

March 2, 2020

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BY EMAIL (DLOPEZ@CITYOFGOLETA.ORG)

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

RE: Adoption of New Zoning Ordinance (Your Agenda for March 3, 2020)

Dear Mayor Perotte and Members of the City Council:

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

In our February 10 letter, and again at your February 18 meeting, we pointed out that the NZO "Sunset Date" of December 31, 2021 placed a deadline in SyWest's path that was impossible to meet, given the need to prepare an EIR and to secure a Coastal Development Permit from the Coastal Commission.

Our point has now been proved by a "City News" bulletin distributed two days ago (see attached). The bulletin reports on an "important milestone" related to Fire Station 10 in Western Goleta. The City Council approved the new Fire Station fifteen months ago, in December 2018. The very next month (January 2019), the City submitted its application for a Coastal Development Permit to the Coastal Commission.

Has that CDP been approved? No. After more than a year, the City's application has been "deemed complete." A hearing before the Coastal Commission must be held "within six months." Will a decision be made at that hearing? There is no way to know.

The City's experience with its badly needed fire station establishes beyond doubt that the Sunset Date of December 31, 2021 is simply too soon to be practical or fair. SyWest will not be able to apply for a CDP until after the EIR is completed and certified, and all City discretionary approvals (including appeals) have been granted. Since the EIR will take at least a year to be completed, and the hearings before the Planning Commission and City Council are likely to take at least another six months, it is indisputable that the Sunset Date will be passed.

At your February 18 hearing, Planning Director Peter Imhof stated that City staff would "interpret" the NZO to require that SyWest only secure city permits, not a Coastal Development Permit. While we appreciate Mr. Imhof's creative effort to solve the problem, we are concerned that any such "interpretation" of the NZO language would open a City decision approving the SyWest project to a third party lawsuit challenging the City's reading of the NZO, which is a risk neither the City nor SyWest should have to face.

We believe the most sensible solution is to revise the Sunset Provision to reflect Mr. Imhof's views about the appropriate policy on this issue. We included specific language to accomplish this goal in our February 10 letter, and include it again here (see below).

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You will note that we suggest that the Sunset Date be December 31, 2024, rather than 2021. It bears noting that at the NZO hearing in September 2019 City Planning staff recommended to the Planning Commission that the Sunset Date be Dec. 31, 2023. It was the Planning Commission that changed the date to Dec. 31, 2021, although there was no public input on the issue.

While we believe it would be best to include the attached language in the NZO before you today, we recognize that the City has spent substantial time and resources coming to this point and the City Council prefers to enact the NZO with no further delay. So, it appears that a "clean up" amendment to address this problem would be the most expeditious way to proceed.

Finally, we wish to respond to the argument from the Environmental Defense Center that SyWest has no legally enforceable "vested right" to have its project evaluated under the current zoning ordinance. As a legal matter, we agree. At the same time, we think that it reasonable and fair to allow an applicant like SyWest to proceed through the City's approval process under the land use rules in effect when its application was filed. Applicants spend enormous sums to prepare an application for submission to the City, and that investment should be respected.

SyWest respectfully requests that the City Council direct staff to prepare an NZO "clean up" amendment along the lines of our suggested language and return to the City Council at the earliest opportunity. For reasons that require no further explanation, time is of the essence.

Sincerely,



Steven A. Amerikaner

Enclosures

cc (w/att.) Peter Imhof, Goleta Planning Director
Michael Jenkins, Goleta City Attorney
Robert Atkinson, SyWest Development
Bill Vierra, SyWest Development
Ginger Andersen, Stantec

