



**DISCUSSION ITEMS**

**Agenda Item # 2**

**AGENDA REPORT SUMMARY**

**Meeting Date:** September 24, 2019

**Subject:** Story Pole Policy Exception Request for 4350 El Camino Real Development

**Prepared by:** Sean K. Gallegos, Associate Planner

**Reviewed by:** Jon Biggs, Community Development Director

**Approved by:** Chris Jordan, City Manager

**Attachments:**

1. Approval Resolution No. 2019 - 41
2. Denial Resolution No. 2019 - 41
3. Story Pole Policy Exemption Request Letter

**Initiated by:**

Applicant

**Previous Council Consideration:**

None

**Fiscal Impact:**

None

**Environmental Review:**

Exempt pursuant to CEQA Guidelines Sections 15303 and/or 15061(b)(3).

**Policy Question(s) for Council Consideration:**

- Does the request for an exception from the installation of story poles meet the criteria outlined in the City's Story Pole Policy?

**Summary:**

- The Applicant for the development proposal at 4350 El Camino Real is requesting a full exception from the installation of story poles per the City's Story Pole Policy because they claim there are public health and safety concerns related to potential damage to personal property, potential for personal injury to an individual attempting to access the site, and concern that installation would impair the use of the existing structure and site to the extent that it would not be feasible to operate the existing gas station business.

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**Reviewed By:**

City Manager

City Attorney

Finance Director

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**Staff Recommendation:**

Review and Determine Appropriate Action. The agenda packet contains alternative resolutions, either of which could form the basis for a City Council decision depending upon the findings and determinations of the City Council based upon the evidence presented. Specifically, a Resolution that contains draft findings to support the granting of the story pole exception request is included as Attachment 1 and a Resolution that contains draft findings to support the denial of the story pole exception request is included as Attachment 2.

**Purpose**

Consider a request from the Applicant of the development proposal at 4350 El Camino Real for an exception from the City’s Story Pole Policy due to public health and safety concerns and impairment of the use of existing gas station on the site. The applicant’s request with support information is included as Attachment 3.

**Background**

The City Council adopted an Open Government Policy on March 24, 2015, that included a requirement that all commercial, multiple-family and mixed-use development projects subject to Planning Commission and City Council review must have story poles erected as part of the application process. On August 22, 2017, the City Council amended the Story Pole Policy to require that any exceptions to the Policy must be reviewed and approved by the Council. The criteria for reviewing and approving an exception is as follows:

1. The City Council may grant exceptions to the Story Pole Policy due to: a) a public health and/or safety concern; or b) that such an installation would impair the use of existing structure(s) or the site to the extent it would not be able to be occupied and the existing business and/or residential use would be infeasible. Some form of poles and netting and/or on-site physical representation of the project may be required, even if an exception is granted.
2. The Story Pole Plan may be limited in scope at the discretion of the City Council. In such cases such as where there are multiple detached structures proposed and where identifying the locations of key structures would suffice, the story poles may be limited to the outline(s) of key structures and/or showing a structure(s) greatest height and mass.
3. In granting an exception, the City Council may require additional digital imagery simulations, computer modeling, built to-scale models or other visual techniques in-Lieu of the story pole requirements.

Since adoption of the Story Pole Policy, the Council has considered story poles exception requests for development applications at 4856 El Camino Real, 385-389 First Street, 425 First Street and 5150 El



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Camino Real. Partial exceptions were ultimately granted for three of the projects, and a fourth one was denied.

### **Discussion/Analysis**

The Applicant has submitted a development application for a new five-story multiple-family residential building with 47 units located at 4350 El Camino Real. The application was originally submitted in December 2018 and was reviewed by the Complete Streets Commission on August 26, 2019. Public hearings for the project are anticipated in fall of 2019 and/or winter 2020. As specified in the City's Story Pole Policy, story poles must be installed at least 20 days before the first public hearing before the Planning Commission and shall remain in place until final action has been taken by the City Council. Accordingly, the City Council must render its decision on the exception request before the Planning Commission can consider the project.

As outlined in the Applicant's request (Attachment 3), an exception from the Story Pole Policy is requested due to public health and safety concerns related to placing story poles adjacent to drive aisles required for vehicles access and impairment of the use of the existing gasoline service station, including the convenience market and auto repair shop on the site. The applicant emphasizes the site is an active gasoline service station, the surrounding vehicle aisles, driveways and pump islands need to be kept open and accessible in order to serve the building. As a result of this constraint, the Applicant does not believe it is feasible to place all of the story poles in a way that meets the Story Pole Policy's requirements.

