

2 July 2019

Chair Smith and Planning Commissioners  
City of Goleta Planning Commission  
130 Cremona Drive, Suite B  
Goleta, CA 93117

Subject: **Draft New Zoning Ordinance – Applicant Comment**

Dear Chair Smith and Planning Commissioners:

I am writing on behalf of The Towbes Group, Inc. to provide comments on the City of Goleta's Draft New Zoning Ordinance (NZO) dated January 2019. The Towbes Group, Inc. is the applicant for the Heritage Ridge project (Case Numbers 14-049-GPA-VTM-DP-CUP) and has significant concern regarding the language proposed in Section 17.01.040.E Applicability - Project Vesting on page I-3 of the Draft NZO. Our concern is that, as currently drafted, language in this section makes no exception to applicability of the NZO to project applications that have been deemed complete by the City. Instead, the currently proposed draft language only addresses applicability to structures that have been issued building permits. This apparent oversight is of concern for several reasons as follows:

The Heritage Ridge application was deemed complete on October 1, 2014 as documented in the enclosed Notice of Application Completeness signed by Mary Chang, Senior Planner.

On August 20, 2015 Michael Towbes wrote then Director of Planning and Environmental Review, Jennifer Carman, and specifically asked whether the new zoning ordinance would be in place before the Heritage Ridge project was brought to a decision. Director Carman responded in writing on September 1, 2015 as follows:

*"The new zoning ordinance will be released for public review before the end of this calendar year and staff hopes that adoption of the document will occur within six months of the time public review commences. **With that said, Heritage Ridge will follow the entitlement process currently in place (up to City Council consideration) and the zoning standards currently adopted will be used for zoning compliance.**"*

Copies of both letters are enclosed for your reference.

We also note that the November 2015 Draft NZO included the following language in Section 17.01.040.E Applicability - Project Vesting:

***“Effect on Projects in the Entitlement Process.** Projects accepted for processing prior to the adoption of this Ordinance may continue to be processed with the previously adopted Title 17 or may utilize the provisions herein.”*

This language from the 2015 Draft NZO is deleted in the current draft and replaced with language that applies only to projects that have been issued building permits.

Based on the above referenced written correspondence with the City's Director of Planning and Environmental Review and the language included in the 2015 version of the Draft NZO, The Towbes Group, Inc. proceeded forward with the very reasonable understanding that the existing zoning ordinance would apply to the Heritage Ridge project. A Draft Environmental Impact Report has been completed and draft mitigation measures and conditions of approval are being considered. We anticipate decision maker hearings in 2019.

Many applications require the expenditure of a significant amount of money, time, and resources to get deemed complete. The Towbes Group, Inc. has paid for the preparation of an Environmental Impact Report. As currently written, the subject language lacks clarity and fairness for not only the Heritage Ridge project but for other applications that have been deemed complete.

We believe it is very reasonable to request the City to proceed in accordance with correspondence issued by the City's Director of Planning and Environmental Review. We request this be accomplished by reinstating the language that was included in the 2015 Draft NZO, perhaps with a **clarification to identify that applications that have been deemed complete may continue to be processed with the previously adopted zoning regulations.**

■ ■ ■


We appreciate consideration of these comments by the Planning Commission and staff. We hope you agree that it is equitable and reasonable to grant our request that the Heritage Ridge project and other qualifying projects should not be subject to the NZO.

Should you have any questions or require additional information, please contact me at (805) 966-2758 x101 or [stevef@sepps.com](mailto:stevef@sepps.com) or Craig Minus at (805) 962-2121 or [cminus@towbes.com](mailto:cminus@towbes.com).

Sincerely,

**SUZANNE ELLEDGE**

**PLANNING & PERMITTING SERVICES, INC.**

A handwritten signature in black ink, appearing to read 'S M Fort', with a stylized flourish at the end.

