifer Carmany, City of Goleta

cc: Michelle Green, City Manager, City of Goleta
Peter Imhoff, Planning Director, City of Goleta
Anne Wells, Planning Manager, City of Goleta
John Ainsworth, Executive Director, Coastal Commission
Barbara Carey, District Manager, Coastal Commission

CALIFORNIA COASTAL COMMISSION

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May 3, 2016

Jennifer Carman
City of Goleta
130 Cremona Drive, Suite B
Goleta, California 93117

RE: Status of City of Goleta Draft Local Coastal Program

Dear Ms. Carman,

This correspondence is to memorialize the status of the City's Draft Local Coastal Program subsequent to the coordination between our staffs that occurred over the past year as part of the Commission's grant program. The final deliverables for the grant include technical reports, a draft Land Use Plan and a draft Implementation Plan. In fulfillment of the grant, we have received the revised policy charts by topic, which represent the City's progress on the draft Land Use Plan, and we have recently received the City's draft Implementation Plan document.

The Commission's grant required coordination with Coastal Commission staff for the purpose of developing a Local Coastal Program (LCP) for the City of Goleta that fully and adequately implements the provisions of the Coastal Act. In the spirit of coordination, we have collaborated by meeting in person and by phone on numerous occasions to discuss issues related to the draft policies of the Land Use Plan (LUP) (dated December 2014). In addition, we have provided detailed input on all of the original policies by providing a written mark-up of the policies along with specific explanations describing the reasons why the suggested changes to the policy language are necessary to ensure consistency with the Coastal Act. (Rather than attach these comments again due to length, our original comments are being provided to accompany this letter in digital form via a separate email.) As part of our coordination, we have also provided other suggestions to supplement and revise the Figures/Maps and scope of the LUP. Using a similar written format, the City staff responded to our initial policy suggestions by accepting, denying, or further revising the policies. Finally, both staffs have coordinated further (including meetings, phone calls, and written responses) with regard to our initial policy suggestions in an effort to try to reach agreement on Coastal Act policy consistency.

We recognize that it may not be possible to reach complete agreement on all LUP policies or issues; however, the City's latest proposed revisions (received Dec 2015 – Feb 2016) have not addressed the majority of our substantive comments and requested changes necessary to bring the draft LUP into conformance with the Coastal Act. As a result, the LUP, as drafted, is not consistent with the policies and provisions of the Coastal Act. City staff previously indicated that they would continue working to incorporate many of these substantial revisions to certain LUP policies that are necessary in order to comply with the requirements of the Coastal Act, while retaining the format and structure of the City's General Plan policies. However, such substantial revisions were never provided to us and are not included in the final policy charts.

As your staff has explained to us, the LUP primarily reflects the policies of the Goleta General Plan, and planning staff does not believe it has the ability to agree to substantive changes to the parallel LUP language at a staff level without input from the City Council. However, this inability to work on substantive changes to the draft LUP without input from the City Council has significantly limited the effectiveness of the coordination process. As we have discussed previously, there are significant differences between a General Plan and a Land Use Plan. The Coastal Act applies a specific set of land use planning principles and resource protection provisions within the Coastal Zone and requires local governments to reflect those principles and provisions within an LUP in order for the LUP to conform to the Coastal Act. Additionally, the Implementation Plan must conform to and be adequate to carry out the policies of the LUP. This means that the pattern and level of development allowed within the Coastal Zone is likely to be different in some ways from the pattern and level of development that may be allowed by a local government outside of the Coastal Zone. Further, the protection of coastal resources is also likely to be implemented differently within the Coastal Zone.

Based on our review of the most recent version of the LUP policy charts, it is Commission staff's opinion that the current version of the Draft LUP is not adequate to carry out the provisions of the Coastal Act. There are many significant issues that still need to be addressed in order to ensure that the LUP will achieve consistency with the Coastal Act. Even though we are now past the end of the grant timeline, the grant program was intended to support a pre-existing and on-going coordination process and Commission staff is committed to continue that coordination with City of Goleta staff to move closer to resolution of Coastal Act consistency issues. We also believe it is important to recognize that some of the draft policies—for example, the policies related to coastal hazards—are very well done, in that they are crafted to respond to local conditions using the best available science. There is a great opportunity to build upon that work and work toward Coastal Act consistency in the entire LCP. We cannot cover all of the remaining issues in this correspondence; however, some of the overarching issues are briefly characterized below and are described in detail with recommended changes in the separately attached comments that have been previously provided to City staff (between March 2015 – January 2016):

- Archaeological and Paleontological Resources. There are some concerns with regard to the City's approach to protecting archaeological and paleontological resources, primarily: the means of defining the cultural significance of resources that are subject to protection and the interpretation of resource protection to avoid "destruction" or "harmful alteration."
- Energy Facilities. The primary concerns with energy-related development include: regulation of modifications or alterations of the existing Ellwood Onshore Facility beyond what is allowed in the Coastal Act; the implication that oil and gas transportation pipelines must be discontinued; the need for siting and design provisions for pipelines consistent with protection of coastal resources; regulation of State Lease 421 rather than the onshore development; and the elevation of H₂S gas sweetener as a public safety priority that appears to have precedence over other risk of hazards and resource protection.

- Environmentally Sensitive Habitat Areas (ESHA). Some of the primary concerns with the City's approach to ESHA protection include: the methods of identifying or determining ESHA; the size of ESHA buffers; the trigger for ESHA evaluation or studies; the fusion of allowed uses and protective measures for ESHA and ESHA buffer, which are separate concepts; mitigation strategies and ratios; the conflicting language between Streamside Protection Areas (SPAs) and streams protected as ESHA; wetland protection language; the size of wetland buffers; the designation of offshore marine areas as ESHA; development-specific policies (e.g., land divisions, fuel modification, flood control measures, beach grooming, etc.) that are not fully articulated in a manner that ensures protection of coastal resources; internal conflicts regarding language for the protection of native trees and trees within ESHA; and concepts related to ESHA protection that have been recently identified and required by the Coastal Commission have not been included, such as wildlife permeable fencing and bird safe building measures.
- Hazards Related to Sea Level Rise. While staff support the basic intent and structure of many of these policies and appreciate the quality of information that informed the development of these policies, some concerns remain, including: the lack of reference points to explain the genesis of the chosen SLR projections (8.5, 24.1, and 54.5 inches); the lack of clarity regarding implementation of numeric policy triggers; inconsistencies regarding the trigger and scope for site-specific hazard studies; inconsistent restrictions on shoreline protective devices; references to mitigation fees that have not been fully developed; and lengthy policies that include background information that is not essential to implementing the policy.
- Land Use. Most land use policies were reviewed under other relevant topics and therefore comments are embedded into those separate topics rather than under the topic of land use. One overarching concern regarding the land use provisions is that the level of detail in the allowed uses in Tables 2-1 through 2-4 should be deferred to the Implementation Plan / Zoning Code. Other minor items are pending additional coordination.
- Public Access. Some concerns with regard to public access planning include: the need for policies that protect lower-cost visitor-serving overnight accommodation; the potential interpretation of policies to allow for barriers to access, including physical and regulatory barriers; potential residential parking programs and unspecified timing restrictions on public accessways and coastal parking areas; the need for clarifications and refinements regarding methods, timing, and management of access easements; reliance on using the State Lease 421 road as a key component for access even though it must be removed when the lease is abandoned; the need for accurate and appropriate internal cross-references to coastal access and recreation maps; the need for restructuring this LUP section to ensure that policies are broadly applied to protect, maintain, and maximize public access, rather than applied only under specified circumstances; inconsistent guidance on whether beach and bluff trail alignments are proposed; the need to add measures to address temporary events and temporary use of beaches; and the intended applicability of trails and open space policies.

