



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 08/9/2023

ITEM NO: 3

DATE: August 4, 2023
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Requesting Approval for Demolition of One Existing Office and Four Residential Buildings, Construction of an Assisted Living and Memory Care Facility, Variance from the Maximum Height and Lot Coverage of the Zone, Merger of Four Lots Into One, and Removal of Large Protected Trees on Property Zoned O. **Located at 15860-15894 Winchester Boulevard and 17484 Shelburne Way.** APNs 529-11-013, -038, -039, and -040. Architecture and Site Application S-21-008, Conditional Use Permit Application U-21-010, Variance Application V-21-003, Subdivision Application M-22-008, and Mitigated Negative Declaration ND-22-001. An Initial Study and Mitigated Negative Declaration Have Been Prepared for This Project.
Applicant/Property Owner: Green Valley Corp. d.b.a. Swenson.

RECOMMENDATION:

Denial.

PROJECT DATA:

General Plan Designation: Office Professional
Zoning Designation: O (Office)
Applicable Plans & Standards: General Plan, Commercial Design Guidelines
Parcel Size: 1.3 acres (56,889 square feet)

PREPARED BY: Jennifer Armer, AICP
Planning Manager

Reviewed by: Community Development Director

SUBJECT: 15860-15894 Winchester Boulevard and 17484 Shelburne Way/S-21-008, U-21-010, M-22-008, V-21-003, and ND-22-001
August 4, 2023

PROJECT DATA (continued):

Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Residential, Office, and Commercial	Office Professional	O
South	Residential	Medium Density Residential	O
East	Commercial	Service Commercial and Office Professional	LM and O
West	Office	Low Density Residential	O

CEQA:

It has been determined that this project will not have a significant impact on the environment. Adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program to mitigate potential impacts to a less than significant level is recommended.

FINDINGS:

- As required by CEQA for adopting the Mitigated Negative Declaration.
- The project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations) except for the height and lot coverage variances requested.
- As required by Section 29.10.09030(e) of the Town Code for the demolition of existing structures.
- As required by Section 29.20.170 of the Town Code for granting a Variance application.
- As required by Section 29.20.190 of the Town Code for granting a Conditional Use Permit.
- As required by Section 66474 of the State Subdivision Map Act.
- That the proposed project is consistent 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 site is the combination of four parcels forming an approximately 1.31-acre site at the intersection of Winchester Boulevard and Shelburne Way (Exhibit 2). The site is currently developed with three single-family residences; a single-family residential structure which is currently occupied by a commercial construction business; and multiple detached accessory structures for a total of nine structures on the site. The existing zoning is Office (O), and the General Plan land use designation is Office Professional.

On October 17, 2017, Town Council approved a previously proposed office building on the site. The office building was not built and those previous approvals have now expired. Because of the extensive input from the public, Planning Commission, and Town Council during that previous planning permit review, the current applicants chose not to return to the Conceptual Development Advisory Committee for any review of the current proposal.

An application has been filed by Jessie Bristow of Swenson Builders requesting approval for demolition of four residential buildings and associated detached structures, construction of an assisted living and memory care facility, variance from the maximum height and lot coverage for the zone, merger of four lots into one, and removal of large protected trees.

A Draft Mitigated Negative Declaration (MND) for the project was prepared and circulated for a 20-day public review period from July 1, 2022, through July 21, 2022 (Exhibit 1).

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The project site is located on the northeast corner of Winchester Boulevard and Shelburne Way. Access to the project site is provided on Winchester Boulevard and Shelburne Way.

B. Project Summary

The applicant is proposing to demolish four existing residential buildings and remove large protected trees to construct a new three-story assisted living and memory care facility. The proposed project also includes a Variance for height and lot coverage and a lot merger of the four lots into one.

C. Zoning Compliance

An assisted living and memory care facility use is allowed as a conditional use in the O zone and requires approval of a Conditional Use Permit (CUP). Further analysis is provided in the Discussion section below.

August 4, 2023

DISCUSSION:

A. Project Summary

There are four existing parcels previously approved to be merged into a single 1.3-acre parcel. That planning approval expired, and so the current project includes a new subdivision application to allow for completion of that lot merger.

The proposed project would create a new three-story assisted living and memory care facility totaling 81,633 square feet and consisting of 107 assisted living units and 18 memory care units, with 54 parking spaces (Exhibits 6 and 12).

The proposed building has a front setback of 25 feet along Winchester Boulevard to the west; a streetside setback of 15 feet along Shelburne Way to the north; a side setback of between 13 feet nine inches bordering the multi-family residential to the south; and a rear setback of 20 feet bordering the veterinary hospital and residential to the east.

