



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 03/08/2023

ITEM NO: 5

DATE: March 3, 2023
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Requesting Approval for Construction of a New Commercial Building, a Formula Retail Business (Whole Foods) Greater Than 6,000 Square Feet, a Merger of Two Lots into One, a Variance from the Required Number of Parking Spaces, and the Removal of Large Protected Trees on Properties Zoned CH. **Located at 15600-15650 Los Gatos Boulevard.** APNs 424-14-028 and -036. Categorically Exempt Pursuant to CEQA Guidelines Section 15332: In-Fill Development Projects. PROPERTY OWNER/APPLICANT: Steve Lynch, Sand Hill Property Company. PROJECT PLANNER: Jocelyn Shoopman.

RECOMMENDATION:

Denial.

PROJECT DATA:

General Plan Designation: Mixed Use Commercial
Zoning Designation: CH
Applicable Plans & Standards: General Plan; Commercial Design Guidelines
Parcel Size: 2.79 acres
Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Commercial	Mixed Use Commercial	CH
East	Commercial and Residential	Medium Density Residential and Low Density Residential	O, RM:5-12, and R-1:8
South	Commercial and Residential	Mixed Use Commercial and Low Density Residential	C-1 and R-1:8 Prezone
West	Commercial and Residential	Mixed Use Commercial	C-1 and CH

PREPARED BY: Jocelyn Shoopman
Associate Planner

Reviewed by: Planning Manager and Community Development Director

SUBJECT: 15600-15650 Los Gatos Boulevard/S-22-008, M-22-002, U-22-005, and
V-22-004

DATE: March 3, 2023

CEQA:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15332: In-Fill Development Projects.

FINDINGS:

- The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15332: In-Fill Development Projects.
- The project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations) except the required number of parking spaces.
- As required by Section 29.10.09030(e) of the Town Code for demolition of existing structures.
- As required by Section 66474 of the State Subdivision Map Act.
- As required by Section 29.20.190 of the Town Code for granting a Conditional Use Permit.
- As required by Section 29.20.170 of the Town Code for granting a Variance application.
- As required for compliance with the Commercial Design Guidelines.

CONSIDERATIONS:

- As required by Section 29.20.150 of the Town Code for granting approval of an Architecture and Site application.

ACTION:

The decision of the Planning Commission is final unless appealed within ten days.

BACKGROUND:

The subject property is located on the east side of Los Gatos Boulevard at the intersection of Los Gatos Boulevard and Los Gatos-Almaden Road (Exhibit 1). The project site is comprised of two separate parcels that in total are approximately 2.79 acres and was previously occupied by Los Gatos Chevrolet, an auto dealership. Paved parking and hardscape covers the majority of the site. The site has four driveways: two from Los Gatos Boulevard and two from Los Gatos-Almaden Road.

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The subject property is located on the east side of Los Gatos Boulevard at the intersection of Los Gatos Boulevard and Los Gatos-Almaden Road (Exhibit 1). The surrounding area contains a mix of uses with multi-family residential and office located to the east. To the south and west are commercial uses.

B. Project Summary

The applicant is requesting approval of an Architecture and Site application, Subdivision application, Conditional Use Permit (CUP) application, and Variance application to demolish existing vacant buildings, remove large protected trees, and merge two lots for the purposes of constructing a new one-story commercial building for a formula retail use that is greater than 6,000 square feet.

C. Zoning Compliance

A formula retail business greater than 6,000 square feet use is allowed as a conditional use in the CH zone and requires approval of a CUP. The proposed project includes a request for a variance from the required number of parking spaces.

DISCUSSION:

A. Subdivision

There are two existing parcels that the applicant is proposing to merge into a single 2.79-acre parcel under Subdivision application M-22-002.

B. Architecture and Site Analysis

The proposed project would create a new one-story commercial building totaling 40,170 square feet with 164 parking spaces.