- Public Facilities. Some concerns with regard to public facilities planning include: preauthorization of specific public works projects that have not yet been evaluated or approved pursuant to a coastal development permit; the potential siting of new development where adequate public facilities may not exist; the need for additional language to link capacity planning for public works facilities to certified buildout in the Coastal Zone; the use of various types of permits (other than a CDP) to implement the LCP which affects timing, triggers, and sometimes the ability to analyze an issue prior to approval of new development; and the need for overarching public facilities siting, design, and resource protection strategies necessary to adequately implement the policies of Chapter 3 of the Coastal Act.
- Transportation. Some concerns with regard to transportation planning include: preauthorization of transportation projects; language that implies that siting or design of transportation projects has the potential to override protection of coastal resources; insufficient triggers to ensure that strategies are proactively implemented to reduce vehicle miles traveled; inadequate assurance that transportation facilities must be limited to the minimum necessary to support LCP buildout; the need for coastal resource-specific policies to adequately address impacts or conflicts typically associated with transportation projects; the need for new development to mitigate for any impacts to traffic congestion on coastal roadways; and inconsistent terminology and associated provisions regarding off-street parking.
- Visual Resources. Some of the primary concerns with the City's approach to Visual Resources protection include: the limitations on view protection to only specific mapped vantage points; language that proposes to protect views by minimizing "impairment" is not sufficient to protect scenic and visual qualities in the Coastal Zone; permit applications do not require site-specific visual assessments when new development has the potential to impact scenic or visual resources; specific developments that often have impacts to visual resources are not individually addressed to provide a standard of review in the LUP; policies do not address ocean and island views to utilize methods specific to these types of views (e.g., maintaining bluewater views or public view corridors, etc.); method of protection of ridgeline views is limited; and policies do not indicate that additional bluff setbacks may be necessary to protect public views along the shoreline.
- Water Quality. Some of the primary concerns with the City's approach to water quality protection include: the limited application of a Low Impact Development (LID) approach to stormwater management; the need to avoid new stormwater outfalls to the maximum extent feasible; the need for post-development BMPs to address changes in runoff flow as well as pollution prevention; rainy season grading/construction restrictions are limited to sites adjacent or within ESHA; and post-development flow regimes should mirror pre-development flows to the extent feasible.

We would also note that the same issues that are summarized above are further translated into the Implementation Plan portion of the LCP (received in February 2016) given that the Implementation Plan is written to implement the LUP.

We remain committed to working with you on these challenging issues. Moving forward, we recommend renewed efforts focused on generating a revised draft LUP that complies with the Chapter 3 policies of the Coastal Act. Once the draft LUP is finalized, we can move on to revisions to the Implementation Plan that reflect the LUP. Although the grant has ended, we welcome continued collaboration on LCP development. Please let us know the best way to move forward and if additional meetings might be helpful. For example, your staff indicated the possible formation of a City Council subcommittee to discuss LCP issues and address the outstanding concerns. We are certainly willing to participate in such an effort. I would appreciate having a discussion with you about ways to move forward together on the Goleta LCP. Thank you for your time and attention to this matter.

Sincerely,



Steve Hudson
Deputy Director

cc: Michelle Green, City Manager, City of Goleta
Anne Wells, Planning Manager, City of Goleta
John Ainsworth, Acting Executive Director, CCC
Barbara Carey, District Manager, CCC
Shana Gray, Planning Supervisor, CCC

Attachments: Comment charts by topic separately provided in digital format via email.



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MEMO

TO: ANNE WELLS
CC: PETER IMHOF
FROM: TROY A. WHITE, AICP
DATE: 11/26/2019
SUBJECT: DRAFT NEW ZONING ORDINANCE (NOV. 2019)
AIRPORT ENVIRONS OVERLAY COMMENTS/ CONCERNS

With respect to the City of Goleta's Draft New Zoning Ordinance (NZO), I would like to bring to the City's attention that the proposed changes from the F-Overlay under the existing Zoning Ordinance to the proposed Airport Environs (AE) Overlay under the NZO appear to prohibit most retail/hotel uses within the Approach Zone, despite the fact that these areas have been designated for such commercial activity within the General Plan, the existing Zoning Ordinance, and the draft New Zoning Ordinance (NZO).

This of particular concern for properties located along the Storke Road commercial corridor (including the Target Shopping Center, Camino Real Marketplace, The Grange/ Storke Plaza, Zizzo's, Courtyard Marriott, Hilton Garden Inn, etc.). These properties are located within the Santa Barbara Municipal Airport's Approach Zone (< 1 mile from runway).

The existing Zoning Ordinance appears to allow for greater discretion by both the City and Airport Land Use Commission (ALUC) with respect to permissible uses within the Airport Land Use Plan's (ALUP) Approach Zone. Under the NZO, the City requires ALUC and Airport consultation for all development projects, not just legislative acts.

According to the Santa Barbara County Airport Land Use Plan (1993), the purview of the ALUC in land use planning is limited to:

- height restriction recommendations on new buildings near airports;
- land use regulation recommendations to assure safety of air navigation;
- achievement of compatible land uses in the vicinity of airports to the extent that land is not already devoted to incompatible uses.

Table 4-1 (contained with Chapter 4 of the ALUP) indicates that General Merchandise-Retail, Food-Retail, and Eating and Drinking are uses generally not compatible in the Approach Zone and that Personal and Business Services should not result in large concentrations of people. It should be noted, however, that the ALUC has previously determined that the City's General Plan and Zoning Ordinance, which allow General Merchandise-Retail, Food-Retail, and Eating and Drinking as permitted uses along the Storke Rd commercial corridor, are compatible with the ALUP.

As stated in the ALUP Chapter 5, "the policies presented in this plan are general in nature. They are based on federal and state standards for noise and safety, and are designed to be adapted to individual cases."

Further, it should be noted that the 25 person per acre threshold oft referred to within the ALUP is meant not as a limitation in the maximum number of persons a site might accommodate, but exceedance of this density standard is considered only a threshold for additional ALUC review.

It appears that most retail activity along the Stoke Road commercial corridor would not be immediately consistent with the ALUP's Table 4-1 (LAND USE GUIDELINES FOR SAFETY COMPATIBILITY). It is unclear if the City intends for the ALUP Table 4-1 to dictate City retail development/ redevelopment policy relative to Section 17.16.040.C.

Is an "incompatible" use a "prohibited" use? Who determines which and how often is such a determination required? Is it required for every project, regardless of how small? How does Table 4-1 related to the rest of the ALUP. When the new Airport Land Use Compatibility Plan (ALUCP) is adopted (presumably, in 2020) will the reference to Table 4-1 still apply?

Would a small addition and/or change of use application for retail activity within an area designated/zoned for retail within the Approach Zone (<1 mile) require a zoning ordinance amendment in order to comply with 17.16.040.C? Would such an application require formal action by the ALUC despite the fact that no legislative act is proposed?

I have a client who has been working earnestly for several years to redevelop and enhance his retail center along the Storke Rd commercial corridor—the project would not result in any new square footage (net building area). City Planning staff has recently pointed out that the project could not likely be approved under the NZO. I would greatly appreciate any efforts that City staff could provide to elucidate this issue and/or to suggest revisions to the NZO before it is adopted.

Thank you for your thoughtful consideration of these questions/comments. Should you have any questions, concerns or require additional information, please do not hesitate to give me a call at (805) 698-7153. I may also be e-mailed at twhite@twlandplan.com

ATTACHMENTS:
ZONING/ ALUP EXCERPTS

ARTICLE I I I - INLAND ZONING ORDINANCE (2001)—EXCERPTS

SEC. 35-247.2. APPLICABILITY OF THE F OVERLAY DISTRICT REGULATIONS.