The proposed 81,633-square foot assisted living and memory care building is proposed to be between 35 feet and 50 feet in height, stepping up with the slope of the lot and down toward the adjacent multi-family residential to the south. Materials would consist of sand textured stucco, stucco foam trim, metal railings, Tuscan style columns, and Spanish tile roof. The proposed building materials and colors are provided on Sheet A-6.1 of Exhibit 12.

The proposed three-story assisted living and memory care building would include a porte-cochere feature at the entrance of the building. The ground floor would include a lobby/lounge area, reception desk area, activity room, wellness center, dining rooms, kitchen, and outdoor courtyards for shared use by the residents and their guests. The ground floor would also include staff offices, 14 assisted living units and 18 memory care units. Below the ground floor, the basement level would include a library, theater, laundry, staff lounge, staff offices, below grade parking garage, and 14 assisted living units. The second floor proposes 53 assisted living units, a lounge, a salon, and housekeeping space. The third floor proposes 26 assisted living units, a fitness room, a lounge, and an outdoor roof deck.

B. Story Pole Exception

On November 1, 2022, Town Council granted the applicant's request for an exception to the Story Pole Policy to allow an alternative to standard story pole installation to illustrate and provide notice of the proposed project by allowing two rows of orange flags to be installed in place of the standard orange netting.

SUBJECT: 15860-15894 Winchester Boulevard and 17484 Shelburne Way/S-21-008, U-21-010, M-22-008, V-21-003, and ND-22-001
August 4, 2023

DISCUSSION (continued):

On April 4, 2023, Town Council granted a second request from the applicant to allow a further exception to the Story Pole Policy to require large signage (but no larger than 32 square feet each) with bright colors that links to a video rendering and also informs residents that the current story poles may not be representative of the final project, with posted signage on each parcel, instead of the two rows of orange flags previously approved. The new requirements were completed prior to noticing for this hearing, including installation of four signs measuring approximately 4 feet by 8 feet, with color renderings of the proposed building. The video rendering is available for viewing online here: https://drive.google.com/open?id=1fJyzZYorT0SZynO_bkfnDLpiEl812rC&usp=drive_fs

C. Zoning

Permitted uses in the O zone include offices, professional, medical, dental, and optical laboratories associated with a professional use, real estate, insurance, stocks and bonds; and other similar offices characterized by absence of retail sales. The applicant is proposing a new three-story assisted living and memory care facility which requires approval of a CUP in the O zone (Exhibit 5).

The proposed project meets the required setbacks requirements for the O zone, but requests variances for lot coverage and height.

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

Setback	Required	Proposed
Front (Winchester Blvd)	25 feet	25 feet
Street Side (Shelburne Way)	15 feet	15 feet
Side	10 feet	13 feet 9 inches
Rear	20 feet	20 feet

The proposed lot coverage would be 50 percent of the site, which is consistent with the lot coverage for the Office Professional designation in the General Plan, that allows up to 50 percent lot coverage, but requires a variance because it does not comply with the more restrictive Office Zone, which limits lot coverage to 40 percent.

The proposed height would be between 35 and 50 feet at different points across the site with the stepping down of the building design to respond to the slope of the lot and adjacent multi-family residential use (Exhibit 12, Sheets A-3.0 through A-4.6). Heights above 35 feet require a variance because the maximum allowed height in the Office Zone is 35 feet. The applicant has revised the project to reduce the extent of the height variance required by removing 10 assisted living units along the rear of the third story, as described

DISCUSSION (continued):

in the Letter of Justification (Exhibit 7) and shown on Sheets A-3.0 and A-3.2 of the Development Plans (Exhibit 12). The area that exceeds the height limit is further illustrated on Sheets A-3.2 through A-3.5.

D. Conditional Use Permit

The proposed project includes a CUP application for a residential care facility use (assisted living and memory care). 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.

In regard to the first finding, the proposed use would be considered desirable in that the assisted living and memory care facility would provide necessary services and activities for seniors in the community. As required by finding two, the proposed application would not impair the integrity and character of the zone as the proposed residential care facility use would generate less traffic than an office use previously proposed for the site and meet the development standards of the zone except for the requested variances described below. 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 would be in harmony with the General Plan and the purposes of the Town Code as addressed in Sections C and G of this report. A Market Study provided by the applicant is available as Exhibit 8.

E. Variances

The applicant is requesting a variance from Sections 29.60.105 and 29.60.110 of the Town Code, which limit building height to 35 feet and lot coverage to 40 percent.

The applicant's Letter of Justification (Exhibit 7) states that the use of the 50 percent lot coverage in the 2020 General Plan and heights above the 35-foot height limit for portions of the building away from Winchester Boulevard allow the project to be well laid out and

DISCUSSION (continued):

include a reduced two-story southern wing in keeping with the adjacent residential character and direction given for the design of the previously approved office project.