The proposed building has a front setback of 15 feet along Los Gatos Boulevard; a street side setback between 15 feet and 30 feet, seven inches along Los Gatos-Almaden Road; a side setback of 150 feet, six inches; and a rear setback of 135 feet, ten inches.

The proposed 40,170-square foot commercial building would be up to 35 feet in height. Materials would consist of wood siding, smooth stucco, stone veneer cladding, metal panel

DISCUSSION (continued):

cladding, and standing seam metal roof. The proposed building materials are provided on Sheet A3.3 of Exhibit 16.

C. Zoning

Permitted uses in the CH zone include: retailing, including formula retail up to 6,000 square feet; personal service businesses and service businesses necessary for the conduct of households; office uses; limited manufacturing uses when the majority of sales are made on-site to the ultimate consumer; and group classes. The applicant is proposing a formula retail business greater than 6,000 square feet which requires approval of a CUP in the CH zone.

The proposed project meets the required setbacks, lot coverage, and height requirements for the CH zone. The proposed lot coverage would be 35 percent and the maximum height would be 35 feet, both of which are consistent with the zoning designation for the site, that allows up to 50 percent lot coverage and a maximum 35-foot height.

The required and proposed setbacks in the CH zone are described in the following table:

Setback	Required	Proposed
Front	15 feet	15 feet
Right (Interior) Side	None	150 feet, six inches
Left (Street) Side	15 feet	15 feet to 30 feet, seven inches
Rear	None	135 feet, 10 inches

D. Conditional Use Permit

The proposed project includes a CUP application for a formula retail use (Whole Foods) greater than 6,000 square feet. In order to grant approval of a CUP for the proposed use, the deciding body must make the following findings:

1. The proposed use of the property is essential or desirable to the public convenience or welfare;
2. The proposed use will not impair the integrity and character of the zone;
3. The proposed use would not be detrimental to public health, safety, or general welfare; and
4. The proposed use of the property is in harmony with the various elements or objectives of the General Plan and the purposes of the Town Code.

DISCUSSION (continued):

In regard to the first finding, the proposed use would be considered desirable to the public convenience or welfare in that it provides a retail option for residents and visitors. As required by finding two, the proposed application would not impair the integrity and character of the zone since the grocery store use is located in a commercial zone. In regard to the third finding, the proposed use would not be detrimental to public health, safety, or general welfare. In regard to the final finding, the proposed use meets the objectives of the General Plan and Town Code as described in this report.

E. Design and Compatibility

The Town's Consulting Architect reviewed the project to provide recommendations regarding the architecture and neighborhood compatibility (Exhibit 13). The Consulting Architect noted that the design would be substantially different from most of the newer commercial projects along Los Gatos Boulevard; however, the project is very well designed and in the spirit of the Commercial Design Guidelines. The Consulting Architect provided the following four recommendations, and the applicant provided a response (Exhibit 14):

1. *Add a landscape divider at the Los Gatos-Almaden Road project entry if possible.*

Response: A landscape divider was initially proposed; however, it was subsequently removed due to the entire driveway being needed for the turning movements for a truck accessing the loading dock.

2. *Provide a protected pedestrian circulation pathway from the east parking lot to the entry similar to the one proposed from the north parking lot.*

Response: A new protected pedestrian circulation pathway is proposed from the east parking lot to the entry. Refer sheet A1.1 and A1.2 of Exhibit 16.

3. *Remain flexible on the treatment of the Los Gatos Boulevard and Los Gatos-Almaden Road intersection corner and the Los Gatos Boulevard facade fenestration until building tenant confirms potential interior uses. If not feasible as currently shown, add landscaping to the corner and investigate alternative treatments for the window areas.*

Response: The treatment of the Los Gatos Boulevard and Los Gatos-Almaden Road intersection corner and the Los Gatos Boulevard facade fenestration has been finalized for the new tenant Whole Foods.

