

February 10, 2020

Steven A. Amerikaner
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samerikaner@bhfs.com**BY EMAIL (PIMHOF@CITYOFGOLETA.ORG)**Mr. Peter Imhof
Planning Director, City of Goleta
130 Cremona Drive
Goleta, CA 93117

RE: NZO's Applicability to SyWest Property (907 S. Kellogg Avenue)

Dear Mr. Imhof:

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.

As you know, SyWest has submitted an application to the City for an industrial warehouse project on its property. The application was determined to be "complete" on April 11, 2018. Since then, SyWest has been working with the Santa Barbara Foodbank in an effort to determine whether the new facility would be suitable for Foodbank's needs.

SyWest has always believed that its application would be evaluated under the City's current Zoning Code. Thus, SyWest was surprised in September 2019 when the Planning Commission inserted a new provision in the NZO placing a "sunset" date of December 31, 2021. In previous letters, we have pointed out various problems with this Sunset Provision.

The purpose of this letter is to provide additional information to the City Council concerning the impact of the NZO on the SyWest project.

The NZO's Building Height Methodology Is Fatal to the SyWest Project

The NZO has a fatal impact on SyWest's project because it changes the way that building height is measured. Under the existing zoning code, building height is measured from the finished grade of the parcel. Under the NZO, building height is measured from the existing grade.

This policy change imposes a severe and special hardship on the SyWest property. Due to the SyWest parcel's existing topography FEMA requirements, the City's Floodplain Management standards require that SyWest import fill to raise the grade of the parcel by an estimated eight feet. Under the existing zoning code, this required change in the grade has no impact on the height of the proposed building. Under the NZO, this change in the grade reduces the building height by eight feet and negates SyWest's ability to construct a modern state-of-the-art building.

SyWest's plans were prepared under the existing zoning code and call for a building with an exterior height of 35' and an interior height of up to 32'. Under the NZO, this building would have an exterior height of 27' and an interior height of 24'. The attached photo simulations show the proposed building from three

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different viewpoints, and using both the existing zoning code and the NZO. We believe that these simulations demonstrate that the visual impact of the proposed building under either the current ordinance or the NZO will not be significant.

Enclosed please find a letter from the Radius Group, a local commercial real estate brokerage with substantial experience with industrial properties. This letter makes clear that modern industrial warehouse buildings need an interior height of at least 30'. Additionally, we understand that the City may receive a communication from the Foodbank of Santa Barbara County expressing the challenges it has faced finding a modern industrial facility to occupy.

Thus, using the NZO height calculation method will constrain the proposed building so severely that it is very unlikely to be constructed because prospective tenants will find that the 24' interior height does not meet their needs as compared to other modern storage buildings. A commercial building that is not designed to be competitive in the private real estate market cannot succeed, and will not be built.

It bears noting that the standards used by Santa Barbara County and the City of Carpinteria (entirely within the Coastal Zone) both use finished grade to measure the height of a proposed building. Interestingly, the County's "finish grade" methodology applies specifically to properties located in the Coastal Zone and considered to be within the View Corridor Overlay.

The Sunset Provision is Fatal to the SyWest Project

In our earlier letter to the City Council, we pointed out that the "Sunset Provision" creates significant risks for the SyWest project. The most recent version of the Sunset Provision released to the public on February 6 does not mitigate these risks; indeed, it makes them more severe.

At the outset, it is important to remind ourselves – as we have discussed -- that the Sunset Provision applies to the SyWest project and, at most, one or two others. It is not a provision that deals with a broad-scale policy issue, because there are so few projects with completed applications waiting in the City's processing pipeline. Simply put, the Sunset Provision does not solve a larger problem, because there is no larger problem.

The most recent version of the Sunset Provision requires that SyWest secure all "entitlements" by December 31, 2021. City staff has already decided that an EIR must be prepared before the City can approve the requested Development Plan and related discretionary approvals. Given the fact that the EIR consultant has not been selected, and in light of the adjacency of San Jose Creek to the project, we believe there is very little likelihood that the EIR will be completed and certified by December 31, 2021.

Moreover, even if the EIR is somehow completed by mid-2021 (leaving sufficient time for public hearings prior to the Sunset Date), SyWest has NO POWER to ensure that all required approvals are issued by December 31, 2021. Indeed, the City lacks that power as well. Since the City does not have a certified LCP, it cannot and does not approve or issue Coastal Development Permits. Under its permitting procedures, the City completes all of its hearings and decides whether to grant City discretionary approvals required by the zoning code. At that point, the project and its related environmental documents and City approvals is sent to the Coastal Commission for approval of a CDP, including formulation of any CDP conditions. The timing and substance of that approval (with conditions) is entirely within the discretion of the Coastal Commission.