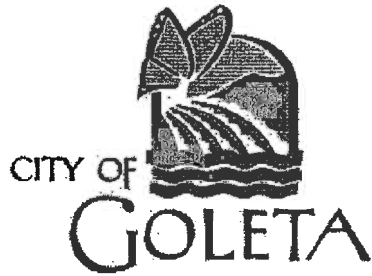
Steven M. Fort, AICP  
Senior Planner

Attachments:

Notice of Application Completeness, October 1, 2014 (14-049-GPA-VTM-DP-CUP)  
Letter, Michael Towbes, August 20, 2015  
Letter, Jennifer Carman, Director of Planning and Env. Review September 1, 2015

cc:

Craig Minus, The Towbes Group, Inc.  
Peter Brown/Mack Carlson, Brownstein Hyatt Farber Schreck  
Andy Newkirk, Senior Planner  
Peter Imhof, Planning and Environmental Review Director, City of Goleta  
Mary Chang, Supervising Senior Planner, City of Goleta



VIA ELECTRONIC AND CERTIFIED MAIL  
(Return Receipt Requested)

**CITY COUNCIL**

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Councilmember

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Councilmember

**INTERIM  
CITY MANAGER**  
Michelle Greene

October 1, 2014

Linda Blackburn  
The Towbes Group  
21 E. Victoria Street, Suite 200  
Santa Barbara, CA 93101

**RE: Notice of Application Completeness;  
Case Numbers 14-049-GPA- VTM-DP-CUP;  
Heritage Ridge (APN 073-060-031 thru -043)**

Dear Ms. Blackburn:

Thank you for your resubmittal addressing items in the Incomplete Letter dated June 27, 2014. Staff has reviewed the materials submitted September 12, 2014 and September 29, 2014 and determined that the above referenced project to be **complete** as of October 1, 2014.

Our review is based on the following project description:

A proposal for 360 residential units which includes 132 senior units, 228 workforce units, and land for a 2-acre neighborhood park on a 16.2 gross acre site. Specifically, your application includes the following components.

- A General Plan Amendment - To amend the General Plan Figures 3-5 and 4-1 of the Open Space and Conservation Element respectively, regarding ESHA mapping;
- A Vesting Tentative Parcel Map – To subdivide the property into three parcels;
- A Development Plan: For the development of 360 apartment units;
- A Development Plan Modification – To modify parking requirements;
- A Minor Conditional Use Permit: To allow an 8' high perimeter wall along the northern, western, and eastern boundary of the project site.

Please review this description carefully and if you believe the project description is not accurate, please contact me immediately. Based on the information provided in your application, we believe preliminarily that environmental review of the project pursuant to the California Environmental Quality Act (CEQA) will require the preparation of an Environmental Impact Report (EIR).

Completeness Letter  
October 1, 2014

Please note that planning and public works staff will be reviewing all the materials/studies further and reserve the right to request additional information as needed. We will prepare a Request for Proposal (RFP) for the preparation of an EIR and will provide an estimate of processing costs once a consulting firm is selected.

If you have any questions please feel free to contact me. I can be reached at (805) 961-7567 or at [mchang@cityofgoleta.org](mailto:mchang@cityofgoleta.org). We look forward to working with you in processing this project.

Sincerely,



Mary Chang  
Senior Planner

cc: Michael Towbes  
Craig Minus



August 20, 2015

Ms. Jennifer Carman  
Planning and Environmental Review Director  
Planning and Environmental Review Department  
City of Goleta  
130 Cremona Drive, Suite B  
Goleta, CA 93117

RE: Heritage Ridge

Dear Ms. Carman:

We have given considerable thought to the suggestion that we request a General Plan Amendment to provide an R-HD (High Density Residential) designation, as the effect of this would be to allow the project to maintain its proposed density without dealing with the issue of the City's interpretation of Policy LU-2.2. Please note that if we take this route, the text of the General Plan will have to be changed in several places beyond the Land Use Map. There are at least six areas where this language will have to be revised. The following sections will need amendments, as they currently reference all Central Hollister Opportunity Sites as Medium Density Residential: LU Table 2-1, LU 2.6, LU 8.1, HE Medium-Density Residential (R-MD) on Page 10A-33 of the Technical Appendix, HE Table 10A-23 and HE Table 10A-33. As these sections are contained within the Land Use and Housing Elements, we anticipate only two General Plan Amendments will be required, as the proposed changes affect the Land Use and Housing Elements. These two General Plan Amendments are in addition to the two we are currently processing (Conservation and Open Space Elements) for a total of four General Plan Amendments.