DISCUSSION (continued):

4. *Tone down the color contrast of the white stucco wall volumes on Los Gatos Boulevard and the truck loading area walls or change the material to wood siding or stone to improve the overall design unity of the facades and to subordinate the visual prominence of the loading area.*

Response: The color contrast on Los Gatos Boulevard and the truck loading area walls has been toned down with the introduction of a new toned down color, similar to the color recommended. Refer sheet A0.5, A3.0, A3.1, and A3.3 of Exhibit 16.

The proposed building is consistent with the applicable provisions of the Commercial Design Guidelines to provide a unified design around all sides of the building, to utilize high quality building materials, to screen all roof equipment, to subordinate the parking to the building, and to provide well designed landscaping.

F. General Plan

The 2020 General Plan Land Use designation for the site is Mixed Use Commercial. The proposed project meets the Mixed Use Commercial requirements for land coverage and height. This designation permits a mixture of retail, office, and residential in a mixed-use project, along with lodging, service, auto-related businesses, non-manufacturing industrial uses, recreational uses, and restaurants. Projects developed under this designation shall maintain the smalltown, residential scale and natural environments of adjacent residential neighborhoods, as well as provide prime orientation to arterial street frontages and proper transitions and buffers to adjacent residential properties.

In addition to maintaining neighborhood quality, the 2020 General Plan Land Use Element focuses on maintaining a “full-service” town that provides a range of goods and services that support economic vitality, while limiting adverse impacts on the quality of life of all the residents.

Applicable goals and policies of the 2020 General Plan Land Use and Community Design Elements include, but are not limited to the following:

- Policy LU-1.4: Infill projects shall be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures and should blend rather than compete with the established character of the area;

DISCUSSION (continued):

- Policy LU-1.8 Commercial development of any type (office, retail, research and development, etc.) shall be designed in keeping with the small-town character of Los Gatos;
- Policy LU-2.1 Minimize vehicle miles traveled for goods and services by allowing and encouraging stores that provide these goods within walking distance of neighborhoods in Los Gatos;
- Goal LU-4: To provide for well-planned, careful growth that reflects the Town's existing character and infrastructure;
- Policy LU-6.5: The type, density, and intensity of new land use shall be consistent with that of the immediate neighborhood;
- Goal CD-1: Preserve and enhance Los Gatos's character through exceptional community design;
- Policy CD-1.4: Development on all elevations shall be of high-quality design and construction, a positive addition to and compatible with the Town's ambiance. Development shall enhance the character and unique identity of existing commercial and/or residential neighborhoods; and
- CD-2: To limit the intensity of new development to a level that is consistent with surrounding development and with the Town at large.

G. Parking

Town Code parking regulations require one parking space for every 235 square feet of gross floor area for retail and commercial store uses. The applicant is proposing 164 parking spaces, whereas 171 parking spaces are required. The applicant's Letter of Justification states that the tenant, Whole Foods has been a leader in home grocery delivery in place of customer trips to their stores (Exhibit 6). Additionally, the applicant cites the finding of the Traffic Impact Analysis (TIA) prepared by Hexagon Transportation Consultants, Inc. and peer reviewed by the Town's Traffic Consultant, that a Transit Demand Management (TDM) program is implemented for the project to include measures, such as a transit fare subsidy, ride matching assistance, and commute trip reduction marketing and education to encourage employees to use alternative transportation options and reduce the parking demand. The TIA is discussed in greater detail below. Based on an understating of the parking demand for Whole Foods, the applicant believes that the proposed 164 parking spaces are in excess of the actual parking demand for the use.

Staff supports the applications and proposed use; however, staff cannot make the findings for granting of a variance. Discussion of the variance request for a reduction in the number of parking spaces required is discussed further below.

DISCUSSION (continued):

H. Traffic and Public Improvements

Access to the parking spaces is provided off of Los Gatos Boulevard and Los Gatos-Almaden Road. A TIA was prepared by Hexagon Transportation Consultants, Inc. and peer reviewed by the Town's Traffic Consultant, TJKM, available online at:

<https://www.losgatosca.gov/Transportation-Impact-Analysis>.