The conclusion is inescapable: SyWest does not have the ability to comply with the December 31, 2021 date. That timing is in the hands of two public agencies that operate independently of each other. Yet, to proceed forward, SyWest must agree to fund an EIR, which is likely to cost \$300,000 or more. The most

likely result is that the \$300,000 will be paid to an EIR consultant, the Sunset Date will be passed, the NZO will be applied to the project, and the project will be unbuildable because of the NZO building height methodology. This is a business risk that SyWest simply cannot take.

This result will not serve the City's interests either. If SyWest simply drops the project, the City will forego an opportunity for a private developer to build a modern industrial facility that will help attract private industry and, perhaps, help support an important community non-profit. Property tax revenues will be lost. A long-vacant parcel of land will finally have a productive and attractive use. And, if the City decides it needs to acquire access over the SyWest property to San Jose Creek, it will need to exercise its power of eminent domain to achieve that access. None of these consequences can be said to serve the City's interests.

SyWest's Request and Recommendation

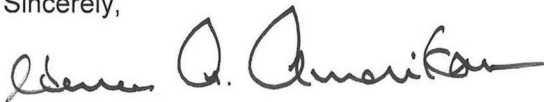
SyWest recommends that the City address these issues as follows:

1. Delete the Sunset Provision from the NZO, or
2. Amend the Sunset Provision as follows:
 - a. Change the Sunset Date to December 31, 2024.
 - b. Specify that only City-issued discretionary approvals (such as a Development Plan approval) need to be obtained prior to the Sunset Date.

Our suggested amendment is attached.

I appreciate your attention to these issues. Since the matter is currently pending before the City Council, I have scheduled a meeting with Mayor Perotte for Tuesday, February 11, at 2:30 pm. I will be explaining this issue to her, and providing her (and other Council Members) with a copy of this letter and its attachments.

Sincerely,



Steven A. Amerikaner

Enclosures

cc (w/att.) Michael Jenkins, Goleta City Attorney
Robert Atkinson, SyWest Development
Bill Vierra, SyWest Development
Ginger Anderson, Stantec

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, ~~2021~~ 2024. If a project has not received all required land use entitlements by December 31, ~~2021~~ 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 legal appeal period, ~~and meeting any prior to issuance conditions of approval.~~, and ~~successfully obtaining~~ issuance of the effectuating Zoning Permit.