Since adoption of the Story Pole Policy, the Council has considered story poles exception requests for development applications at 4856 El Camino Real, 385-389 First Street, 425 First Street, and 5150 El Camino Real. The exception requests included descriptions and evidence of the specific constraints that limited full compliance with the Policy's requirements and, in most cases, proposed modified story pole diagrams. For 4856 El Camino Real, 385-389 First Street and 425 First Street, partial exceptions were ultimately granted by the City Council. For 5150 El Camino Real, the City Council denied the Story Exemption Request due to failing to provide sufficient evidence to demonstrate placement of the story poles would cause a public health or safety concern and/or would result in the office building being unusable. For the development application at 4350 El Camino Real, the applicant has provided an explanation representing that placement of the story poles in compliance with the Policy would result in the existing site being unusable and has listed their operational safety concerns related to the installation of story poles.

Based upon the record before the City, including the evidence provided and considered at the public proceedings on the item, the City Council needs to determine whether there is sufficient evidence to warrant the granting of an exception due to public health and/or safety concern associated with placing story poles adjacent to drive aisles and driveways, and if the placement of story poles would



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impair the use of the existing service station business to the extent that operating the business would be infeasible.

### **Options**

- 1) Approve the story pole exception request per the Resolution contained in Attachment 1.

**Advantages:** To be determined by the City Council based upon the evidence presented.

**Disadvantages:** To be determined by the City Council based upon the evidence presented.

- 2) Deny the story pole exception request per the Resolution contained in Attachment 2.

**Advantages:** To be determined by the City Council based upon the evidence presented.

**Disadvantages:** To be determined by the City Council based upon the evidence presented

### **Recommendation**

Review request and take appropriate action based upon the Council's review and deliberation of the evidence in the record.

**RESOLUTION NO. 2019-41**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS  
GRANTING AN EXCEPTION FROM THE CITY'S STORY POLE POLICY TO  
THE PROPOSED DEVELOPMENT AT 4350 EL CAMINO REAL AND  
MAKING FINDINGS OF CEQA EXEMPTION**

**WHEREAS**, the City Council adopted an Open Government Policy that included a requirement for all multi-story commercial, multiple-family, mixed-use and public facility development projects subject to Planning Commission and City Council review to erect story poles as part of the application and public review process (the "Story Pole Policy"); and

**WHEREAS**, the purpose of the Story Pole Policy is to help demonstrate for the public and decision-makers a proposed project's height, massing and profile in the context of the actual environment and provide a "visual notice" of the same; and

**WHEREAS**, the Story Pole Policy establishes specific, minimum objective standards and requirements for installation and duration of such poles' erection; and

**WHEREAS**, the City Council may grant exceptions to the Story Pole Policy due to a public health or safety concern, or if such an installation would impair the use of existing structure(s) or the site to the extent it would not be able to be occupied and the existing business and/or residential use would be infeasible; and

**WHEREAS**, by letter dated September 4, 2019, the applicant for the proposed development at 4350 El Camino Real submitted a request for an exception from the City's Story Pole Policy due to public health and safety concerns and impairment of the existing structures and site related to placement of story poles in close proximity to drive aisles; and

**WHEREAS**, this action is exempt from CEQA each as a separate and independent basis, pursuant to CEQA Guidelines Section 15303 (new construction of small structures) and CEQA Guidelines Section 15061(b)(3), in that there is no possibility that the action will have a significant effect on the environment.

**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Los Altos hereby approves the applicant's request for an exception from the installation of story poles per the City's Story Pole Policy based on the following finding:

1. There is a public health and safety concern or impairment of the existing site or buildings due to the placement of the story poles and guy wires posing a threat of physical harm to users and a safety concern if a story pole or guy wire were to cause damage to personal property or result in personal injury to an individual attempting to access the site; and
2. Installation of story poles per the City's Story Pole Policy would impair the use of the structure on the site to the extent that operation of the existing gasoline service station would be infeasible.