The purpose of the TIA was to identify any potential traffic impacts from the proposed grocery store use. The report found that the proposed grocery store use is expected to generate 115 new trips (68 inbound and 47 outbound) during the AM peak hour and 274 new trips (137 inbound and 137 outbound) during the PM peak hour.

The intersection level of service (LOS) analysis section of the TIA shows that all study intersections would operate at acceptable LOS under all scenarios (LOS D or better). The added project trips would not cause an adverse operation effect at any of the studied intersections.

Additionally, the TIA also evaluated un-signalized intersections and found that they would continue to operate at LOS D for their respective worst approaches during the peak AM and PM hours under all scenarios.

The Town's Bicycle and Pedestrian Master Plan (BPMP) includes a pedestrian improvement project to remove the slip right-turn lanes and pork chop islands for the northbound and westbound approaches at the intersection of Los Gatos Boulevard and Los Gatos-Almaden Road. Based on the current lane configuration and roadway width, with the improvements, the northbound slip right-turn lane would be removed, and a typical northbound right-turn pocket would be installed at the intersection controlled by the signal. In the westbound direction on Los Gatos-Almaden Road there is a dedicated right-turn lane with a pork-chop island. By removing the pork chop island, the westbound right-turn lane would still be maintained, but would be controlled by the signal at the intersection (Sheet EX-1, Exhibit 16).

The TIA studied the entering and exiting of freight trucks to the site. Under the TIA, it is expected that the freight trucks would enter the site via Los Gatos-Almaden Road and exit via either Los Gatos-Almaden Road or Los Gatos Boulevard. Based on the truck turning-movement template for the largest truck type that would typically serve a grocery store, freight trucks accessing the loading area would be able to back into and exit the loading dock and circulate through the site without any maneuvering issues.

DISCUSSION (continued):

In conclusion, the TIA found no significant impacts with the estimated 2,866 new daily trips for the proposed project. Even though the TIA found that the proposed project's impact from traffic generation would be less than significant in accordance with CEQA and the Town's Traffic Impact Policy, pursuant to the Town's Traffic Impact Policy the project would be required to pay a traffic impact fee of \$2,129,936.19.

The recommended improvements from the TIA are all proposed to be implemented for the project. The recommended improvements are included in Exhibit 3, Condition of Approval 50 as follows:

Intersection of Los Gatos Boulevard/ Los Gatos Almaden Road/Chirco:

- a. Construct a second southbound left turn lane from Los Gatos Boulevard to Los Gatos Almaden. Construct a second receiving lane for eastbound Los Gatos Almaden east of Los Gatos Boulevard. Plans shall be prepared by developer's design consultants and submitted to Town Engineer for approval prior to construction. Applicant is required to designate necessary right of way for the required widening.
- b. Re-stripe eastbound Los Gatos Almaden to provide a minimum of two-car storage left turn lane for entering the project site. Re-stripe to provide a left turn lane and a shared through/right turn lane for northbound Peach Blossom Lane.
- c. Remove the westbound free right-turn and pork-chop island as included in the 2020 Update of the Los Gatos Bicycle and Pedestrian Master Plan (see Table 4.4, Pedestrian Improvement Projects Part 1, project number P5). Construct a separate right-turn lane and make signal modifications as required.
- d. Consider, with examination by the required traffic impact analysis, the removal of the northbound free right-turn as included in the [2020 Update of the Los Gatos Bicycle and Pedestrian Master Plan](#) (see Table 4.4, Pedestrian Improvement Projects Part 1, project number P5).
- e. The developer shall provide a new Town standard bench to replace the existing VTA bench and other transit related improvements in compliance with current VTA standards, including moving the existing bus stop closer to the marked crosswalk, as determined by the Town Engineer.
- f. Modernize and update the signalized intersection as required and/or as recommended by the traffic impact analysis.