The provisions of this F Overlay District apply within the Airport Clear and Approach Zones, as such zones are described in Sec. J5-247.3 of these regulations. In addition, the provisions of Sec. 35-247.5.2 apply within the Airport Land Use Commission Planning Boundaries, as such Boundaries are depicted on the maps of the Santa Barbara County Airport Land Use Plan.

Within the areas subject to this overlay district, all uses of land shall comply with the requirements of the applicable base zoning district, provided, however, that all development shall comply with any additional requirements set forth in this overlay district. In cases where the regulations of this overlay district conflict with the regulations of the base zoning district, the more restrictive regulations shall take precedence.

On properties subject to the F Overlay District, any application for a development permits which is determined by the County to be consistent with the provisions of this overlay district shall not be subject to review by the Santa Barbara County Airport Land Use Commission (ALUC).

However, all applications determined by the County to be inconsistent or potentially inconsistent with the provisions of this overlay district shall be referred to the A L U C for a determination as to whether the application IS consistent with the provisions of the Airport Land Use Plan (ALUP) itself. No permits for projects determined by the County to be inconsistent or potentially inconsistent with the provisions of this overlay district shall be approved or recommended for approval until the A L U C has reviewed the application and made its determination of the project's consistency with the ALUP; however, the failure of the A L U C to render such determination within sixty (60) days of the referral shall be construed as a finding that the proposed development is consistent with the ALUP. In the case of discretionary permits approved by the Planning Commission and/or Board of Supervisors, as well as both discretionary and ministerial permits heard by either body on appeal, the project may be approved by a majority vote of the total membership of the Commission and/or Board accompanied by findings, based upon substantial evidence in the public record, that the proposed development is consistent with the purpose and intent expressed in Public Utilities Code §21670.

In all instances where action is proposed to adopt or amend any portion of the Comprehensive Plan and/or any specific plan, zoning ordinance, or building regulation, where such action may apply to any property located within a Clear and/or Approach Zone, the proposed action shall be referred to the A L U C for determination as to the consistency of the proposed action with the adopted A L U P . . Any finding by the A L U C that the proposed action is not consistent with the ALUP, including recommended project modifications and/or conditions deemed necessary by the A L U C to ensure consistency of a project with the ALUP, may be overridden only by a two-thirds vote of the total membership of the Board of Supervisors accompanied by findings, based upon substantial evidence in the public record, that the proposed action is consistent with the purpose and intent expressed in Public Utilities Code § 21670.

SEC. 35-247.4. LAND USE REGULATIONS WITHIN AIRPORT CLEAR AND APPROACH ZONES

3. AIRPORT APPROACH ZONES

The following uses generally are not permitted within one mile of the runway end in the Airport Approach Zones, unless found consistent with the ALUP by the ALUC or approved by the Board of Supervisors upon a two-thirds vote of its total membership with specific findings, based upon substantial evidence in the public record, that the proposed development is consistent with the purpose and intent expressed in Public Utilities Code§ 21670:

a. Residential development, except for reconstruction, alterations, construction of new single-family homes on existing legal lots and single-family residential land divisions representing a density less than or equal to four units per gross acre;

b. Nonresidential development which would result in large concentrations of people (over the ALUC's review threshold of twenty-five (25) persons per gross acre), including but not limited to schools, office buildings, shopping centers, hospitals, and stadiums.

DRAFT NEW ZONING ORDINANCE (NZO; NOV. 2019) – EXCERPTS

CHAPTER 17.16 -AE AIRPORT ENVIRONS OVERLAY DISTRICT

17.16.030 CONSULTATION REQUIRED

The City must consult with staff of the Airport Land Use Commission (ALUC) and the Santa Barbara Airport Department for development projects and legislative acts within the Clear or Approach Zones as defined in the Santa Barbara County ALUP, as well as any development proposed within the 60 dBA Community Noise Equivalent Level (CNEL) noise exposure contour as depicted on the Noise contour map in the most recent ALUC-adopted ALUP.

17.16.040 Use Restrictions

C. Non-Residential Uses. *All non-residential uses within the Clear and Approach Zones must be consistent with ALUP Table 4-1.*

1. Prohibited Uses. *The following uses are not permitted within the Airport Clear and Approach Zones unless such use is found consistent with the ALUP by the ALUC or is approved by the City Council upon a two-thirds vote with specific a finding that the proposed development is consistent with the purpose and intent expressed in Public Utilities Code, Section 21670.*

a. Hazardous installations or materials such as, but not limited to, oil or gas storage and explosive or highly flammable materials.

b. Any use which may result in a permanent or temporary concentration of people greater than 25 persons per acre.

ALUP (1993) – EXCERPTS/SUMMARY

ALUP TABLE 4-1 SUMMARY:

LAND USE GUIDELINES FOR SAFETY COMPATIBILITY, APPROACH ZONE < 1MILE FROM RUNWAY):

BUILDING MATERIAL-RETAIL: Conditionally Compatible (3)

GENERAL MERCHANDISE-RETAIL: Not Compatible (2)

FOOD-RETAIL: Not Compatible (2)

EATING AND DRINKING: Not Compatible (2)

PERSONAL AND BUSINESS SERVICES: Conditionally Compatible (3)

(2) Use not compatible in approach zone within one mile of the runway end. Use subject to ALUC review if more than one mile from the runway end.

(3) Use subject to ALUC review if they result in large concentrations of people underneath downwind and base legs or departures paths of frequently used airport traffic patterns. The Airport Planning Advisory Committee will provide assistance to the ALUC and its staff in this determination. Threshold for review of "large concentrations" is on the order of 25 people per acre for non-residential uses...

From: herseld@aol.com [herseld@aol.com]

Sent: Sunday, December 01, 2019 12:37 PM

To: Paula Perotte; Roger Aceves; James Kyriaco; Stuart Kasdin; Kyle Richards

Subject: Adoption of the New Zoning Ordinance Single Family Zone, Floor Area Ratios, Height Limitation, and Story-Poles

Dec 3: Public Hearing: Adoption of the New Zoning Ordinance
Single Family Zone, Floor Area Ratios, Height Limitation, and Story-Poles

Dear Madam Mayor and members of the City Council -

Madam Mayor, once you told me wisely, "The development in the City of Goleta has been like a pendulum, too much or too little, and a problem. Therefore, the middle always gets hurt." And I agreed with you. I believe I am the middle that is getting hurt.

Now, the pendulum is swinging too far to the "too little." We need unanimous Council help, fairness, and leadership in the following matters which unfortunately have been controlled by a few individuals (members of the public) who really believe that they have the authority to represent the majority of the public.

Here are my concerns:

1- Change FAR to 40%. Section 17-07.040: Please change the proposed FAR (32% - 18%) to a simple 40%. This number is consistent with the County of Santa Barbara and other local jurisdictions (which have set FAR's at 40%). The current City of Goleta FAR's were first created arbitrarily without any basis, study, consideration or consulting with experts. When the new City Council studied and attempted to fix the FAR standards under former Planning Director, Steve Chase, the recommendation was to leave FAR's in place as a "guideline/ recommendation" that could be applied. This allowed the City to avoid a full CEQA review and associated time and expenses since the FAR's were not in the zoning ordinance, but rather a recommendation. Sec. 35-71.13.

<https://www.cityofgoleta.org/home/showdocument?id=7875> Page 75 and Appendix F.

Under the proposed New Zoning Ordinance, the recommendation has been deleted and now it is included as a set standard that states "maximum FAR". This proposed FAR has had no study, no CEQA analysis and the word "recommendation" has been deleted.

<http://nebula.wsimg.com/9599b5adbcc440753b94c52829f9fb47?AccessKeyId=8B11547F66E8794DD29E&disposition=0&alloworigin=1> Pae: 11-7 and 11-8.