In regard to the lot coverage, the applicant provides examples of other properties that exceed the 40 percent lot coverage, and states that the project would adhere to the long term goals of the General Plan. In regard to the height, the applicant describes the project's compliance to the height limit along Winchester Boulevard; the reduction in height of the southern wing; the sloped character of the site; the reduced portion of the building that would exceed the height limit; and the benefits to the architectural design and project sustainability of the roof forms proposed.

Staff supports the 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 deciding body, 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.

F. Design and Compatibility

The Town's Architectural Consultant reviewed the project regarding the architecture and neighborhood compatibility. The review (Exhibit 8) found that, "The project has much to admire and little or nothing to be concerned about. Some of the building details that contribute to its design unity and high quality of design include the following:

- Wide roof overhangs with trim and exposed rafter tails.
- Top floor color and trim that will work to reduce the visual mass of the building.
- Inset balconies which strengthen the residential scale and character of the project.
- Hip and shed roofs at the second level that break up the building's visual mass.
- Sensitive treatment of the loading bay on Shelburne Way.
- Trellises and other high quality details that enhance the visual richness of the facades and residential scale and character of the building.

DISCUSSION (continued):

- Design detailing and landscaping of the taller retaining walls on the north and south facades.”

The Town’s Architectural Consultant did not recommend any changes.

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.

G. General Plan

The General Plan Land Use designation for the site is Office Professional. This designation provides for professional and general business offices. This designation applies to various locations concentrated along the Town’s commercial corridors, often in close proximity to neighborhood- or community-oriented commercial facilities, or as a buffer between commercial and residential uses. The intent of this designation is to satisfy the community’s need for general business and professional services and local employment.

In addition to maintaining neighborhood quality, the 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 General Plan include, but are not limited to the following:

- Goal LU-4: To provide for well-planned, careful growth that reflects the Town’s existing character and infrastructure. (2020 General Plan)
- Policy LU-6.5: The type, density, and intensity of new land use shall be consistent with that of the immediate neighborhood. (2020 General Plan)
- Goal CD-1: Preserve and enhance Los Gatos’s character through exceptional community design. (2020 General Plan)
- 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. (2020 General Plan)
- Goal CD-2: To limit the intensity of new development to a level that is consistent with surrounding development and with the Town at large. (2020 General Plan)

DISCUSSION (continued):

- Goal PFS-15: Encourage a wide variety of types of senior housing, including independent living, residential care facilities, and affordable housing within the Town. (2040 General Plan)
- Goal PFS-16: Ensure safe environments for Los Gatos seniors. (2040 General Plan)

H. Parking

With 54 parking spaces provided on the site, the proposed project would be in excess of the Town Code parking regulations, which requires one parking space for each two and a half beds for a total of 50 parking spaces required.

I. Traffic

A Transportation Analysis was prepared for the Initial Study by TJKM (Exhibit 1, Appendix F). This analysis provided summaries of traffic impacts on the surrounding transportation systems and vehicle miles traveled (VMT) with the change in land use at the project site. This analysis concluded that the project impact on VMT would be less than significant, but also recommended a Transportation Demand Management Plan (TDM) be prepared, as described in Condition of Approval 91, Exhibit 4. The analysis also concluded that the proposed project is expected to generate 351 total daily trips, including 26 a.m. peak hour trips (16 in, 10 out) and 35 p.m. peak hour trips (16 in, 22 out), which is less than that projected for the office building previously approved on the project site (38 a.m. peak hour trips (32 in, 6 out) and 46 p.m. peak hour trips (2 in, 44 out)).

The report determined that the buildout of the proposed project would not create any significant impacts that could not be mitigated to less than significant levels. The Mitigation Monitoring and Reporting Program (Exhibit 11) and Draft Conditions of Approval (Exhibit 4) include the recommended mitigation measures as conditions of approval.

J. Trees

The applicant's Arborist conducted three site surveys and provided an arborist report dated February 10, 2021 (Exhibit 9). The Town's Consulting Arborist conducted a peer review (Exhibit 10) and found that it contains the information required by ordinance.

The project site contains 35 protected trees, including 7 trees that are street trees. 10 of the 35 protected trees surveyed are considered large protected trees.

DISCUSSION (continued):

The project proposes to remove 26 protected trees, of which seven are considered to be large protected trees. All of the seven large protected trees to be removed are Coast Live Oaks (9, 12, 16, 18, 21, 24, and 39) of which three are in fair condition, three are in good condition, and one is in moderate condition. The seven large protected trees are proposed

to be removed to accommodate the proposed building footprint, excavation, and parking area.

The project proposes to retain a total of nine protected trees, of which three are along Shelburne Way and the other six are along the rear property line. Tree protection recommendations and replacement requirements are contained in Exhibits 9 and 10 and will be implemented by the applicant. The project landscape plan proposes 56 replacement trees to be planted in ground, and 20 to be planted on podium. Six replacement street trees are proposed along Winchester Boulevard.

