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Received 12/17/2021
Town of Loomis

December 17, 2021

Mr. Sean Rabé
Loomis Town Manager
3665 Taylor Road
Loomis, CA 95650

via E-Mail and USPS

Re: Hidden Grove Application

Dear Mr. Rabé:

With this letter and the accompanying application materials, StoneBridge Properties is submitting to the Town of Loomis its Hidden Grove application seeking various specified land use entitlements and development permits for a housing development project. This complete application serves as a “follow-up” to the preliminary application filed on March 17, 2021 and deemed complete on July 12, 2021.

As the submitted project description indicates, the proposed project consists of six alternatives designated as Alternative A-1, Alternative A-2, Alternative B-1, Alternative B-2, Alternative C-1 and Alternative C-2. All of these alternatives propose various types and densities of residential units for the 61.7-acre project site along with a small amount of commercial development. Parks and open space are also part of each of the six proposals. The six alternatives, however, differ in two respects with the first of these being the treatment of a roadway connection through the project which connects Horseshoe Bar Road and King Road. Two of the alternatives (A-1 and A-2) deal with this connection by providing a reservation of right-of-way to the Town which basically runs along Interstate 80. The other four (B-1, B-2, C-1 and C-2) involve extending Library Drive through the project to connect Horseshoe Bar Road and King Road. The other area of difference involves whether the proposed multiple family portion of the project is developed with market rate or affordable housing units. Alternatives A-1, B-1 and C-1 propose market rate housing while Alternatives A-2, B-2 and C-2 propose affordable housing units.

In preparing the submitted application, StoneBridge thoroughly reviewed the history surrounding the prior development application for the property, known as The Village at Loomis. That application was, as you know, approved by the Town Council and then voted down in part

by the electorate.¹ After reviewing that overall process, we chose to advance a project which we believe addresses many of the areas of concern raised with respect to the prior project and which, again in our view, reflects a substantially improved project. Among the noteworthy features of the project now being advanced are that:

- (1) It is less dense than the prior proposal. As an example, the total number of housing units being proposed in Alternative A-1 is reduced from 418 to 298, an overall reduction of 120 units;
- (2) It contains housing more reflective of Loomis by eliminating the previously proposed alley homes;
- (3) It complies with the Town Code's single family parking requirements;
- (4) It provides an improved street and pedestrian experience, which includes wider sidewalks and less street pavement, all of which reduces maintenance while better promoting pedestrian and cyclist safety;
- (5) It provides an alternative and achievable connection between Horseshoe Bar Road and King Road; and
- (6) It includes affordable housing options to assist the Town in achieving its RHNA obligations.

The StoneBridge view is that singularity and collectively these project characteristics constitute a marked advance over the prior proposal. Our hope is that the community will concur with this assessment.

The Housing Crisis Act of 2019 and the California Density Bonus Law

StoneBridge Properties is submitting its Hidden Grove application for processing pursuant to the Housing Crisis Act of 2019, otherwise known as Senate Bill 330 ("SB 330")², and is, for Alternatives A-2, B-2, and C-2, invoking the mandatory concession provisions of the California Density Bonus Law. Those two statutory provisions accordingly provide the framework within which the Town is required to review and act on our submitted application. SB 330 specifically limits the discretion of the Town in situations where general plan residential designations already exist by precluding the Town from denying any application which is consistent with all "objective"

¹ In a special election held on June 18, 2019 the referendum invalidated the Villages Development Agreement and the PD Zoning for the project. The prior certification of the Environmental Impact Report, adoption of the Mitigation Monitoring Program and adoption of the General Plan Land Use Diagram modifications, and modification of General Plan Table 3-1 remain as adopted.

² Senate Bill No. 33 (Skinner, 2019), in full, was an act to amend Section 65589.5 of, to amend, repeal, and add Sections 65940, 65943, and 65950 of, to add and repeal Sections 65905.5, 65913.10, and 65941.1 of, and to add and repeal Chapter 12 (commencing with Section 66300) of Division 1 of Title 7, of, the Government Code, relating to housing.

local land use standards and criteria. And under the California Density Bonus Law, the granting of concessions is mandatory so long as a housing development project incorporates a certain percentage and type of affordable units.³ These are both important provisions which the Legislature adopted to advance both market-rate and affordable housing projects.