It appears there are different FAR's within the same zone, which is a flawed approach and biased against larger parcels. This approach is confusing and arbitrary and is like spot zoning which is not legal. For example, if a lot size is 6000 sq. ft. it allows 33% FAR. If the lot size is 12,000 sq. ft. a 25% FAR and if the lot size is 20,000 sq. ft. it allows 18% FAR. An 18% FAR means that 82% of the property isn't developed. There is no reason why 82% of a property should remain in open space effectively making it economically infeasible to build or improve this type of property. This represents a regulatory taking in my opinion.

FARs are supposed to serve properties uniformly throughout a zone district rather than discriminating against larger parcels in the same zone.

2 - Change Height Limit from proposed 25 to 27 - 28 feet for a two-story house.

Today almost every architect agrees a two-story house with high ceilings require about 27.5 to 28 feet height elevation.

A house's ceiling height has evolved over the years. In the '60s and 70s, the standard ceiling height was 8 feet in height. Today, for better air circulation and larger homes the ceiling plates are 10 feet.

Only two individuals at the last PC hearing very late in the session talked the PC into going along with their comments, 25 feet elevation to the highest point of the roof, the ridge (not even the mean) and the PC bought it. So, the public has no idea that these changes happened at the last moment!

There are many, many existing homes that already exceed this height. If the 25 feet limit is enacted, it will effectively ensure that those with existing homes are allowed to have taller structures than those who develop in the future. This is not a good precedent for the City, nor is it good planning to limit new homes to such a small height – this will lead to poor design and lower home values.

The two people who spearheaded this specific issue don't represent the entire city of Goleta. They are existing homeowners who are selfishly trying to limit future development. No one else such as an expert or architect defended these views at the hearing. Sadly, there was no study presented and no factual information was provided to support this limitation!

3 - Story-Poles should not be mandatory for each building design.

At the Planning Commission hearing, the Commissioners listened only to the same 2 individuals who dictated their opinions as if they were representing the entire community. These people asked the PC to mandate story-poles for any new construction. Again no one was in the PC hearing room except me. They stated that the story poles would serve as a form of public notice. This is totally ludicrous. First, they set the FAR's too low so as to discriminate against larger parcels, then, they made the height of the houses to be completely unreasonable. And finally, they throw at you mandatory story-poles. What's left ---- to eliminate building in Goleta?

The City of Goleta keeps talking about a shortage of housing and at the same time uses a FAR that minimizes and restricts space and bedrooms. If the FAR, height, and story-poles are going to become requirements in the ordinance, then I urge you to offer something economically feasible, simple and consistent with other jurisdictions.

I just can't understand why the PC did not reach out to DRB for guidance. Why was the right of the public not preserved? If the PC recommendation gets adopted by your Council (Dec. 3, 2019) then the DRB will be required to comply with unreasonably restrictive rules with no justification and that will unnecessarily hamstring the design of new development.

I have worked for 43 years to bring about the rights to my property and now the PC recommendation wants to wipe out 82% use of the property?

Moreover, I have been working hard to bring about Senior Care Housing on my property but these PC recommendations are going to kill any chance at Senior Care Housing.

I am asking all the Council members to uphold the law and your fiduciary duties to preserve the rights and to carefully study the newly drafted rules I have itemized above that the Planning Commission has recommended to the City Council and speak up and take action to protect the community's right just like surrounding cities and counties.

We just can't let a few people ruin our lives.

Respectfully,

Hersel Mikaelian

From: Cecilia Brown [<mailto:brownnknight1@cox.net>]
Sent: Monday, December 02, 2019 10:28 AM
To: Deborah Lopez <dlopez@cityofgoleta.org>
Subject: Comment letter for Tuesday City Council meeting

Good Morning Madame City Clerk, At the attachment is a letter with my comments for Tuesday's city council meeting on the adoption of the NZO.
Would appreciate your forwarding the letter to them.
Thank you very much. And Happy Holidays!
Cecilia Brown

December 2, 2019

Re: Comments for Dec 3rd City Council Meeting on Adoption of New Zoning Ordinance

Dear Mayor Perotte and Councilmembers,

Thank you for the very important work the Council, the Planning Commission and your staff have undertaken for the last six plus years in crafting a Goleta-centric new zoning ordinance. We all look forward to its adoption.

I appreciate the Council is in its final efforts of review of the NZO and know your schedule is full for Tuesday night and that you may not have the opportunity to address additional items. I having previously submitted comments on two of the items below but have the hope that they will eventually get addressed so am resubmitting with additional comment to make sure they don't get lost in your "consideration queue."

With appreciation for your efforts and welcoming the public to have their concerns heard and acted upon. It has been a positive and beneficial experience for us. Thank you for considering my comments below.

Happy Holidays!
Cecilia Brown

Viewshed Protection

Please support staff's addition of story pole guidelines in the Public Notification section 17.52.050 as well as their response to Councilmember Kasdin's interest in increased viewshed protection thru a revision to NZO text to include structure height limitation on a protected public viewshed. In addition to the story pole guidelines, it is important that the DRB have viewshed protection findings to use during project review. *None now exist for them to use.* Therefore, the proposed addition of two viewshed protection measures into their findings would further enhance protection of viewsheds.

Below are two proposals for consideration:

: J. Storypoles have evaluated the visual impact of proposed development on views along scenic corridors.

K. Views from locations identified on the General Plan Scenic Resources Map, General Plan Figure 6-1 are protected by minimizing any impairment that results from new development (this is General Plan Policy VH 1.2)

My request is to incorporate the additional viewshed protection measures into Section 17.50.80 Required Findings

Section 1752.100 Changes to Prior Permits and Approvals

Subsection B. Substantial Conformity Determination (SCD)

I have additional comments and concerns regarding the Substantial Conformity Determination (SCD) beyond those I made at the Nov 5th hearing. Staff response to my comments made at that hearing doesn't provide a satisfactory reason why provisions at the beginning and the end of the SCD process in the current zoning ordinance were not carried forward into the NZO.

1. The first issue in the SCD process has been the elimination of the "key issue," an assessment for the Director to make whether a SCD should be used to allow project change if it has been the subject of "substantial public controversy." If the response is that it has been, the Director can't proceed with the SCD request.

Considering the City of Goleta has a rather engaged public interested in land use matters and that there have been projects that have been controversial, some subject to lawsuits (eg., Westar, Marriott Residence Inn, Bacara) in the City's recent past, retaining the "key issue" considerations would seem prudent to avert public outcry over no noticing and decision-making undertaken without public scrutiny. Also, elimination of the first key issue step goes against the recent efforts by city council to make the land use process more public friendly.

Therefore, recommend and request the NZO include the "key issue" step regarding "substantial public controversy" for the Director to use in determining whether a SCD can be used to affect change to a project.

2. In the current zoning ordinance, the last topic in the SCD section provided information about a follow-on process an applicant could use should the Director deny the SCD. This section has nothing to do with "objective" standards used in decision-making, it merely sets out the options for an applicant in processing project changes.

My request: Add the alternatives processing path from the current zoning ordinance to the NZO so the applicant knows different permit paths to get project change.

For reference, see the link below to the SCD in the current zoning ordinance: .
<https://cosantabarbara.app.box.com/s/6hrqg4blorc7zjyh2hklhsl3pv2j2tad>

Section 17.35.060 Lighting

A purpose of the lighting ordinance is to provide development standards to control outdoor lighting and to help achieve "Dark Sky" lighting standards. "Ground truthing" of lighting projects will determine if they are dark sky compliant but will require numerical standards set by the city for the type of lighting the City wants to achieve for various kind of land uses. Unfortunately the NZO is deficient in this regard, lacking many standards to ensure project lighting complies with city and "Dark Sky" standards. .