**I HEREBY CERTIFY** that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 24<sup>th</sup> day of September, 2019 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Lynette Lee Eng, MAYOR

Attest:

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Dennis Hawkins, CMC, CITY CLERK

**RESOLUTION NO. 2019-41**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS  
DENYING AN EXCEPTION FROM THE CITY'S STORY POLE POLICY FOR  
THE PROPOSED DEVELOPMENT AT 4350 EL CAMINO REAL**

**WHEREAS**, the City Council adopted an Open Government Policy that included a requirement for all commercial, multiple-family and mixed-use development projects subject to Planning Commission and City Council review to erect story poles as part of the public review process; and

**WHEREAS**, the purpose of the Story Pole Policy is to help demonstrate for the public and decision-makers a proposed project's height, massing and profile in the context of the actual environment and provide a "visual notice" of the same; and

**WHEREAS**, the Story Pole Policy establishes specific, minimum objective standards and requirements for installation and duration of such poles' erection; and

**WHEREAS**, the City Council may grant exceptions to the Story Pole Policy due to a public health or safety concern, or if such an installation would impair the use of existing structure(s) or the site to the extent it would not be able to be occupied and the existing business and/or residential use would be infeasible; and

**WHEREAS**, by letter dated September 4, 2019, the applicant for the proposed development at 4350 El Camino Real submitted a request for an exception from the City's Story Pole Policy due to public health and safety concerns and impairment of the existing structures and site related to placement of story poles limiting access to the site; and

**WHEREAS**, at a duly noticed public meeting, the City Council thoroughly and extensively evaluated and considered all information and evidence presented by the applicant, as documented in the record, including, without limitation, in the staff report presented to City Council, and based upon such review, found the applicant had failed to present sufficient evidence to warrant the granting of an exception as outlined in the Story Pole Policy; and

**WHEREAS**, this action is not subject to environmental review pursuant to CEQA Guidelines Article 18, Section 15270, in that CEQA does not apply to projects a public agency disapproves.

**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Los Altos, based upon the entire record before the Council, hereby denies the applicant's request for a partial exception from the City's Story Pole Policy based on the following findings:

1. There is insufficient evidence in the record to demonstrate that compliance with the Story Pole Policy's requirements for placement of story poles and guy wires would cause a public health or safety concern that warrants granting of an exception; and

2. There is insufficient evidence in the record to demonstrate that installation of story poles in accordance with the City's Story Pole Policy would impair the use of existing gasoline service station business on the site to the extent that it would be infeasible to operate and warrant the granting of the exception.

**I HEREBY CERTIFY** that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 24<sup>th</sup> day of September, 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Lynette Lee Eng, MAYOR

Attest:

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Dennis Hawkins, CMC, CITY CLERK

September 4, 2019

City Council  
City of Los Altos  
One North San Antonio Road  
Los Altos, CA 94022

**SUBJECT: STORY POLE EXEMPTION FOR 4350 EL CAMINO REAL**

Dear Mayor Eng and Council Members:

As the applicant and property owner of a multiple-family residential project for our property at 4350 El Camino Real we are writing this letter in support of receiving an exemption to the City's Story Pole Policy. Our project would replace the existing gas service station with 47 multiple-family condominium units in a five story building including seven affordable housing units.

As you know, the purpose of the Story Pole Policy is to demonstrate the height, mass and bulk of the project (Story Pole Policy, April 2019). The policy allows exceptions for public health and/or safety concerns as well as if such installations impair the use of the existing structures and business. In this instance an exception is necessary for our project to protect the public health and safety from hazards associated with story poles and to maintain the existing and necessary operations of the service station.

There are substantial public health and safety concerns with constructing story poles. After reviewing our plans with our architect, engineer and story pole contractor we have determined that it is impossible to erect story poles that demonstrate the height, mass and bulk of the project and at the same time maintain safe clearances for the necessary driveways for customer and fuel truck delivery access. Story poles would need to be located at the corners of the proposed structure and at changes in wall planes. These locations would interfere with driveways and need to be located atop canopies and the service station structure. The guy (support) wires for each story pole would span across the site in several directions from each pole and further impair and interrupt the safe operations of the gas station and essentially render the existing use infeasible. The attached site plan shows the problematic locations of the story poles compared to the existing structures and site conditions including driveways, fuel truck loading, vehicle pump access, service bays and service areas.

The following list illustrates many of the significant public, employee hazards and operational safety concerns from erecting story poles:

