



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.

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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.

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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 CCCs 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

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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

A handwritten signature in blue ink that reads "Ginger Andersen".

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