This is why I advocated for standards from the International Dark Sky Association Model Lighting Ordinance (MLO) in my Nov 5th comments. See link below. The MLO has several methods the city could have adopted to set its standards. But regrettably staff responding to my comments in their Nov 15th document misunderstood how the MLO parameters could be applied to city land uses. Thus a valuable approach to setting illumination levels for various types of lands uses to minimize adverse impacts of lighting was dismissed as not workable.

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

Regrettably, staff hasn't offered any alternatives for lighting standards for many types of land uses in the NZO. Without these standards, the DRB, which reviews lighting projects, will be unable to assess whether a project's lighting complies with city lighting ordinance standards.

A recent lighting project reviewed by the DRB illustrates the dilemma of not having standards in the NZO for them to use. A convenience store next to a residential area had been the subject of neighborhood complaints because the lighting in their parking lot was too bright. In an attempt to remedy the situation, the applicant was proposing new lighting and needed DRB review of its lighting plan for their new proposed parking lot lighting. All the information the DRB had in this lighting plan was a "total site lumens" value for all the proposed parking lot lights. To the DRB's credit, they knew that the proposed "total site lumens" was excessively high and not appropriate. But how much of a reduction in overall site lumens was going to be required for the applicant to comply with city standards? Other than reducing the lumens, The DRB couldn't provide any other direction about how to bring the lighting values into compliance with city standards because the NZO has no standards for the DRB to use for assessing "total site lumens."

This is unacceptable and certainly not a way to facilitate decision-making to uphold city standards. It is imperative that a set of NZO lighting development standards for all land uses be developed as soon as possible. It is very late in the NZO process, but if standards can be applied to the NZO regarding the above issue, then add them. But if not, then my request is this: **Development of lighting ordinance standards is a priority and must be included in next year's PERS work program to remedy NZO deficiencies.**

From: "masseybarb@aol.com" <masseybarb@aol.com>

Date: December 1, 2019 at 4:22:32 PM PST

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

Subject: Comments for December 3rd NZO hearing

Good evening,

I have attached my comments on the current NZO draft for your consideration.

Happy reading, Barbara

NZO Comments for December 3, 2019 City Council meeting

Noticing

One of the most important remaining NZO issues is Noticing. This is an issue that has long been a problem. Our residents often complain that they didn't know a project had even been proposed. They can't make their concerns known if they aren't aware of a project until after it is approved.

The current noticing ordinance allows the use of newspaper notices in place of mailings where notices would exceed 1,000. Many people don't get the News-Press or Independent nor do they have computers. This seriously limits public information and participation.

There was inadequate noticing of the New Zoning Ordinance being discussed. This is one of the City's most important projects and everyone in Goleta should have been noticed, no matter the cost. On October 26, 2019 I sent an email to the City Manager and City Council saying I had not seen public noticing and stating that "The City cannot claim that the NZO has had adequate noticing without a mailing to all residents." I still haven't received any response. I hope there will be citywide noticing when the final version of the NZO is heard by the City Council. This document is as important as the General Plan but has had far less public noticing.

The example used in the staff report was the November 5th NZO hearing. It is hard to believe the \$16,100 cost when in a Memorandum on April 17, 2019 the cost quoted for a similar mailing for the Solid Waste Collection Rate Increase was approximately \$5,000 including postage. There is no information on the cost of a large postcard notice which could be used in many cases. The number of notices on an issue could also be lessened by continuing the Public Hearing to a future meeting.

The PEC at the November 13, 2019 meeting pointed out that "Mailed noticing in both English and Spanish would help overcome barriers to participation due to language and afford all members of the community an opportunity to provide input on projects of citywide importance. The PEC considered the effectiveness of mailed noticing to be worth associated mailing costs to the City."

Lack of information has always been a problem for the public, now you have an opportunity to show the residents that you want them to know about the important projects. Please direct staff that you want the NZO to have mailed notices required for projects with more than 1,000 recipients.

City Projects

The public wants the opportunity to comment on City Projects. Any large City projects should have a noticed public hearing. I would recommend this be done by requiring every major project have a Development Plan with a Planning Commission hearing, not just ones in the Coastal

Zone. They usually push through the project on the Consent Agenda with little public knowledge of them.

The City Projects example of Ekwill/Fowler is a poor one since this project has taken many years with many changes and some hearings held in other jurisdictions. It also had more review because it was a transportation project with SBCAG and CTC review.

ESHA

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 the 50 feet in the original General Plan to 25 feet by a developer's City Council. SPAs need protection and the public has indicated that they want the maximum protection not the lessening of buffers pushed by staff. If the Planning Department had cared about the ESHA issues, the Creek and Watershed Management Plan and Tree Protection Ordinance would have been completed now.

Large Residential Care Facilities

Large Residential Care Facilities should not be permitted in RS and RP districts. It would be too intrusive in the neighborhood. No one in single family neighborhoods 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.

Viewshed Protection

I strongly support Cecilia Brown's recommendation for protecting Goleta's viewshed. There needs to be protection in place or we will have new development reduce what little viewshed we have left.

Substantial Conformity

There needs to be public review of Substantial Conformity Determinations. This has been abused and the public needs to know when it is being considered. I support George Relles' recommendations to replace the proposed language regarding Substantial Conformity Determinations to provide the public, a. Email notice only to those who sign up for such notices, b. A public hearing only if a member of the public requests it, and c. An appeal ability to the Goleta Planning Commission.

Thank you for considering my comments, Barbara
December 1, 2019

From: [Kitty Bednar](#)
To: [City Clerk Group](#)
Subject: December 3, 2019, Council Meeting, Item D-2
Date: Monday, December 02, 2019 12:49:55 PM
Attachments: [CUsersKittyDocumentsMy CompositionsNZO Comments for Council.rtf](#)

Please forward the attached comments to Mayor Perotte and Councilmembers.

Thank you

Kitty Bednar
5701 Gato Avenue
Comments on NZO, December 3, 2019 Goleta City Council Meeting

Mayor Perotte and Councilmembers:

Below are several comments and questions that I have concerning the New Zoning Code.

- (1) Review of city projects. I agree with speakers at your last meeting (and the Planning Commissioners) who stated that city projects should undergo the same review process that private projects receive. Staff workshops and the environmental review process are not sufficient for members of the public to make their issues known

The workshops and outreach that staff conduct are informative and valuable, but the workshops are not official in the same sense that a review board, commission, or council meeting would be. They are not noticed in the same way, they are not televised, there is no video or audio available on the internet, and there are no minutes. The only way to know for sure what transpired is to have attended. Asking other attendees or staff what happened is problematic: not everyone identifies the same issues as important. Sometimes it's the whole of the dialogue that is important.

The environmental review process is a structured one that does not address the merits of a project. Responding to an environmental impact report takes place within a closed universe. There are required topics to be addressed, and other topics are simply not relevant.

- (2) The new code severely limits the use of chain-link fencing (17-24.090 C-1 below). Two explanations have been given for the ban: (1) it's not aesthetically appealing and (2) it is too rural or agrarian in nature. There are more reasons for choosing a particular fencing material than aesthetics, such as defining boundaries, keeping children and pet in and intruders out, etc. Additionally, Goleta celebrates its agricultural past every year with the Lemon Festival and past and current development projects have been praised for their use of design elements reminiscent of our agricultural past. Why ban chain link as too agrarian?
- (3) Also, the new code places some limitations on concrete/masonry block. Are the two limitations on fencing materials in 17.24.090 C-1 and C-2 the only limitations, so that all other types of fencing materials are allowable?