SyWest's Suggested Amendments to NZO

Sec. 17.01.040, E, 4

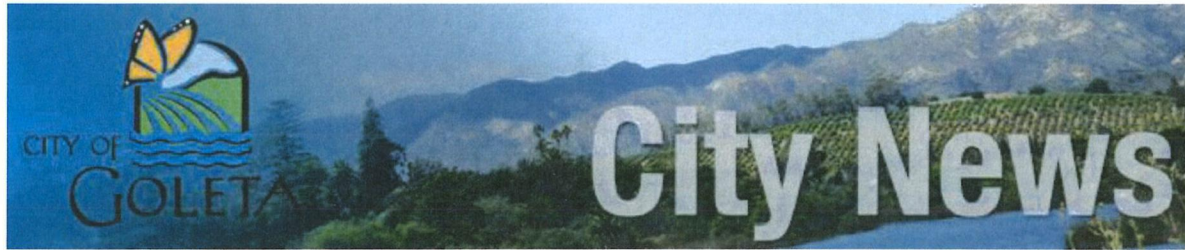
4. Project Applications Deemed or Determined Complete. At the Applicant's election, a project application that is deemed or determined to be complete prior to September 1, 2019, shall either:

- a. Be processed under the zoning regulations in effect at the time of ~~the complete determination~~ the application is deemed or determined to be complete; or
- b. Be processed under this Title.

The Applicant's option in accordance with subparagraph (a) of this provision shall terminate on December 31, 2024 2024. If a project has not received all required land use entitlements by December 31, ~~2024~~ 2024, the project shall be subject to all regulations of this title. A project shall be deemed to have received all required land use entitlements if the City has completed action on those entitlements, even if the City's decision is subject to judicial challenge or review.

Definition of Entitlement

Entitlement. The legal process of obtaining all required City-issued discretionary land use approvals for development, including ~~concluding~~ any associated City local appeal period, ~~and meeting any prior to~~ issuance conditions of approval, ~~and successfully obtaining issuance of the effectuating Zoning Permit.~~



The City of Goleta is excited to report on an important milestone in the development of Fire Station 10 in Western Goleta. The California Coastal Commission (CCC) deemed the City's Coastal Development Permit (CDP) application complete and will hold a hearing on the project in the next six months. It has long been documented that fire service in Western Goleta does not meet the National Fire Protection Association (NFPA) guidelines for emergency response time and population to firefighter ratio. A new fire station is needed in Western Goleta to provide adequate fire protection services.

The Fire Station 10 project consists of the design and construction of a new three-bay, single-story fire station, approximately 11,600 square feet in size, with associated landscaping and appurtenant facilities on a City-owned parcel located at 7952 Hollister Avenue, across from the Sandpiper Golf Course.

The Goleta City Council approved the project in December 2018. However, because the subject site is in the Coastal Zone, a Coastal Development Permit issued by the California Coastal Commission is required. The City submitted a CDP application in January 2019, and after completing additional studies requested by CCC staff, the City learned this week that the CDP application has been deemed complete. Based on State law, once a CDP application is deemed complete, the CCC is required to hold a hearing on the project within six months.

Upon learning the news, Goleta Mayor Paula Perotte said, "We are thrilled to reach another milestone in the development of Fire Station 10 which will provide critically needed fire suppression and emergency medical assistance to areas of Western Goleta and beyond."

Goleta's Director of Neighborhood Services & Public Safety, Vyto Adomaitis added, "Fire Station 10 is an important public safety facility that will greatly benefit the residents of Goleta. Its need was identified as early as 1967 so the City is proud to be bringing this project to fruition. We look forward to working collaboratively with Coastal Commission staff to reach approval of the City's CDP application."

CCC hearings are conducted in various locations statewide. At this point, the City has not yet been informed when and where the hearing for Fire Station 10 will be held. Following CDP approval, construction documents for Fire Station 10 will be completed.

"Our goal is to go out to bid and have a construction contract awarded by the end of the year, provided we obtain a CDP hearing sooner rather than later," said Mr. Adomaitis.

More information on the Fire Station 10 Project is available at: <https://www.cityofgoleta.org/projects-programs/building-development/fire-station-in-western-goleta>

