

July 31, 2023

Mayor Maria Ristow and  
Los Gatos Town Council  
Town of Los Gatos  
110 E. Main Street  
Los Gatos, CA 95030

**Re: Agenda Item 15: Story Pole Policy Modifications**

Dear Honorable Mayor and Council Members:

Our firm represents Grosvenor USA Limited (“Grosvenor”) in connection with housing and land use matters for development of the North Forty Specific Plan Area in the Town of Los Gatos (the “Town”). Grosvenor has submitted a preliminary application to the Town to develop the North Forty Phase II site in manner consistent with the policies and assumptions applicable to the site as an opportunity site for housing development for lower income households included in the Town’s 2023-2031 Housing Element. Because Grosvenor’s housing development project will be affected by the Town’s policy regarding height pole and netting requirements (collectively, the “Story Pole Policy”), we have been following the Town’s process to update its Story Pole Policy with interest.

The current proposed Story Pole Policy modifications presented in your agenda packet for the August 1, 2023 Town Council Meeting represent an improvement over the Town’s current requirements. However, without further revisions, the Story Pole Policy will continue to be an impediment on projects that seek to deliver much needed housing at all income levels, including projects with a significant percentage of affordable housing. In its May 30, 2023 letter to Community Development Director Joel Paulson regarding legal deficiencies with the Town’s 2023-2031 Housing Element, the State Department of Housing and Community Development (“HCD”) directed the Town to “commit to an actual outcome” regarding Story Pole Policy modifications that will reduce housing costs and “establish alternatives or modifications [to the Story Pole Policy] that promote approval certainty.” HCD suggested removing the Story Pole Policy or allowing for its requirements to be satisfied though an alternative such as visual renderings.

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The proposed Story Pole Policy revisions fall short of HCD's direction and do not fully mitigate the Story Pole Policy's constraint on housing production in the Town. Requiring installation of height poles and netting on a site before any development can begin imposes a significant financial and political obstacle to housing development.

First, installing story poles is extremely expensive. Installing story poles for Phase 1 of the North 40 development cost hundreds of thousands of dollars and took weeks to install, only to be later uninstalled before development could begin. Modern tools such as 3D renderings could just as effectively illustrate the proposed building locations and heights for a fraction of the cost and time. Moreover, while members of the public must physically travel to the development site during a finite period to "see" the proposed development, 3D renderings could be made available online for members of the public to view from anywhere at any time. Renderings have the added advantage of giving the public information about building design and views from within the interior of a site that may otherwise be unavailable to the public when a project is proposed and would provide specific detail regarding the aesthetics of the proposed buildings rather than requiring viewer speculation.

Second, requiring story poles also creates unnecessary tension within the community and can create false expectations about the Town's ability to deny or modify design elements such as height or massing that are consistent with the Town's development standards. For example, during Phase 1 of the North 40 development, acres and acres of unsightly story poles stirred enough angst among community members to temporarily derail the approval process for a project that satisfied all of the Town's development criteria specified in its adopted Specific Plan. However, given that the Phase 1 development (and many other housing developments) are protected by state laws that prevent the Town from denying or reducing the density of housing development projects, including the Housing Accountability Act and the State Density Bonus Law, the story poles do nothing more than create unnecessary opposition to projects that are legally entitled to move forward, which in turn can create an impediment for projects to achieve the full density ostensibly allowed by the Town's development standards.

The Planning Commission recommended that the Story Pole Policy continue to require height poles and netting for proposed residential and non-residential buildings "[i]f proposed project includes a variance or exception to the physical characteristics of the primary structure." The language referencing an "exception to the physical characteristics of the primary structure" could be interpreted to apply to projects that are legally entitled to incentives, concessions, or waivers under the State Density Bonus Law. This would impose a requirement specifically on projects that include affordable

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housing, and it creates an economic and political barrier discouraging use of the State Density Bonus Law. The Story Pole Policy should be amended so that receipt of incentives, concessions, or waivers under the State Density Bonus Law does not trigger height pole and netting requirements.

The Planning Commission recommended that the Story Pole Policy include an exemption for projects that include a “high level of affordable housing” without specifying how much affordable housing would trigger the exemption. Staff has recommended that projects must double the Town’s below market price program (“BMP”) requirements in order to qualify for an exemption, which would mean that projects could be required to provide as much as 40 percent of their units as BMP units. This means that the Story Pole Policy would continue to apply to many projects that would be eligible for “by-right” approval under Government Code Section 65583.2(i) by virtue of providing 20 percent of their units as affordable to lower income households on opportunity sites included in the Housing Element. The Story Pole Policy should be amended to include an exception for all projects that include at least 20 percent of their units as affordable to lower income households.

The Planning Commission also recommended that flag rope be allowed in place of netting when buildings are over 35 feet tall and to reduce the number of poles required for multi-building developments to only include the tallest structure and those along the perimeters of the site. These are clear improvements over the current Story Pole Policy, but they remain more burdensome than other available alternatives. Projects with more than one building should be allowed to comply using 3-D renderings and project identification signs that comply with Sections II.G and III of the Story Pole Policy.

Amending the Story Pole Policy is an important step towards helping the Town achieve its housing production goals and comply with HCD’s direction to adopt a legally adequate Housing Element that includes programs to eliminate development constraints. We encourage the Town Council to make further amendments to the Story Pole Policy as suggested above to fully comply with HCD’s direction while still achieving the Town’s goal of informing Town residents, staff, and decision-makers about a project’s proposed massing.

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Thank you for considering our suggested revisions. The Grosvenor team looks forward to working with the Town to deliver much needed housing during the planning period.

Sincerely,



Eric S. Phillips

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