17.24.090

C -1 Limitation on Chain-Link Fencing. Chain-link fencing may only be used:

- a. As temporary fencing for a construction project.
- b. In non-residential districts when not visible from a public street.
- c. For sports courts, parks, swimming pools, and other areas open to the general public.

C-2. Limitation on Concrete/Masonry Block. Plain, concrete block may not be the primary material along arterial streets. Concrete block must be split-face or finished with stucco and capped with a decorative cap or other decorative material.

- (4) Should the language in 17.24.210.A.2 (below) be clarified? It does not appear to define a "triangle." Perhaps an illustration would help.

17.24.210 Vision Clearance

A. Clearance Triangle. No wall, fence, or other structure may be erected, and no hedge, shrub, tree or other growth shall be maintained that will materially impede vision clearance within the road right-of-way for vehicular traffic, cyclists, and pedestrians.

1. **Corner Lots.** A hazard exists when a structure or vegetation exceeds the height of three feet within a triangle formed by the intersecting property lines nearest the streets and a straight line joining such property lines at points which are ten feet from the point of intersection, measured along such property lines.

2. **Driveways.** A hazard exists when a structure or vegetation exceeds the height of three feet within the triangle. *The triangle is measured along the property line with roadway frontage from which access to the lot is taken and extends ten feet parallel to the public right-of-way and ten feet parallel to the driveway on both sides. (emphasis added)*

- (5) Should “permeable” in 17.38.030.D below be “impermeable”? Or do the words asphalt and concrete, and masonry describe interlocking pavers, which then might be permeable?

17.38.030 General Provisions (PARKING)

D. **Materials.** All areas on which parking or loading occurs, including both required and additional parking, must be paved with a minimum of two inches of asphalt, concrete, interlocking masonry pavers, or other *permeable* material on a suitable base and may not be on grassy lawn areas unless using a form of grassblock or grasscrete. (emphasis added)

- (6) Old Town is not the place to be granting parking reductions unless and until the parking assessment district noted in 17.38.060 is created. The provision in 17.38.050 will do nothing to relieve parking pressures on Old Town streets

17.38.050 Parking Reductions

D. **OT District Redevelopment.** In the OT District, where existing development with nonconforming parking is replaced with new development or a change of use, the new development or change of use **shall** receive a parking credit equal to the number of required automobile parking spaces unmet by the previous development or use. (emphasis added)

- (7) Should the second occurrence of “is” in 17.40.060 I 1 be “in”?

17.40.060 General Provisions for All Sign Types

I. **Changeable Copy.** The use of changeable copy on signage is subject to Design Review and may only be permitted in accordance with the following regulations.

1. **Electronic Copy.** Electronic changeable copy is only allowed in non-residential districts and as follows:

- (8) Are the two sections cited below compatible? That is, should 17.58.020.B.2. also reference fences in interior side setback and rear setbacks, which—according to 17.24.090 B.1.a—are exempt from permitting requirements (and presumably Design Review) if they are eight feet or less?

17.58.020 Exemptions

B. The following development is exempt from Design Review, except when part of a larger development project under review by the City, which is subject to this Chapter:

1. Decks that are less than 30 inches above grade;
2. Fences or walls six feet or less in height and gateposts of eight feet or less in height, that are not considered integral to the design of a structure (e.g., perimeter fences);

17.24.090 Fences, Freestanding Walls, and Hedges

B. **Permit Requirements.**

1. **Interior Side Setbacks and Rear Setbacks.** Within interior side setbacks and rear setbacks, or along the exterior boundaries of such setbacks, fences and freestanding walls may be allowed based on the following standards. Columns, gateposts, pilasters and entry lights may exceed the maximum height by two feet.

a. *Eight Feet or Less.* Exempt.

b. *More than Eight Feet.* Land Use Permit or Coastal Development Permit.

3. ***Other Parcel Locations.*** If located outside of required setbacks, the maximum height for fences and freestanding walls is eight feet, unless a higher fence or wall height is allowed pursuant to Design Review Approval.

Thank you for your time and consideration.

From: Ken Alker <ken@impulse.net>

Sent: Monday, December 02, 2019 2:47 PM

To: Anne Wells <awells@cityofgoleta.org>; Lisa Prasse <lprasse@cityofgoleta.org>

Subject: DNZO - Effect on projects in the entitlement process 20191202

See attached.

Thanks!

Ken

Ken Alker
290 Winchester Canyon Road
Goleta, CA 93117
(805) 685-2030
ken@impulse.net
December 2, 2019

ZONING: PROJECT IN ENTITLEMENT PROCESS

TO:

All members of the Goleta City Council
Anne Wells, Advance Planning Manager
Lisa Prasse, Current Planning Manager
Peter Imhof, Planning and Environmental Review Director
130 Cremona Drive
Goleta, CA 93117

Dear council members and city staff,

I am writing to you today regarding the Proposed New Zoning Ordinance (NZO) dated November, 2019. Specifically, this letter speaks to section 17.01.040 E. 4. "Project Applications Deemed Complete."

I own the Kenwood Village project and the project application was deemed complete in 2010. The project has been designed under the current zoning ordinance. The language in section 17.01.040 E. 4. states that, "At the applicant's election, a project application that is determined to be complete prior to September 1, 2019 shall either: a. Be processed under the zoning regulations at the time of determination; or b. Be processed under this Title." However, a new sentence was added to this section in November which reads, "The allowances under this provision shall sunset on December 31, 2021 if a project has not received all required land use entitlements, after which, the project shall be subject to all regulations of this Title."

At the planning commission I attended, where a time limit for the entitlements was being discussed, it was pointed out, by comparison, that developers have a limited time window after being issued permits in order to build their project. What was missed, however, is that building timelines after permitting are entirely different than timelines associated with obtaining entitlements. Once a developer has permits, he controls the timeline. There are very few outside influences that will affect the speed at which the project can be completed. In the case of seeking entitlements, the applicant has almost no control. Timing is determined by staff, the planning commission, city council, the Goleta Water District, and several other entities, not to mention Mother Nature (i.e. water moratorium). To put an arbitrary time limit on the ability to use the current zoning code is not realistic, nor is it fair.

I received a Notice of Application Completeness for Kenwood Village in 2010, long before any of the NZOs were created. I have already paid for complete architectural plans, numerous studies, a scoping document, and two EIRs all under the guidelines of the current zoning ordinance. The project got put on hold just after the EIR was circulated due to the moratorium. The fact is, I have no control over when

the moratorium will be lifted, and I have no control over how much time it will take City Staff to re-process the EIR once the moratorium is lifted. These factors, and many more, are totally out of my control.

The last water moratorium lasted from 1972 to 1996; that's 24 years. No new allocations were made during that time. Our current water moratorium started in September 2014 and a recent vote at the Goleta Water District has extended it through **at least** October 2020. That will be over **six** years, and there are no guarantees it will be lifted in 2020, or for that matter, 2021. Even if it is lifted in 2020, there is no guarantee that the additional processing that will be necessary for Kenwood Village will result in entitlements by December, 2021.

My understanding is that there are only five projects in this state, and one of them was developed recently enough that they were privy to the new zoning and were able to make it comply, another already has water by right so they aren't concerned by the inability to predict when the moratorium will end, so there are really only three projects that will be affected by this change.

It would be an unfair and unjust hardship for me to have to spend hundreds of thousands of dollars and months of time to redo my entire project under the guidelines of a different zoning ordinance after having spent years perfecting it under the current ordinance. These extra costs will get pushed down to the home buyer. As we all know, Goleta needs housing, and we don't need housing prices to continue to go up due to process costs.

I implore you to **remove** the sentence that was added in November. It was absent for the several years this new zoning has been before the public's eyes, and there is no reason for it. Again, it is only going to affect three parcels; you do not need to worry about a plethora of developers using the current zoning. And the fact is, the planning commission that reviewed Kenwood Village liked it, and the council members who were serving at that time, some of whom are still here, liked it. It is a good project, and I don't want to be forced to spend large sums of money and hundreds of hours of time to redesign it.

