
Subject: FW: Extension of Interim Urgency Ordinance for North 40 Moratorium
Attachments: Letter to M. Sayoc re Town Council Meeting.pdf

From: Yolanda Hogan [<mailto:YHogan@sheppardmullin.com>]
Sent: Tuesday, September 19, 2017 10:20 AM
To: Marico Sayoc; Rob Rennie; Marcia Jensen; Steven Leonardis; BSpector
Cc: Clerk; Joel Paulson; steve.buster@grosvenor.com; don@harmoniepark.com
Subject: Extension of Interim Urgency Ordinance for North 40 Moratorium

Please see attached Letter on behalf of Grosvenor USA Limited regarding the proposed extension of the interim urgency ordinance for the North 40 moratorium.

Yolanda Hogan
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September 19, 2017

File Number: 41WE-245135

VIA E-MAIL AND U.S. MAIL

Mayor Marico Sayoc
and Members of the Town Council
Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

Re: Town Council Meeting, September 19, 2017
Agenda Item No. 14: Extension of Interim Urgency Ordinance for North 40 Moratorium

Dear Mayor Sayoc and Councilmembers:

This firm represents Grosvenor USA Limited ("Grosvenor"). As you know, Grosvenor owns or has under contract the majority of the land in the North 40 Phase 2 area. Grosvenor objects to the proposed 10-month and 15-day extension of the moratorium and urges the Council to reject it.

The proposed moratorium extension is unnecessary and unlawful. Government Code section 65858 provides that legislative bodies "*shall not*" adopt or extend such moratoriums on development unless the ordinance contains legislative findings that there is a "current and immediate threat to the public health, safety, or welfare." Govt. Code section 65858(c). Here, the Town's proposed legislative findings identify no such current and immediate threats, much less support such findings with substantial evidence. Nor could it. Grosvenor has not filed an application for Phase 2, and as we have previously stated, has no plans to do so in the near future. It certainly will not submit an application prior to the Town Council's tentatively scheduled hearing on November 7, 2017 to consider approval of potential amendments to the North 40 Specific Plan. Under California law, the "current and immediate" threat necessary precondition to any moratorium is not satisfied unless the landowner has filed a planning application *and* the jurisdiction's approval of that application is imminent. See *Building Industry Legal Defense Foundation v. Superior Court* (1999) 72 Cal. App. 4th 1410, 1418 [invalidating interim ordinance prohibiting the process of pending applications as premature because the approval of the applications was not imminent.]. The current circumstances therefore do not remotely justify the proposed extended moratorium.

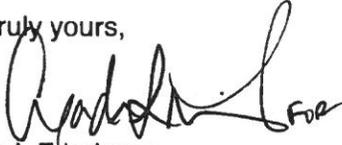
After working with the Town in excess of eight years to design and analyze the North 40 Specific Plan, including Phase 2, the proposed moratorium extension would unlawfully freeze all potential commercial and residential development within Phase 2 for nearly a year, unnecessarily harming both Grosvenor and the Town alike. As there simply is no factual nor

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legal basis for this extension, we urge the Town Council to reject it, and instead continue to work cooperatively with Grosvenor to address any issues of concern.

Very truly yours,

A handwritten signature in black ink, appearing to read "Arthur J. Friedman". The signature is fluid and cursive, with a large initial "A" and a long, sweeping underline.

Arthur J. Friedman

SMRH:484090336.1

cc: Town Clerk
Town Attorney
Steve Buster
Don Capobres