- On an average day approximately 400 vehicles enter the station to buy gas, approximately 50 to 100 more vehicle per day enter the site to buy items from the snacks shop; another 25 to 30 cars per day are on site for auto repair, some being worked on inside the shops, but the majority being worked on outside the shop. Every other day a two trailer semi-truck loaded with 9,000 gallons of gas, must have clear access in and out of the site. Everyday multiple vendors driving semi-trucks, such as Coca Cola, DBI, CoreMark, Cintas, Tire Trucks, et cetera, access our property. In addition, Mission Trail Waste Systems needs to access the dumpster in the back corner of the lot;
- Safe, unimpeded access to two under ground fuel tanks, 12,000 gallons each;
- Safe, unimpeded access to the 500-gallon Waste Oil Tank;
- Safe, unimpeded access to the fuel dispenser inlands for the customers—each of the four fueling islands has bidirectional access that must remain free of obstacles to facilitate the sometimes complex vehicle movements by the customers. Customers are often in a hurry and/or stressed-out choosing the correct approach to the dispenser. Additionally, there are regular “pump-pulls” where distracted customers drive away with the fuel hose remaining in their vehicle (~5 per month), which requires quick, unimpeded action by the employees to resolve and minimize fire potential;
- Underground constraints from the location of fuel lines and vapor lines that run from the tanks to the pumps and back;
- Lease violation for obstruction that restrict access in and out of station for the approximately 45-foot long, 9,000 gallon Tanker Truck;
- Insurance liability;
- More than half the auto repair and service is done outside the building with an Auto Technician working outside;
- Open service area outside the service bays for vehicle movements, drop-offs and storage. Tow trucks especially need open areas to circulate.

- Two Public Waiting areas both outside; and
- Due to underground fuel tanks, oil tanks, fuel pipe lines, vapor pipelines and electrical conduits the ground cannot be punctured fear of explosion or soil contamination.

Requiring story poles in accordance with the City's policy would essentially shut down the gas and service station for the duration of the public review process. Not only does this conflict with our contractual obligations with the Oil Company, it is not economically viable to limit the existing use of the property for the many months of public review. Closing the service station also substantially reduces sales taxes to the City and a desirable and necessary service.

In exchange for granting the exception, the project could provide additional digital, to-scale, imagery simulations to help show the height, mass and bulk of the project in relation to the buildings in the immediate vicinity.

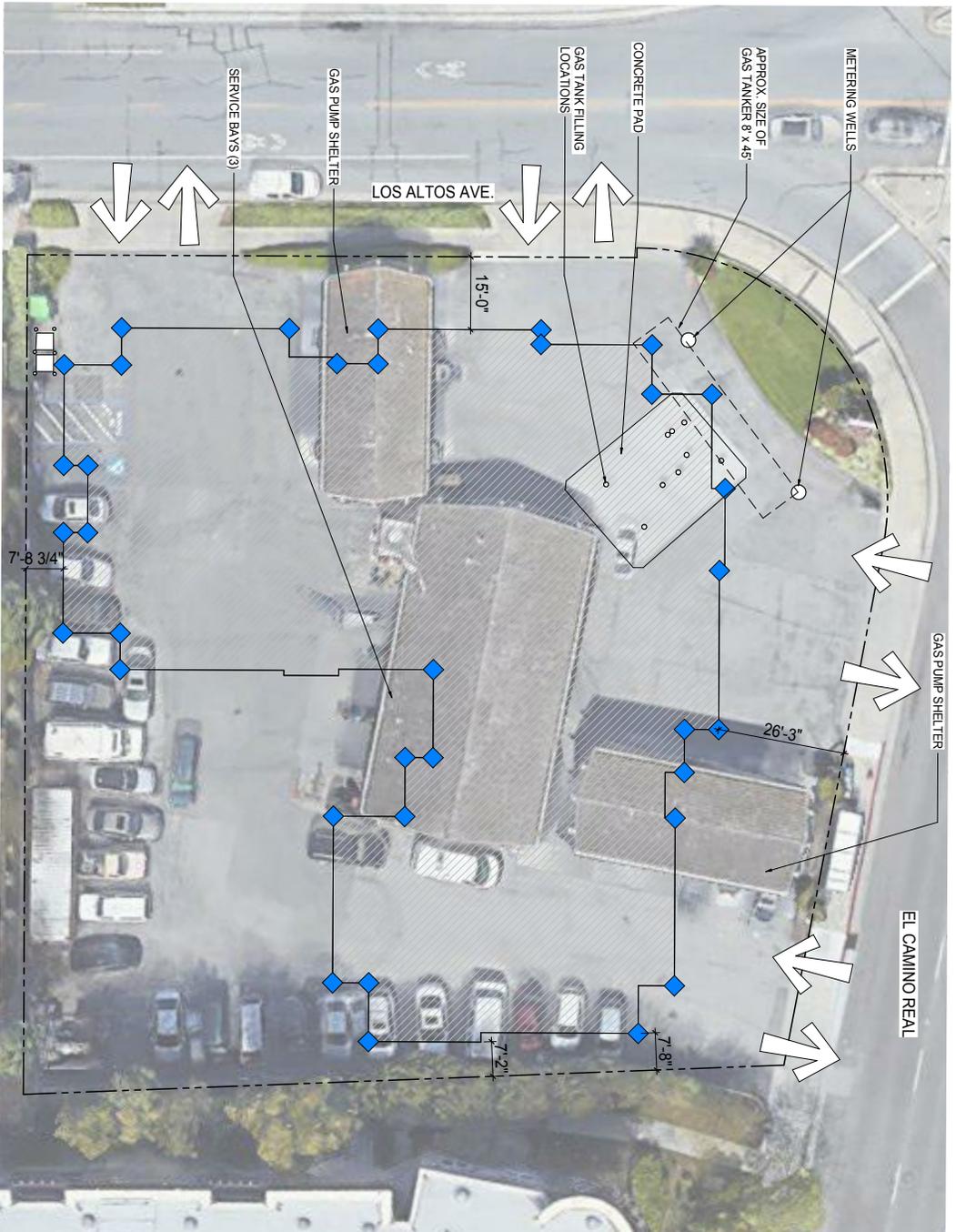
We look forward to your favorable decision granting an exception to the City's Story Pole Policy. Such action will facilitate our application and help us get one step closer to adding the necessary housing for the community.