Sincerely,

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

Ken Alker

From: april reid <aprilreid@live.com>
Sent: Monday, December 02, 2019 8:57 PM
To: Anne Wells <awells@cityofgoleta.org>
Subject: Statement re: Zoning Ordinance

Dear Ms. Wells:

I was born and raised in Goleta, CA. Please include my comments with the other public comments for the new Zoning Ordinance.

Attached are a few final requests regarding the final Zoning Ordinance:

17.01.040- Implement a sunset clause that would encourage developers to finish their projects, i.e. December 2021 or some time near that date. Otherwise, developers can wait decades to finish their plans under the old Zoning Ordinance without any motivation to finish. In fact, some projects have already been around for over a decade with no end in sight. It is important to build as many new developments as possible with the values of the Goleta citizens as defined in the new Zoning Ordinance.

17.30.120- The buffer for creeks should be at least 100 feet, if not more. The Kenwood Village Development is proposing 60 units (13 single units, 20 duplexes and 27 triplexes) on approximately 10 acres next to El Encanto Creek. However, the developer's own environmental report states that there are endangered species living in the creek. Despite this, the developer is proposing building much less than 100 feet from the El Encanto Creek. Building close to the creeks can harm the endangered species. Waivers and/or exceptions for developers who want to build closer than 100 feet should either be eliminated or strongly discouraged. In the past, waivers have been given out to developers easily. Once the endangered animals are gone, they can not be brought back. So, it is vital that we are proactive in protecting these animals.

17.30.150- It is also vital that we protect rare plants and shrubs from being destroyed by removing them to make way for large duplexes and triplexes, like the Kenwood Village proposal, which, if approved, would actively remove and eliminate rare shrubs.

17.38.040- Under multiple-unit developments, I would propose the following: a. Keep the studio and one bedroom units at 2 spaces per unit; b. Change the two or more bedroom requirement from two spaces per unit to 1 unit per family unit, meaning if a developer wants to develop 27 triplexes, as in the Kenwood Village Project, then the developer must have 81, or 27 x 3, parking spaces, one for each family unit; c. Require one additional guest parking space for every 2 units. This way, the developer would be responsible for the parking spaces in their own developments. Otherwise, the residents will be parking on the neighbors' streets. Unfortunately, at this time, most family units will have at least one vehicle. In fact, on my street alone, to the best of my knowledge, I am the only person who has only one vehicle, every one else has at least two, if not more. Without parking, my neighbors park on the street and some park in front of my house as it is. If the developers do not create sufficient parking

for the residence, the problem will not simply go away. It will flow over into the surrounding neighborhood.

Thank you for your consideration.

April Reid
Goleta resident

From: Fermina Murray [ferminamurray@gmail.com]

Sent: Monday, December 02, 2019 12:28 PM

To: Paula Perotte; James Kyriaco Jr; Stuart Kasdin; Kyle Richards; Roger Aceves; Peter Imhof

Subject: New Zoning Ordinance - In support of Cecilia Brown's Letter

December 2, 2019

From: Fermina B. Murray
442 Danbury Court
Goleta, CA 93117

To: Madam Mayor Perotte and City Council Members:

I echo what Council-member James Kyriaco Jr. said in the last NZO meeting, "I vote for Cecilia Brown." I am sorry to miss the Council session on NZO tomorrow night. I have read the excellent letter Cecilia Brown submitted to you. I agree, share, and support all of Cecilia's concerns and recommendations.

As you know the proposed three-story Calle Real Hotel project is going to be "a view shed buster," like the Hilton Garden Inn, if you do not declare an enforceable view shed protection policies in the NZO. Council-member Stuart Kasdin raised this important topic in the last meeting, and I fully support his concerns and suggestions to remedy the critical section that is missing in the NZO.

Lighting! It seems that all the previous lighting suggestions in the past NZO meetings have disappeared in the staff report. As Cecilia mentions, there are good ideas that we can learn from the Dark Sky experts as well as from other cities who have successfully implemented non-polluting lighting standards. I will be happy to assist any Council-appointed committee to come up with an appropriate lighting ordinance for the City.

Thank you,

Fermina Murray

cc: Cecilia Brown
Peter Imhof

From: [Natalie Blackwelder](#)
To: [City Clerk Group](#)
Subject: Protecting Goleta Wetlands and Creeks
Date: Tuesday, December 03, 2019 11:21:08 AM

It is my understanding that the City has a tendency to push the limits of zoning without regards to Goleta wetlands and creeks. These areas are miniature sanctuaries for wildlife that contribute more than we know to the local ecology. It is imperative that we respect the space these organisms have to live in, and keep a fair enough distance away from these wetlands so they can continue to feel comfortable living here. In addition to wildlife, we must think about the livelihood of humans too. As we've seen in Montecito and Ventura, heavy rains can lead to floods and mudslides. These wetland areas are subject to flooding and can cause a lot of damage to homes. It's silly to continue pushing the boundaries of development when there are risks such as these involved. Please respect wildlife space and health of ecology.

-Santa Barbara City College Student, Natalie Blackwelder



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Arthur R. Gaudi
Cameron Goodman
Christopher E. Haskell
James H. Hurley, Jr.
Eric P. Hvolbøll
Mark S. Manion
Steven K. McGuire

Our File Number:
23042-1

December 3, 2019

VIA PERSONAL DELIVERY

City of Goleta
City Council

Re: Newland Property, 5544 Hollister Avenue (APN 071-090-036)
Proposed Adoption of New Zoning Ordinance, December 3, 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 to several acquisitions by the City for two major public works projects now proceeding – the Ekwill 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 projects, and the property to be acquired for them, will have a devastating impact on the remainder of the property. In particular, the Ekwill Fowler Project includes a traffic roundabout on the southeast corner of the property, which will result in a substantial limitation on vehicular

City Council
City of Goleta
December 3, 2019
Page 2

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.

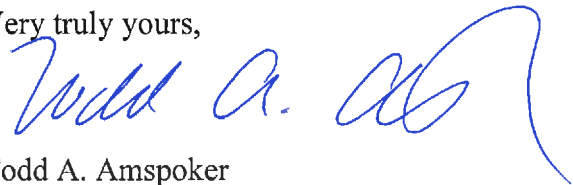
We have enclosed pertinent maps and diagrams which illustrate the points made in this letter.

City Council
City of Goleta
December 3, 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.

We ask that this letter be made part of the record for the City's agenda item D.2 for this evening's meeting of the City Council.