K. Environmental Review

An Initial Study and Mitigated Negative Declaration (MND) (Exhibit 1) have been prepared for the project by the Town's Environmental Consultant, Raney Planning & Management, Inc. (available online at <https://www.losgatosca.gov/15860WinchesterBoulevard>). The 20-day public review period began on July 1, 2022, and ended on July 21, 2022. The project will not result in a significant effect on the environment because mitigation measures have been added for Biological Resources; Cultural Resources; Geology and Soils; Greenhouse Gas Emissions; Hazards and Hazardous Materials; Noise; and Transportation, mitigating potential impacts to a less-than-significant level. The Mitigation Monitoring and Reporting Program is provided as Exhibit 11, and mitigation measures have been included as conditions of approval in Exhibit 4.

PUBLIC COMMENTS:

On November 1, 2022, Town Council granted the applicant's request for an exception to the Story Pole Policy to allow an alternative to standard story pole installation to illustrate and provide notice of the proposed project by allowing two rows of orange flags to be installed in place of the standard orange netting.

On April 4, 2023, Town Council granted a second request from the applicant to allow a further exception to the Story Pole Policy to require large signage (but no larger than 32 square feet each) with bright colors that links to a video rendering and also informs residents that the

SUBJECT: 15860-15894 Winchester Boulevard and 17484 Shelburne Way/S-21-008, U-21-010, M-22-008, V-21-003, and ND-22-001
August 4, 2023

PUBLIC COMMENTS (continued):

current story poles may not be representative of the final project, with posted signage on each parcel, instead of the two rows of orange flags previously approved.

The new requirements were completed prior to noticing for this hearing. The video rendering is available for viewing online here:

https://drive.google.com/open?id=1fJyzZYorT0SZynO_bkfnDLpiEl812rC&usp=drive_fs

Signage was installed on the site and written notice was sent to property owners and tenants within 300 feet of the subject property.

Discussion of and response to public comments received throughout the project review process is included in the applicant's Letter of Justification (Exhibit 7).

Staff has included public comments received by 11:00 a.m., August 4, 2023, as Exhibit 13.

CONCLUSION:

A. Summary

The applicant is requesting approval of an Architecture and Site, CUP, Lot Merger, and Variance applications to allow demolition of the existing buildings onsite, construction of an assisted living and memory care facility, and remove large protected trees. The lot merger would merge four lots into one, and the variances requested are for maximum allowed height and lot coverage.

The project is consistent with the Zoning (except for the variance requests), General Plan, and applicable Commercial Design Guidelines.

B. Recommendation

Based on the analysis above, staff recommends denial of the Architecture and Site, CUP, and Lot Merger applications because the findings for the variances requested can not be made.

C. Alternatives

Alternatively, the Commission can:

1. Approve the applications by taking the following actions:

August 4, 2023

CONCLUSION (continued):

- a. Adopt the Mitigated Negative Declaration (ND-22-001) and Mitigation Monitoring and Reporting Program (Exhibits 1 and 11);
 - b. Make the finding that the project complies with the Commercial Design Guidelines (Exhibit 3);
 - c. Make the required findings as required by Section 29.20.170 of the Town Code for granting a Variance (Exhibit 3);
 - d. Make the findings as required by Section 29.20.190 of the Town Code for granting approval of a CUP (Exhibit 3);
 - e. Make the required findings as required by Section 66474 of the Subdivision Map Act (Exhibit 3);
 - f. 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 3); and
 - g. Approve Architecture and Site Application S-21-008, Conditional Use Permit Application U-21-010, Variance Application V-21-003, and Subdivision Application M-22-008 with the conditions contained in Exhibits 3 and 4 and the development plans in Exhibit 12.
2. Approve the applications with additional and/or modified conditions; or
 3. Continue to the matter to a date certain with specific direction.

EXHIBITS:

Previously received under separate cover:

1. Mitigated Negative Declaration with Appendices A through F (available online at <https://www.losgatosca.gov/15860WinchesterBoulevard>)

Received with this Staff Report:

2. Location Map
3. Required Findings
4. Draft Conditions of Approval for Architecture and Site, Variance, and Lot Merger
5. Draft Conditions of Approval for Conditional Use Permit
6. Project Description
7. Letter of Justification
8. Market Study
9. Town's Consulting Architect Report
10. Applicant's Arborist Report by Arbor Resources
11. Town's Consulting Arborist Peer Review by Monarch Consulting Arborists
12. Mitigation Monitoring and Reporting Program

PAGE **13** OF **13**

SUBJECT: 15860-15894 Winchester Boulevard and 17484 Shelburne Way/S-21-008, U-21-010, M-22-008, V-21-003, and ND-22-001

August 4, 2023

EXHIBITS (continued):

13. Development Plans

14. Public comments received by 11:00 a.m., Friday, July 21, 2023

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