Because of the importance of these two statutory enactments to the processing of the Hidden Grove application, we thought it would be useful for us to outline our understanding of them as well as how they apply to our application. First, and as indicated, the Housing Crisis Act of 2019 was intended to promote the construction of housing throughout the State. Why? Because of the dire necessity of increasing the overall housing supply which is vastly outstripped by demand. The Legislature framed the problem it intended to address by passing SB330 as follows:

California faces a severe housing shortage. In its most recent statewide housing assessment, HCD estimated that California needs to build an additional 100,000 units per year over recent averages of 80,000 units per year to meet the projected need for housing in the state. A variety of causes have contributed to the lack of housing production. Recent reports by the Legislative Analyst's Office (LAO) and others point to local approval processes as a major factor. They argue that local governments control most of the decisions about where, when, and how to build new housing, and those governments are quick to respond to vocal community members who may not want new neighbors. The building industry also points to CEQA review, and housing advocates note a lack of a dedicated source of funds for affordable housing.

Many local governments have adopted policies that limit or outright prohibit new residential development within their jurisdictions, or implement restrictive zoning ordinances, or otherwise impose costly procedural and design requirements on building. The author wants to remove some of these barriers in areas where housing is most acutely needed.⁴

Given this overall concern, SB 330 sought to—and now does—seriously alter the local land use approval process for proposed “housing development projects” located on land already designated for residential uses by local general plans.

³ Similar to SB 330, the California Density Bonus Law imposes the burden onto the locality. The California Density Bonus Law requires that the city or county approve requested incentives, concessions or waivers unless the city or county can find no identifiable cost reduction or other specific reasons for denying them. See Cal.Gov. Code § 65915, subds. (d), (e); See also *Schreiber v. City of Los Angeles* (2021) 69 Cal.App.5th 549, 555, recognizing that an applicant is not required to establish that cost reductions will result from the demanded concessions, and that the local agency bears the burden of proof for the denial of a requested concession or incentive (citing Cal. Gov. Code § 65915, subd. (d)(4).); See also HCD Letter Re: City of Encinitas No. 2020-09 (Density Bonus) (March 25, 2021), recognizing that the intent was to “create a presumption that incentives and concessions provide cost reductions, and therefore contribute to affordable housing development. A municipality has the burden of proof of demonstrating that a concession or incentive would not generate cost savings.”

⁴ See Senate Committee on Governance and Finance (2019-2020 Regular Session) (Hearing Date 4/10/19).

So how is this done? First, by “vesting” all local land use requirements as of the date a preliminary application is deemed complete, thereby precluding a locality from changing the “rules of the game” after an application has been filed.⁵ Second, by establishing that a locality is not allowed to deny a project which is consistent with local land use “objective” standards and criteria.⁶ Third, by reversing the traditional presumption to be applied in the event of judicial review, rendering that presumption highly favorable to an applicant as opposed to the locality.⁷ Fourth, by imposing serious and substantial financial penalties upon a locality if it improperly denies an applicant’s housing development project.⁸ And fifth, by rendering SB 330 decisions exempt from the referendum process.⁹ Collectively, these provisions—and others—indicate the seriousness of the Legislature’s intent to promote housing development by eliminating processing and outcome uncertainty with respect to qualifying residential projects.¹⁰

The second relevant statutory scheme—the California Density Bonus Law—was and is intended to operate in conjunction with SB 330. Overall, the objective of the Density Bonus Law is to assure the construction of “affordable housing” as opposed to housing generally. The way in which it seeks to accomplish this objective is by allowing an applicant to demand concessions from various development requirements if it is providing “affordable housing” as part of its project. Once demanded, those concessions must then be granted under the terms of the Density Bonus Law. And, should a locality wish to block a demanded concession, the burden is on that locality to establish that the demanded concessions will not result in “identifiable financially sufficient and actual cost reductions,” a difficult burden to establish, given that there is an assumption that concessions provide cost reductions to a developer.¹¹ Concessions may, moreover, be demanded from almost any development regulation including a general plan provision. Finally, the number of concessions an applicant may demand varies according to the specific percentage and types of affordable housing units being proposed as part of the overall project. For instance, in situations where at least 24 percent of the total units are for lower income households, at least 15 percent are for very low income households or at least 30 percent are for persons and families of moderate income, three concessions may be demanded. Other numbers of concessions are allowed in circumstances entailing various other affordability combinations. In any event, such concessions, must be granted in accordance with the Density Bonus Law, a reality which reflects the seriousness of the Legislature’s determination to secure increased “affordable housing” throughout the State.