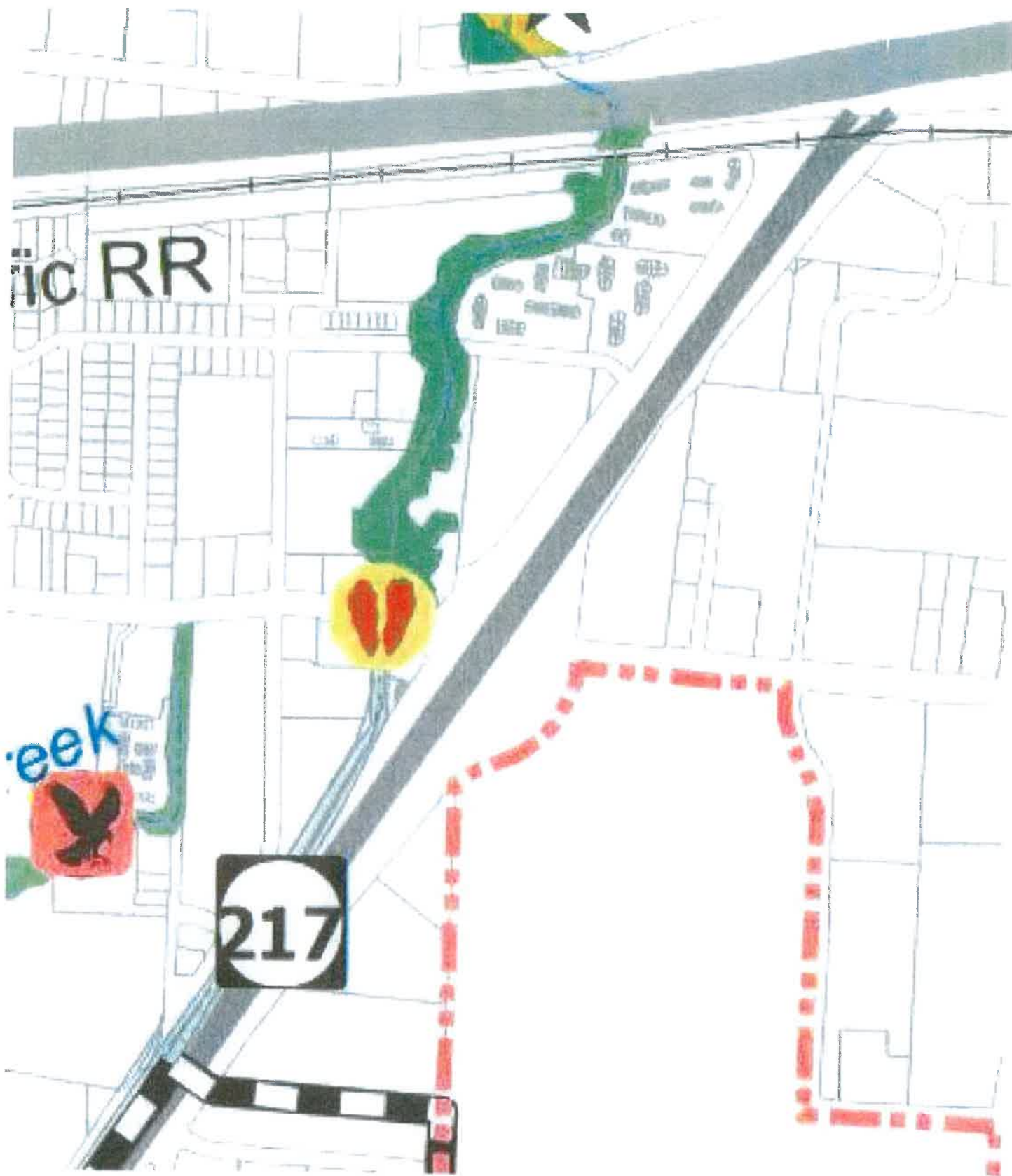
Very truly yours,

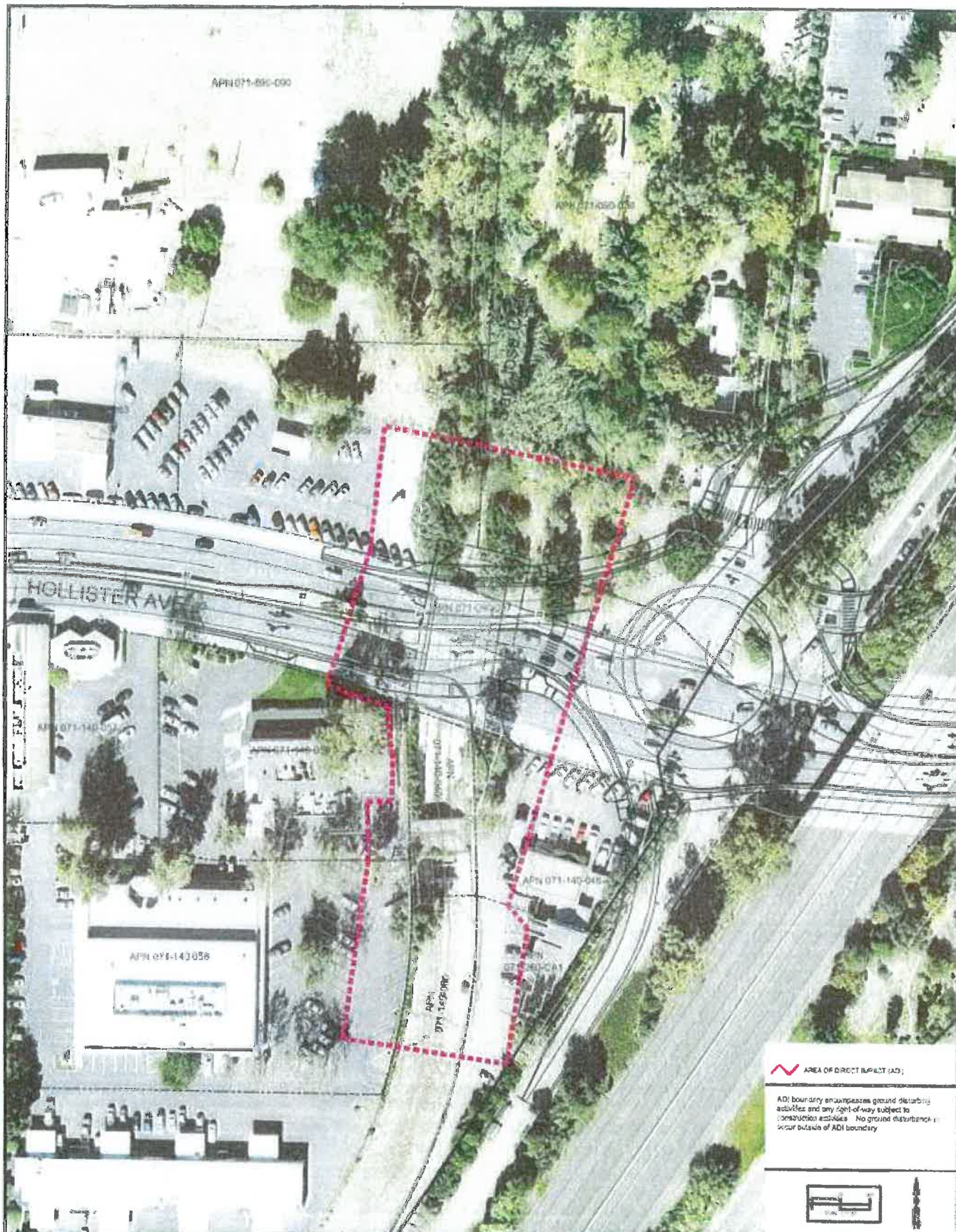


Todd A. Amspoker
For PRICE, POSTEL & PARMA LLP

TAA:ks
Enclosures

cc: Jeff Newland





AREA OF DIRECT IMPACT (ADI)

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



LOCAL AGENCY APPROVAL <small>CITY OF GLENN HERRING</small> DATE: _____	CALTRANS APPROVAL <small>CALTRANS DISTRICT 8 PROFESSIONALLY QUALIFIED STAFF</small> DATE: _____	CALTRANS DLAE APPROVAL <small>CALTRANS DISTRICT 8 PROFESSIONALLY QUALIFIED STAFF</small> DATE: _____	DEPARTMENT OF PUBLIC WORKS 130 CINEMOND DRIVE, SUITE B • GLENN, CA • 96037 TEL (905) 961-7500 • FAX (905) 965-2635	HOLLISTER AVE BRIDGE REPLACEMENT BRIDGE No. 510-0077 CONTRACT No. 2013-028 FEDERAL AID PROJECT No. BRLS-548(013) AREA OF POTENTIAL EFFECT MAP	SHEET 1 OF 1 SHEETS
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