



Perkins Coie LLP  
505 Howard Street  
Suite 1000  
San Francisco, CA 94105-3204

T. +1.415.344.7000  
F. +1.415.344.7050  
perkinscoie.com

October 8, 2024

Matthew S. Gray  
MGray@perkinscoie.com  
D. +1.415.344.7082  
F. +1.415.344.7282

Katie Herlihy  
Community Development Director  
City of Capitola  
420 Capitola Avenue  
Capitola, California 95010  
kherlihy@ci.capitola.ca.us

**Re: Capitola Mall Redevelopment Study (“Study”) / October 10, 2024 City Council Meeting Agenda Item 8.c**

Dear Ms. Herlihy:

We write on behalf of Merlone Geier Partners (“MGP”), the owner of a portion of the Capitola Mall property (the “Property”) in the City of Capitola (“City”). As you are aware from our prior correspondence, MGP has closely monitored the City’s efforts to achieve compliance with state law concerning the 2023-2031 Housing Element and related implementation procedures. As the owner of properties that are essential to the implementation of the Housing Element, and given our prior interactions with staff, MGP was surprised not to have been afforded an opportunity to review and comment on a draft of the Study that purports to identify strategies for incentivizing redevelopment of that same property. After review of the Study, our position continues to be that if the City wants the site to be redeveloped for housing within the current Regional Housing Needs Allocation cycle, then it should timely adopt the zoning amendments required by the Housing Element and forego duplicative analyses of alternatives that fail to adequately address impediments to the development of a residential component at Capitola Mall.

MGP agrees with the Study’s fundamental conclusion that mandates for commercial use on site, whether that use is retail or hospitality, will render a redevelopment proposal uneconomic. The use of fee waivers, bonus floor areas, local tax sharing, or other forms of public subsidy described in the Study, while potentially offsetting some of that economic risk, are, in MGP’s expert opinion, insufficient to trigger redevelopment of the site. We would specifically object to any notion that the City would “establish a minimum objective Development Standard for commercial development with a residential development proposal . . .” (Study, p. 8). Such a standard would be inconsistent with the Housing Element, and we believe cannot now be imposed through a zoning amendment or otherwise, as it would present a new land use constraint to the development of housing that was not evaluated in the Housing Element presented to the Department of Housing and Community Development for certification. (See Cal. Govt. Code, § 65583(a)(5) (requiring “an analysis of potential and actual government constraints upon the . . . development of housing for all income levels, . . . including land use controls . . .”))

MGP appreciates that the City is interested in redevelopment of the site, and we remain willing to engage collaboratively to achieve that end; however, we believe the first necessary step is

October 8, 2024

Page 2

timely adoption of the zoning amendments already studied and required by the Housing Element, namely, the modifications to Section 17.88 regarding height increases to 75 feet and maximum floor area ratio of 2.0.

Sincerely,

A handwritten signature in blue ink that reads "Matthew S. Gray". The signature is written in a cursive style with a long horizontal flourish at the end.

Matthew S. Gray

MSG:msg