Sincerely,

*Angie Galatolo*

Angie and Greg Galatolo  
Owner and Applicant

Attachments:  
Story Pole Diagram  
Photos



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*Figure 1 (top).* Fuel tanker truck loading area near corner. Needs access from Los Altos Avenue and El Camino Real and open area surrounding it.

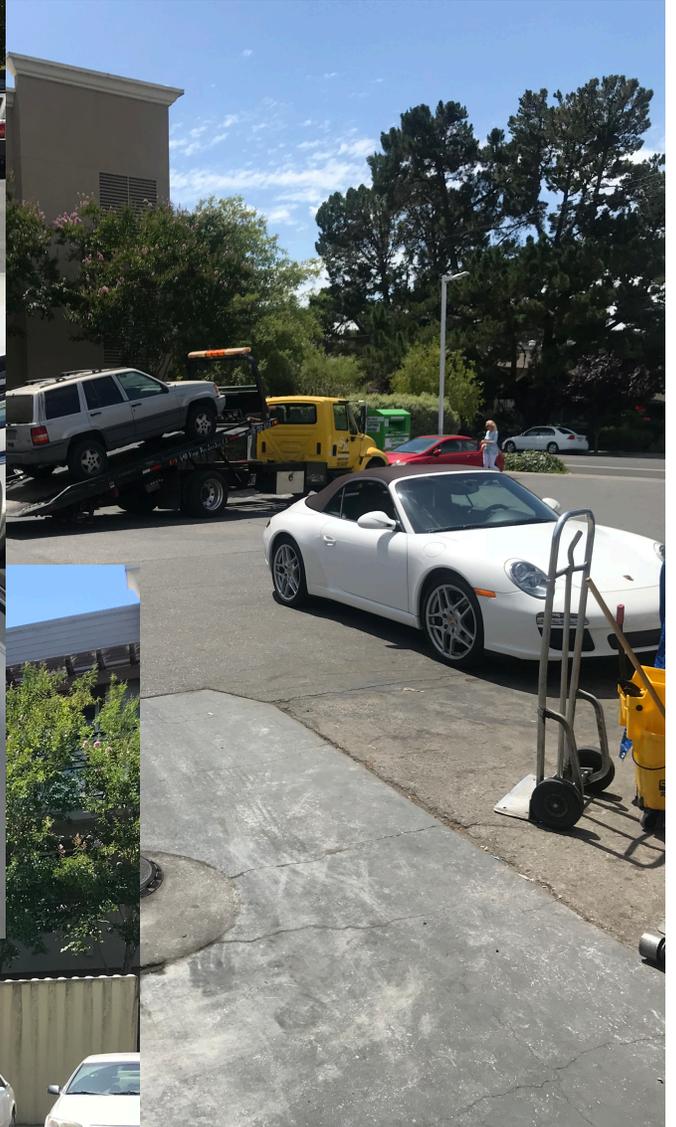
*Figure 2 (left).* Second type of fuel tanker.

Figure 3 (top). Service area needs open access for customers, employees and deliveries.

Figure 4 (bottom, left). Service area.

Figure 5 (bottom, right). Service area vehicle circulation.





*Figure 6 (top, left). Towing drop-off.*

*Figure 7 (top, right). Tow truck backing in from Los Altos Avenue.*

*Figure 8 (bottom). Tow truck parking a vehicle for subsequent repair.*

Figure 9 (top, right). Tire trucks east side of the building.

Figure 10 (middle, left). Service trucks in parking area off Los Altos Avenue.

Figure 11 (bottom, right). Service truck at corner parking and loading area.