Establishing Applicable Objective Land Use Criteria and Consistency Matrix

Following the development of the six alternatives which collectively constitute the Hidden Grove Application, StoneBridge Properties undertook a complete and thorough assessment as to whether those alternatives are consistent with the Town of Loomis’ objective land use standards and criteria. The analysis undertaken was identical with respect to all six alternatives since they

⁵ Cal. Gov. Code § 65589.5(o); See also Cal. Gov. Code § 65941.1(d).

⁶ Cal. Gov. Code § 65589.5(j).

⁷ See Cal. Gov. Code § 65589.5 subs. (j)(1), (k).

⁸ Cal. Gov. Code § 65589.5(k).

⁹ Cal. Gov. Code § 66300(a)(3), (b).

¹⁰ For a more detailed delineation of the application processing program established by SB 330, please see Exhibit A.

¹¹ See FN 3.

are similar in all relevant characteristics. In doing so, StoneBridge was guided by the definition of “objective” contained in SB 330, which reads as follows:

“Objective” means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.¹²

Our actual consistency analysis is contained in the matrix attached as Exhibit C and labeled “Hidden Grove Consistency Matrix.” It reflects all reasonably ascertainable Town of Loomis land use standards and criteria—objective and nonobjective—as of the date StoneBridge’s preliminary application was deemed complete, that is, as of July 12, 2021. The matrix was created using a spreadsheet provided to StoneBridge by the Town which recited each of the Town’s development standards and criteria. Importantly, the applicant-provided information in the matrix is premised upon the project’s applicable land use categories as reflected in Exhibit B which is labeled “Hidden Grove SB 330 Land Use Worksheet.” That document references the various project components—consisting of Units A, B, C, D and E, Park, Town Center Commercial and Open Space—and indicates, by applying the rules set forth by SB 330, which standards and criteria stemming from Loomis General Plan and the Loomis Zoning Code are applicable to each unit. As shown on that worksheet, for components of the project where the existing General Plan and zoning designations are consistent, the project is subject to the objective development standards contained in the General Plan designation and the consistent zoning. For components of the project where the existing General Plan and zoning designations are not consistent, the document indicates that the objective development standards in the General Plan are controlling. This method of categorization is prescribed by SB 330 which indicates that, if the general plan and zoning are consistent, both are applicable whereas when they are not consistent the general plan designation controls.¹³ In any event, it is that method of categorizing which was employed in deciding what objective land use standards and criteria are applicable to various portions of the Project. Incidentally, with respect to the Park, Town Center Commercial and Open Space units, the General Plan and Zoning Code designation are consistent and thus both are controlling.

Relying upon the controlling General Plan or General Plan and Zoning Code “objective” standards and criteria, the matrix itself indicates whether each standard or criterion is objective or not and whether it is applicable to the project. The matrix then proceeds to explain how the six alternatives are consistent with the various applicable “objective” standards and criteria. In doing so, where a standard or criterion involves a fee or other financial obligation, we relied upon the Town’s adopted documents in combination with well established principals of “nexus” and “rough proportionality” to further define the requirement as well as assess the project consistency. Should you desire a further explanation of that or any other aspect of the matrix, we would be more than willing to supply it to you.

¹² Cal. Gov. Code § 65589.5(h)(8).

¹³ Cal. Gov. Code § 65589.5(j)(4).