Los Gatos Boulevard:

- a. Curb, gutter, sidewalk, street lights, signing, striping, storm drainage, and sanitary sewers, as required.

DISCUSSION (continued):

- b. Provide a 2-inch grind and overlay from centerline to the lip of gutter/edge of pavement on the project (eastern) side, or alternative pavement rehabilitation measures as approved by the Town Engineer.
- c. Concurrent with the [2020 Update of the Bicycle and Pedestrian Master Plan](#), reserve width for a future Class IV bikeway lane along the property frontage as directed by the Town Engineer (see Table 4.2, Connect Los Gatos Prioritized Projects, section 4.2b, project number 11).
- d. A traffic-appropriate engineered structural pavement section for the areas needed and affected by elimination of the free right turn.

Los Gatos-Almaden Road:

- a. Curb, gutter, sidewalk, street lights, signing, striping, storm drainage, and sanitary sewers, as required.
- b. A traffic-appropriate engineered structural pavement section for the areas needed and affected by elimination of the free right turn.

I. Trees

The Town's Consulting Arborist provided two peer review reports of the applicant's arborist report (Exhibits 8 through 12). The project proposes to remove 31 protected trees, of which two are considered large protected trees. The two large protected trees (#19 and #31) are Coast Live Oaks which are in good condition and are proposed to be removed to accommodate the parking for the proposed building. Tree protection recommendations and replacement requirements are contained in the conditions of approval (Exhibit 3).

J. Variance

The applicant is requesting a variance from Section 29.10.150 of the Town Code for the required number of parking spaces for a retail or commercial store.

The applicant's Letter of Justification states that the tenant, Whole Foods has been a leader in home grocery delivery in place of customer trips to their stores (Exhibit 6). Additionally, the applicant cites the finding of the TIA prepared by Hexagon Transportation Consultants, Inc. and peer reviewed by the Town's Traffic Consultant, that a TDM program is implemented for the project to include measures, such as a transit fare subsidy, ride matching assistance, and commute trip reduction marketing and education to encourage employees to use alternative transportation options and reduce the parking demand. Based on an understating of the parking demand for Whole Foods, the applicant believes that the proposed 164 parking spaces is in excess of the actual parking demand for the use.

SUBJECT: 15600-15650 Los Gatos Boulevard/S-22-008, M-22-002, U-22-005, and
V-22-004

DATE: March 3, 2023

DISCUSSION (continued):

Staff supports the applications and the proposed use; however, staff cannot make the findings for granting of a variance.

As required by Section 29.20.170 of the Town Code, the Planning Commission, on the basis of the evidence submitted at the hearing, may grant a variance if it finds that:

1. Because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this ordinance deprives such property of privileges enjoyed by other properties in the vicinity and under identical zone; and
2. The granting of a variance would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone which such property is situated.

In response to the required findings for a variance, the applicant has provided the following justification (Exhibit 6):

- (1) The property is unique in shape with an angled corner that is not easily usable for parking or vehicular circulation. The building has been placed fronting on Los Gatos Boulevard, per the Commercial Design Guidelines and due to the access driveways on Los Gatos Boulevard and Los Gatos-Almaden Road. The affect has made a parking field that wraps around the rear and sides of the building that is less efficient than could otherwise be achieved if the parking area was consolidated near the corner.
- (2) The request is seeking a four percent parking reduction while providing 10 bike parking spaces. The number of parking spaces is consistent with the percent of parking provided at other shopping centers along Los Gatos Boulevard, some of which do not meet the current parking requirements. In addition, a TDM program is proposed which would reduce the parking demand to accommodate the seven parking space reduction.

PUBLIC COMMENTS:

Story poles and signage were installed on the site and written notice was sent to property owners and tenants within 300 feet of the subject property.

The applicant provided a summary of their neighborhood outreach efforts in Exhibit 7. Staff has included all public comments received by 11:00 a.m., Friday, March 3, 2023, as Exhibit 17.