Consistent with Table 2.1, R-HD sites may have a maximum lot coverage ratio of 40% rather than 30% for the R-MD sites. We understand from our meeting with Staff on August 5, 2015 that the zoning will remain DR-20 and only the Central Hollister Opportunity Sites referenced in the General Plan will be amended to allow up to 30 dwelling units per acre. At this meeting Staff stated that the parking standards would change to one space for 1BR and 2BR units and two spaces for 3BR units and common open space would be reduced from a minimum of 40% to a minimum of 30%. If correct, please confirm these changes. We will request these General Plan Amendments if staff will support our request and confirm that staff will not seek any special exactions based on our request for approval of the General Plan Amendments.

We have a question as to whether the new zoning ordinance will be in place before the project is brought to a decision. As you know, we have filed a vesting tentative map which has been deemed complete. We will need assurance that there will not be changes in the zoning which will impact the project, as we believe that we will be operating under the current zoning ordinance.

We realize that this change in direction makes the discussion about site constraints and the City's interpretation of Policy LU-2.2 irrelevant in this case. However, we wish to reiterate that



Ms. Jennifer Carman  
August 20, 2015  
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we believe that the City has recently been inconsistent with respect to its interpretation of how site constraints mentioned in LU 2.2 apply in density calculations. To our knowledge, the City has only deducted a mitigatable site constraint area from density calculations when to do so allowed projects such as Cortona and Village at Los Carneros to reach or get closer to their minimum required density. In our letter of August 3, 2015, we spelled out examples of archeological constraints and flood control constraints whose areas were not deducted in density calculations. Another mitigatable site constraint area which has never been deducted in density determinations is noise which of course is very commonly mitigated by design. We know of no case in which the City has deducted such areas in density calculations or even performed calculations of areas in which noise constraints exist when such constraints have been addressed by appropriate design. This is another example where a site constraint is not deducted in density calculations and appropriately mitigated.

We point this out to encourage the City to decide on a consistent and appropriate policy with regard to this matter in the future, although with the proposed change in the General Plan we have offered this issue becomes irrelevant with respect to Heritage Ridge.

Thank you for your consideration.

Sincerely,

THE TOWBES GROUP, INC.

MICHAEL TOWBES  
Chairman of the Board

cc: City Council  
Michelle Greene, City Manager  
Tim Giles, City Attorney  
Karl Berger, Special Counsel  
Lisa Prasse, Current Planning Manager  
Mary Chang, Supervising Senior Planner  
Stephanie Diaz, Contract Planner  
Dale Weber, MAC Design Associates  
David Stone, Dudek  
Peter Brown, BFHS  
Craig Zimmerman  
Craig Minus  
Linda Blackburn



September 1, 2015

**CITY COUNCIL**

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Michael T. Bennett  
*Councilmember*

Tony Vallejo  
*Councilmember*

**CITY MANAGER**  
Michelle Greene

Michael Towbes, Chairman of the Board  
The Towbes Group  
21 East Victoria Street, Suite 200  
Santa Barbara Ca 93101

**RE: The Towbes Group August 20, 2015 letter**

Dear Mr. Towbes:

Resolution of Density Issue for Heritage Ridge

Thank you for the above referenced letter. From your August 20, 2015 letter, it appears that the Towbes Group is proposing to apply for a General Plan Amendment (GPA) to change the Land Use Designation of the site from Residential-Medium Density (R-MD) to Residential-High Density (R-HD). Such a General Plan Amendment would involve both a change to the Land Use Map and changes to the text of the General Plan as you point out in your letter.

You are also correct that in addition to the GPA, a rezone from DR -20 to DR 30 would need to be approved as well. Most of the development standards associated with the DR zoning district, including the parking requirements would remain the same. The exception is to the building coverage standard which would increase to 40% based on the General Plan provisions associated with the R-HD designation.

It appears that there is a misunderstanding regarding parking and open space. The reduced parking standards and open space reduction are only possible if the project is proposed as an affordable housing/density bonus project with income restricted units. A proposal to change to the General Plan from R-MD to R-HD is not the same as an affordable housing project. If the Towbes Group pursues the GPA to R-HD, the parking requirements outlined in Inland Zoning Ordinance Section 35-256 would remain applicable.