Reason for Six Alternatives

StoneBridge's view is that the submitted Hidden Grove Application, consisting of all six alternatives, is fully compliant with all Town of Loomis objective land use criteria in effect as of the date its preliminary application was deemed complete. We realize, however, that the project must still comply with California Environmental Quality Act ("CEQA") review procedures and that review may lead to imposition of various mitigation measures. That all, of course, lies ahead.¹⁴ What also lies ahead is a discussion as to which of the six alternatives will be advanced and then presumably approved by the Town Council. Our intent is to have an open discussion with the staff and the community as to which of the offered alternatives best meets the objectives and the desires of the Town and its citizens, doing so within the parameters established by SB 330 and the Density Bonus Law.

The six identified alternatives were selected in anticipation of just such an open discussion. They represent the range of what StoneBridge believes to be financially feasible. More specifically, the six alternatives present three means by which to achieve traffic connectivity between Horseshoe Bar Road and King Road. They vary in the degree of financial assistance required from the Town. All three, however, would result in the desired connection. Another difference between the alternatives involves choosing between market rate housing on the multiple family site and affordable housing on that site. This option was developed to potentially assist the Town in meeting its RHNA obligation. In any event, we look forward to discussing both the road extension option and the possibility of affordable housing with staff and the community as we proceed.

Required Timelines, Completeness of Application and Consistency Determination

Senate Bill 330 and related statutory provisions require that a locality provide a complete list of all documents required to be submitted for a "housing development project" to be determined to be complete.¹⁵ Loomis has complied with this requirement by posting the mandated list on its website. That list is attached as Exhibit D. The Hidden Grove Project application package as submitted contains all the required materials on Loomis' list and is, in the view of the applicant, complete. We now look forward to Town staff reviewing our submission and presumably concurring with our assessment. As you know, staff has 30 days from the day of submission to

¹⁴ Applicant notes SB 330 allows a locality to deny or reduce the density of a project following CEQA if it finds that:
(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. ...
(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact ... other than disapproval of the housing development project of the project upon the condition that it be developed at a lower density.

Applicant would further note that the Town previously approved a similar project for the site, doing so without noting that approval would result in an "adverse impact upon the public health or safety" of the community. And it should be observed that any CEQA identified mitigations would be subject to the principals of "nexus" and "rough proportionality."

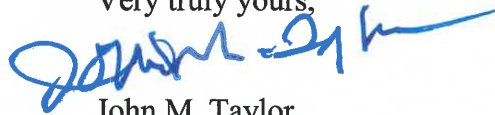
¹⁵ Gov. Code Section 65940 (a) (1) and 65943(f).

render its completeness determination.¹⁶ Given that our submission is occurring just before the holidays period, we are waiving strict adherence to that timeline requirement and providing Town staff with an additional 14 days to indicate whether it concurs that the submittal application is complete. That waiving results in the completeness determination being extended from 30 days to 44 days. We remind you, moreover, that under SB 330 your completeness assessment must be confined to whether all required materials have been submitted and that, if the application is determined to be incomplete, the Town must specifically indicate which materials required by its list are missing.

Following the completeness determination process, a second—and completely separate—60-day review process commences. The purpose of that review is to assess whether the proposed project is or is not consistent with the Town’s “objective” standards and criteria as made applicable by operation of SB 330. Our hope is that the submitted matrix will be helpful to staff at this stage of the review process and we look forward to receiving your analysis. Our own assessment is that the Project as proposed is entirely consistent with all applicable Loomis objective land use standards and criteria. Should staff conclude otherwise, we would request that you clearly indicate where our analysis has erred and why. In doing so, please keep in mind that, with respect to a SB 330 application, positions concerning compliance with “objective” standards and criteria advanced by the applicant prevail so long as there is substantial evidence to allow a reasonable person to agree with that interpretation.

Please do not hesitate to call or otherwise contact us should you wish to discuss the contents of this letter further. And again, we look forward to a dialogue with staff and the community concerning our six alternatives.

Very truly yours,



John M. Taylor

Cc: Mary Beth Van Voorhis
Anders Hauge
Christy Consolini
Jeffrey Mitchell
Andreas Booher
Randy Sater
Mike Isle
Hillary Johnson
Grant Taylor
Jim Wiley

¹⁶ Gov. Code Section 65943 (a).