VIEWS FROM HIGHWAY 217



① 32' FOOT INTERIOR CLEAR HEIGHT - CURRENT ZONING ORDINANCE



① 24' FOOT INTERIOR CLEAR HEIGHT - NEW ZONING ORDINANCE

GOLETA BUSINESS CENTER
907 SOUTH KELLOGG AVE., GOLETA, CA

FEBRUARY 07, 2020

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VIEWS FROM KELLOGG AVENUE



② 32' FOOT INTERIOR CLEAR HEIGHT - CURRENT ZONING ORDINANCE



② 24' FOOT INTERIOR CLEAR HEIGHT - NEW ZONING ORDINANCE

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X2

VIEWS FROM HIGHWAY 217



③ 32' FOOT INTERIOR CLEAR HEIGHT - CURRENT ZONING ORDINANCE



③ 24' FOOT INTERIOR CLEAR HEIGHT - NEW ZONING ORDINANCE

GOLETA BUSINESS CENTER
907 SOUTH KELLOGG AVE., GOLETA, CA

FEBRUARY 07, 2020

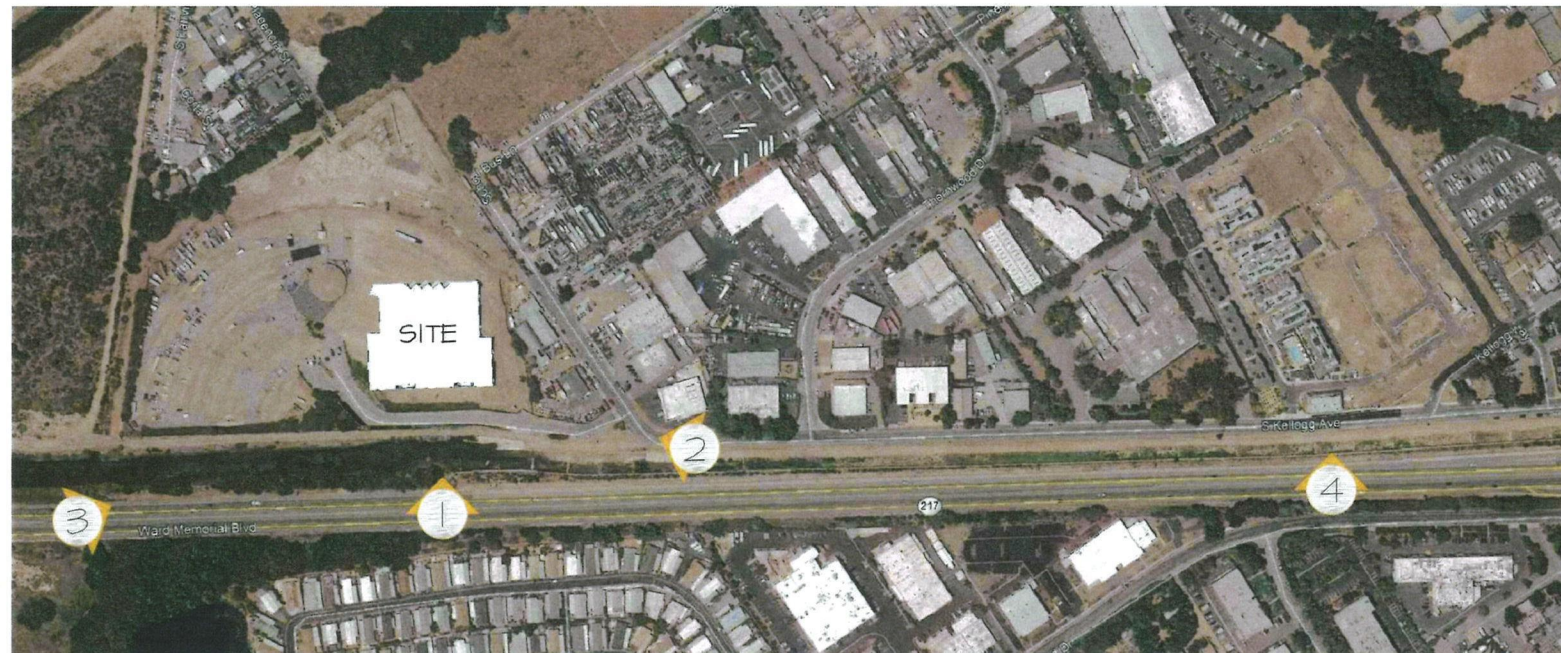
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X3

VIEWS FROM HIGHWAY 217



④ WINSLOWE TOWNHOUSES - 35' BUILDING HEIGHT



KEYPLAN



GOLETA BUSINESS CENTER
907 SOUTH KELLOGG AVE., GOLETA, CA

FEBRUARY 01, 2020

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February 6, 2020

City of Goleta Planning Department
City of Goleta

Re: 907 S Kellogg Industrial

To Whom It May Concern,

I'm writing regarding the 907 S Kellogg Ave M1 zoned industrial site and the potential for it to be redeveloped as a new state-of-the-art industrial facility. The current industrial vacancy rate in the city of Goleta is 5.2% and Santa Barbara is under 1% so new buildings/projects will be welcomed by tenants/businesses in our market many of whom operate out of older, sub standard buildings. Numerous locally owned and operated businesses are being forced to consider facilities outside the area due to the shortage of quality building inventory. Based upon my experience and professional opinion, the new buildings contemplated for the subject site should have similar attributes to the Cabrillo Business Park buildings designed and then sold by Sares Regis. The Direct Relief headquarters is another good example of the type of industrial space that squarely meets current market demands. These building attributes should include excellent truck parking/access, concrete tilt up construction, energy efficiencies, high ceilings for storage/distribution (minimum of at least 30 foot clear height) and flexible space plans adapting to tenant build out demands (ie. Raytheon, Northrup, Flir, Inogen, CMC Rescue, Apeel Sciences). New and growing companies look for premier industrial product to expand, and without these modernized buildings we risk losing job creating companies to other markets. This inventory shortage directly affects us on local level as it forces our area businesses to move their inventories, goods and services, and employees to more remote facilities and transport them back to our community over a longer distance. The resulting displacement and the elongated transport trips are environmentally detrimental in both air quality and traffic; it drives up the costs for businesses and ultimately the local citizens and it is a constraint on the ability our local companies to grow.

I am a partner of the Radius Group and have been active in the industrial leasing market locally for over 20 years. Please feel free to contact me regarding the demand for new industrial buildings.

Respectfully,

A handwritten signature in black ink, appearing to read 'Brad Frohling', is written over a horizontal line.

Brad Frohling
Manager Partner, Radius Group
DRE #: 01323736 |