CEQA DETERMINATION

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act (CEQA), Section 15332: In-Fill Development Projects. A memorandum providing information as to how the project is Categorically Exempt from CEQA was prepared by the Town's Environment Consultant, EMC Planning Group Inc. (Exhibit 15). As part of the memorandum, technical documents regarding Traffic, Noise, Air Quality, and Water Quality were prepared. In the evaluation of the technical documents, it was determined that with conditions of approval there would be no significant impacts as a result of the proposed project.

CONCLUSION:

A. Summary

The applicant is requesting approval of a Subdivision application to merge two parcels and an Architecture and Site application to demolish an existing vacant building, construct a one-story commercial building, and remove large, protected trees. In addition, the applicant is requesting approval of a Conditional Use Permit application to allow for a formula retail use greater than 6,000 square feet (grocery store) in the CH zone. The applicant is also requesting approval of a variance from the Town Code for the required number of parking spaces. The project is consistent with the Zoning (except for the variance request for parking), General Plan, and applicable Commercial Design Guidelines.

B. Recommendation

Based on the analysis above, staff recommends denial of the Architecture and Site application, Subdivision application, Conditional Use Permit application, and Variance application based on the discussion in this report that staff could not make the findings for granting of a variance. Staff is supportive of the applications; however, staff cannot make the findings for granting of a variance and, therefore cannot recommend approval of the applications without a modification to the gross floor area of the building or number of parking spaces provided to comply with the parking requirements.

C. Alternatives

Alternatively, the Commission can:

1. Approve the applications by taking the following actions:

CONCLUSION (continued):

- a. Find the project is Categorically Exempt, pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15332, Class 32: Infill (Exhibit 2);
 - b. Make the required finding that the project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations) except the required number of parking spaces;
 - c. Make the required findings as required by Section 29.10.09030 of the Town Code for granting approval of the demolition of existing structures (Exhibit 2);
 - d. Make the required findings as required by Section 66474 of the Subdivision Map Act (Exhibit 2);
 - e. Make the findings as required by Section 29.20.190 of the Town Code for granting approval of a CUP (Exhibit 2);
 - f. Make the required findings as required by Section 29.20.170 of the Town Code for granting a Variance (Exhibit 2);
 - g. Make the required finding that the project complies with the Commercial Design Guidelines (Exhibit 2);
 - h. Make the required considerations as required by Section 29.20.150 of the Town Code for granting approval of an Architecture and Site application (Exhibit 2); and
 - i. Approve Architecture and Site application S-22-008, Subdivision application M-22-002, Conditional Use Permit application U-22-005, and Variance application V-22-004 with the conditions contained in Exhibit 3 and Exhibit 4 and the development plans in Exhibit 16.
2. Continue the matter to a date certain with specific direction; or
 3. Approve the applications with additional and/or modified conditions.

EXHIBITS:

1. Location Map
2. Required Findings and Considerations
3. Recommended Conditions of Approval for the Architecture and Site, Subdivision, and Variance applications
4. Recommended Conditions of Approval for the Conditional Use Permit application
5. Project Description
6. Letter of Justification for Variance from Parking
7. Community Outreach by Applicant
8. Applicant's Arborist Report #1
9. Consulting Arborist's Peer Review Report #1
10. Applicant's Arborist Report #2
11. Consulting Arborist's Peer Review Report #2

PAGE **14** OF **14**

SUBJECT: 15600-15650 Los Gatos Boulevard/S-22-008, M-22-002, U-22-005, and
V-22-004

DATE: March 3, 2023

EXHIBITS (continued):

12. Applicant's Arborist Report #3
13. Consulting Architect's Report
14. Applicant's Response to Consulting Architect's Report
15. Environmental Consultant's CEQA Categorical Exemption Memorandum
16. Development Plans
17. Public Comments received before 11:00 a.m., Friday, March 3, 2023