Much of the application materials needed for the above mentioned GPA and Zone change are already on file with the City. However, the data sheets for such requests would need to be completed and returned to the City. Please submit the enclosed data sheets as soon as possible, so that work on the EIR can be restarted.

### New Zoning Ordinance

The new zoning ordinance will be released for public review before the end of this calendar year and staff hopes that adoption of the document will occur within six months of the time public review commences. With that said, Heritage Ridge will follow the entitlement process currently in place (up to City Council consideration) and the zoning standards currently adopted will be used for zoning compliance

### Land Use Policy 2.2

In your letter, you assert that the City has been inconsistent with the application of Land Use Policy 2.2 (LU 2.2). We respectfully disagree with that assertion. The area used to calculate density for other recent projects has taken into account onsite constraints. As part of the review process, staff evaluates the constraints as outlined in LU 2.2 in determining the project density (whether the applicant knows or not). This has been done for every recent project including: Cortona Apartments, Villages at Los Carneros, Old Town Village (OTV), Shelby residential, Kenwood residential, and Heritage Ridge. Where constraints are found, those areas are subtracted out.

OTV is the only project that has not had permanently constrained areas on site and, so far, Heritage Ridge has been the only project where the density proposed exceeds the allowed density with the application of LU 2.2. Even Willow Springs II complies with the maximum density when the archaeological area is excluded in accordance with LU 2.2 (developed at 24.8 dwelling units acre; maximum of 25 dwelling units acre allowed by the Central Hollister Opportunity Site designation).

In response to your comments regarding OTV, OTV benefits from the extensive work that the City has done to increase the capacity of San Jose Creek and the work to be done to improve the Hollister Bridge crossing. Because of this work, Old Town inclusive of this site, is now not prone to flooding. As such, when staff evaluated the constraints associated with the OTV site, the flood hazard was determined to be immaterial. Theoretically if no improvements had been done to San Jose Creek, then yes, the area impacted by the flooding would have been excluded for density calculation purposes associated with the OTV project. More importantly, the project would have still met the density limitations of the proposed General Plan designation.

In regards to your comments regarding noise, using noise contours in relationship to LU 2.2 is complex. This is because of the wide swath of the community that lies within a 60 dba noise contour arising from the presence of US 101, the Union Pacific Railroad line, and the Santa Barbara Municipal Airport. Applying this constraint might render a parcel

(such as yours) with little to no density. This constraint is carefully applied based on these factors.

The provisions of LU 2.2 strictly speak to how to figure density and nothing beyond that. While land area might be excluded in calculating density, that does not preclude an area from being developed as there are mitigation/design measures that can be utilized to allow construction to reduce a hazard and/or minimize impacts. While, it is not ideal to build near or on a constrained area (with mitigation), there is nothing in LU 2.2 that precludes development within the constrained areas.

Further, staff has not taken out constrained area when figuring density simply to increase the density of a particular site as you assert in your letter. We have done so (and will continue to do so) in accordance with our professional responsibility to the City in verifying a project's consistency with the General Plan. It is not done to justify or meet a desired density.

### Conclusion

If we have misunderstood your letter of August 20<sup>th</sup> that the Towbes Group will be pursuing an increase the density through a General Plan Amendment, please let us know. Please be aware that there are no guarantees that the City Council will support the General Plan Amendment. The other options to address the density problem as discussed previously remain viable avenues as well (i.e. reduce the number of units to 327 or change the project to an affordable housing project and utilize a density bonus to achieve the proposed 360 units). Lastly, I understand that your staff shared with City staff on August 28<sup>th</sup> that the gross acreage of the site might be larger than previously identified. If this is true, then the density issue might be significant reduced or even moot. We await documentation to confirm that the site is actually larger.

If there are questions, please contact either myself at 805-961-7541/ [jcarman@cityofgoleta.org](mailto:jcarman@cityofgoleta.org) or Current Planning Manager Lisa Prasse at 805-961-7542/ [lprasse@cityofgoleta.org](mailto:lprasse@cityofgoleta.org).

Sincerely,



Jennifer Carman, AICP  
Director of Planning and Environmental Review

cc: Michelle Greene, City Manager  
Tim Giles, City Attorney  
Lisa Prasse, Current Planning Manager  
Mary Chang, Supervising Senior Planner  
Stephanie Diaz, Contract Planner