

January 17, 2023

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VIA EMAIL TO: CITYCLERKGROUP@CITYOFGOLETA.ORG

City Council and City Clerk
City of Goleta
130 Cremona Drive
Goleta, CA 93117

RE: Housing Element 2023-2031 Adoption (CEQA Exempt) - January 17, 2023 Agenda Item C.1

Dear Mayor and City Councilmembers:

I am a land use attorney with Brownstein Hyatt Farber Schreck, LLP. Our firm represents numerous clients throughout the City of Goleta (“City”) on commercial, mixed use and multi-family development projects. This letter requests that the City consider further revisions to its 2023-2031 Housing Element (“Housing Element”) to streamline the development of much-needed housing within the City to address its acute housing shortage.

I. BACKGROUND

For context, as you know, California, including the Central Coast and the City of Goleta, faces a housing crisis making every new housing unit critical to ensure residents retain the fundamental right to access shelter. Estimates indicate that California had an unmet housing need of approximately 2.3 million units as of 2017.¹ To address the crisis, state officials recently estimated that about 310,000 new housing units must be built over the next eight years, more than 2.5 times the number normally built in the State.² Given this unmet demand, even the construction of market-rate units “reduces housing costs for low-income households and, consequently, helps to mitigate displacement in many cases.” Housing availability within City of Goleta reflects the statewide crisis and the City’s Housing Element must address this housing crisis.

Infill development on vacant and underutilized land constitutes the most sustainable means to accommodate growth and to redesign cities to be more sustainable.³ Streamlining this development in

¹ PPIC, California’s Future – Housing, p. 2 (January 2020) available at <https://www.ppic.org/wp-content/uploads/californias-future-housing-january-2020.pdf>.

² See, e.g., KSBY, California Governor Signs Laws to Boost Housing Production (Sept. 28, 2022) <https://www.ksby.com/news/california-news/california-governor-signs-laws-to-boost-housing-production>.

³ California Governor’s Office of Planning and Research, Infill Development <https://opr.ca.gov/planning/land-use/infill->

the City of Goleta is key, and doing so as a part of the City’s Housing Element process presents an opportunity for the City to align its housing policies with its sustainability goals while providing more critical housing for its residents.

II. HOUSING ELEMENT ASSUMPTIONS REQUIRE FURTHER STREAMLINING TO ENSURE NEW HOUSING IS DEVELOPED

The City’s Housing Element provides an inventory of vacant or underutilized sites that the City anticipates rezoning to support the development of housing during the planning period.⁴ For vacant sites, the Housing Element plans for the construction of 663 units (249 very-low or low income units, 32 moderate income units, and 378 above moderate income units).⁵ For underutilized sites (i.e., sites that are already developed but could be developed with additional housing units), the Housing Element plans for the construction of 1,735 units (1,146 very-low or low income units, 542 moderate income units, and 47 above moderate income units).⁶

However, the track record of proposed housing projects in recent history in the City of Goleta demonstrates that these projections for vacant and underutilized sites are far from realistic absent the City committing to significant mechanisms to streamline these types of projects, such as by-right development review, ministerial application processing, and reduced development standards.

A. Vacant Sites

The Housing Element selected sites and determined the potential density of those sites based on the historical (2009-present) density range of approved and pending projects.⁷ The approved and pending projects were developed at densities ranging from 78 to 105 percent of the amount allowed under the City’s Zoning Code.⁸ This analysis, however, does not paint an adequate picture of development within the City.

First, the Housing Element does not analyze any approved projects under the City’s New Zoning Ordinance (“NZO”) adopted by the City Council on March 3, 2020 or the City’s Objective Design Standards for Multiple-Unit and Mixed Use Development adopted on November 15, 2022 (“Objective Development Standards”). Based on the projects analyzed in the Housing Element, none of these

development/ (accessed on Jan. 17, 2023); see also Smith Group, DC, Low-Impact Infill Housing, Combat the Climate Challenge, the Housing Crisis & Disrupt Development (Sept. 2021) [“Cool Climate Network found that urban infill held the greatest opportunity to reduce GHG (greenhouse gases), making low-impact, infill housing the lowest hanging fruit with the highest return that is accessible to a wide range of stakeholders.”].

⁴ Housing Element, Sec. V, pp. 10A-83 – 10A-96.

⁵ Housing Element, Tab. 10A-26.

⁶ Housing Element, Tab. 10A-26.

⁷ Housing Element, p. 10A-84.

⁸ Housing Element, Tab. 10A-29.

projects were developed under the NZO or the Objective Development Standards. The Housing Element should evaluate and clearly explain the potential impacts of NZO and Objective Development Standards on these historical developments or those contemplated under the Housing Element.

Second, the Housing Element's assessment does not reflect our project experience in the City. For example, our firm represents the Heritage Ridge project, which is the only pending site on the City's recent housing projects list.⁹ The Heritage Ridge project, if approved, would provide 332 dwelling units, including 102 income-restricted units, within the City on one of the identified vacant sites. The Heritage Ridge project application has been pending for at least eight years. The City published the original notice of preparation for the environmental impact report on April 3, 2015, only a few months after the start of the prior City Housing Element cycle on February 15, 2015.¹⁰

Given that the Heritage Ridge project application has been pending for the entirety of the City's prior Housing Element, the current Housing Element must discuss how application processing impacts the ability of the vacant sites to be redeveloped during the planning period and identify meaningful action items to streamline development of vacant sites.¹¹ Further, the City should revise Housing Element Policy 2.4(h) with clear processing standards for 100 percent affordable projects as well as market rate and partially affordable projects to ensure these projects can be completed within the planning period. The City must prioritize all housing project applications to meet the goals set forth in the Housing Element.

B. Underutilized Sites

The Housing Element proposes to provide the majority of the new units within the City through redevelopment of underutilized sites. The Housing Element's process identifies 160 underutilized parcels as having a "realistic potential for additional residential development during the planning period."¹² The Housing Element then applied a 50 percent discount factor to account for sites that may be developed at less than the maximum density.¹³ This "conservative" discount factor is

⁹ Housing Element, Tab. 10A-29.

¹⁰ See Governor's Office of Planning and Research, CEQANet Portal <https://ceqanet.opr.ca.gov/2015041014> (accessed on Jan. 17, 2023).

¹¹ See California Department of Housing and Community Development ("HCD"), City of Goleta's 6th Cycle (2023-2031) Draft Housing Element Letter, p. 6 (Sep. 27, 2022) <https://www.cityofgoleta.org/home/showpublisheddocument/27378/637999452368470000> ("While the element includes information about processing times, it should also describe the procedures for a typical single family and multifamily development. The analysis should address the approval body, the number of public hearing if any, approval findings and any other relevant information. The analysis should address impacts on housing cost, supply, timing and approval certainty. For example, the element should identify and analyze approval findings for impacts on approval certainty, the presence of processes or guidelines to promote certainty and add or modify programs as appropriate.")

¹² Housing Element, pp. 10A-87 -10A-88.

¹³ Housing Element, p. 10A-88.

proposed because there are “not many example of redevelopment of underutilized sites in the City to rely upon.”¹⁴

In fact, based on my experience of over 12 years doing land use in the City, the 50 percent conservative discount factor does not adequately reflect the potential development of these sites under the City’s land use regulations. Further, the City’s proposed policies and implementation programs in the Housing Element are insufficient to show that this 50 percent discount factor is “conservative.” The City supports this discount factor with a list of six projects (10 parcels comprising 38.21 acres) that have “interest” in redevelopment of these underutilized sites.¹⁵ However, these six potential projects represent approximately 6.25 percent of the total underutilized parcels. Based on this small sample size, it is impossible to assess whether the Housing Element’s sites represent “realistic potential” development or whether the 50 percent discount factor is appropriate. Further, it is important to note that none of these examples are actual applications for development, let alone applications that have been deemed complete and are undergoing environmental review. The City also does not provide significant examples of this type of redevelopment actually occurring in the City. Finally, given the significant difficulties and delays associated with the development of developed sites, it is hard to imagine that these six projects—not to mention all the 160 parcels lists in the Housing Element—have a “realistic potential” for residential development based on this information.

The Housing Element should include further evaluation of the true viability of potential redevelopment of these underutilized sites to provide a more robust analysis of the “realistic potential” for development and an appropriate discount factor. The Housing Element also proposes key policies and implementation programs to streamline housing development and to ensure that these underutilized sites are developed with housing. This evaluation appears critical to addressing the deficiencies associated with the City’s draft Housing Element identified by the HCD.¹⁶ Alternatively, the Housing Element should increase the development potential of vacant sites, which serve as more realistic sites for new multi-family residential development.

¹⁴ Staff Report, p. 4.

¹⁵ See Housing Element, Tab. 10A-30.

¹⁶ HCD, City of Goleta’s 6th Cycle (2023-2031) Draft Housing Element Letter, p.4 (Sep. 27, 2022)

<https://www.cityofgoleta.org/home/showpublisheddocument/27378/637999452368470000> (“To address this requirement, the element should analyze the extent that existing uses may impede additional residential development, *past experiences converting existing uses to higher density residential development*, market demand for the existing use, existing leases or contracts that would perpetuate the existing use or prevent additional residential development. ... Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.”)

III. THE CITY SHOULD DELAY ADOPTION OF THE HOUSING ELEMENT TO PROVIDE FOR SUFFICIENT TIME FOR PUBLIC REVIEW AND INPUT ON THE REVISED HOUSING ELEMENT

The City's Housing Element is a critical planning tool that will guide housing development within the City for the next eight years and beyond. Respectfully, there has not been sufficient public outreach to vet the identified sites or other policies proposed in this important document.

The public simply needs more time, especially in light of the recent revisions proposed by the Planning Commission in mid-December and unprecedented storm and flooding events this year. Plus, notice of this meeting and the revised document was posted late last week just before a three day weekend. Thus we ask the City Council to defer adoption of the Housing Element until interested parties have sufficient time to review the revisions and provide the City Council with thoughtful public comments. Rushing the processing of the Housing Element seems improper when the statutory deadline is not for another month.

Delaying adoption would allow for interested parties to dedicate the time and energy necessary to thoroughly consider and comment on the latest proposed changes to the Housing Element and understand their impact on new development within the City. Therefore, we ask that the City Council continue its consideration of the Housing Element until its February 7, 2023 meeting to allow for additional public engagement on this critical planning document.

Thank you for your careful consideration of these comments as you deliberate on adoption of the City's Housing Element.

Sincerely,

Beth A. Collins