



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

**MINUTES OF THE PLANNING COMMISSION MEETING
AUGUST 9, 2023**

The Planning Commission of the Town of Los Gatos conducted a Regular Meeting on Wednesday, August 9, 2023, at 7:00 p.m.

MEETING CALLED TO ORDER AT 7:00 PM

ROLL CALL

Present: Vice Chair Jeffrey Barnett, Vice Chair Steve Raspe, Commissioner Susan Burnett, Commissioner Kylie Clark, Commissioner Melanie Hanssen, Commissioner Kathryn Janoff, and Commissioner Emily Thomas

Absent: None.

PLEDGE OF ALLEGIANCE

VERBAL COMMUNICATIONS

None.

CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION)

1. Approval of Minutes – July 26, 2023

MOTION: Motion by **Commissioner Clark** to approve adoption of the Consent Calendar. **Seconded** by **Commissioner Thomas**.

VOTE: Motion passed unanimously.

PUBLIC HEARINGS

2. 16496 Hilow Road

Tree Removal Permit T-23-089

APN 532-04-072

Property Owner/Applicant/Appellant: Kim and Nico Hailey

Project Planner: Ryan Safty

Consider an Appeal of a Community Development Director Decision to Deny a Tree Removal Permit on Property Zoned R-1:8. Categorically Exempt Pursuant to CEQA Guidelines Section 15304: Minor Alterations to Land.

Ryan Safty, Associate Planner, presented the staff report.

Opened Public Comment.

Kim Hailey, Property Owner/Applicant/Appellant

- Over the years these trees have grown to be huge, and their size has outgrown the lot and made our front yard unusable and there is root damage. These trees are getting older and there will be a point at which remediation will be required, because they cannot be structurally pruned forever, and today they look like a blight because these trees are not in the best of the location. We're willing to plant replacement trees per the Town to make our environment livable. We have spoken with a tree removal service that will turn the trees into lumber. Members of my family are also allergic to the tree pollen.

Closed Public Comment.

Commissioners discussed the matter.

MOTION: **Motion by Commissioner Janoff** to approve an appeal of a Community Development Director Decision and grant a Tree Removal Permit on property zoned R-1:8 for 16496 Hilow Road with findings four and six from Town Code Section 29.10.0992 with the added condition that adequate sized replacement trees be chosen to the satisfaction of the Community Development Director be planted in the front yard to preserve the neighborhood character of a tree-lined street. **Seconded by Vice Chair Raspe.**

Commissioners discussed the matter.

VOTE: **Motion failed 3-4 With Commissioners Burnett, Clark, Hanssen, and Thomas dissenting.**

MOTION: **Motion by Commissioner Janoff** to deny an appeal of a Community Development Director Decision and uphold the denial of a Tree Removal Permit on property zoned R-1:8 for 16496 Hilow Road with a request that the Appellant return to staff with evidence of an arborist or engineering report indicating the trees create problems with the functional part of the home, such as foundation, roof, plumbing, that that report be presented to staff as a new application for request of removal of the

trees, and the decision be made by the Town Arborist. **Seconded by Commissioner Clark.**

VOTE: Motion passed unanimously.

3. 15860-15894 Winchester Boulevard and 17484 Shelburne Way

Architecture and Site Application S-21-008

Conditional Use Permit Application U-21-010

Variance Application V-21-003

Subdivision Application M-22-008

Mitigated Negative Declaration ND-22-001

APNs 529-11-013, -038, -039, and -040

Applicant/Property Owner: Green Valley Corp. d.b.a. Swenson

Project Planner: Jennifer Armer, Planning Manager

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. An Initial Study and Mitigated Negative Declaration have been Prepared for this Project.

Chair Barnett disclosed that he at one time in his law practice represented University Oaks Condominium Association, which has submitted opposition to the proposed project, the last work being performed in 2008. He believed he could act without prejudice in this matter.

Jennifer Armer, Planning Manager, presented the staff report.

Opened Public Comment.

Jessie Bristow, Development Project Manager, Swenson Builders

- We reached out to the Town Council, University Oaks neighbors, and the CDAC when the project was first conceived in 2020 and asked all parties if they would prefer a mixed-use or 100 percent apartment project, or a senior care facility, and the consensus was a senior care facility, with the University Oaks residents expressing that they did not want to be next to an apartment building. We submitted in April 2021. We are going for the 50 percent lot coverage because of the General Plan and for better site efficiency. The height request is because this is a sloping lot that makes it challenging for our project to meet this height at 35 feet. Based on requests from the University Oaks neighbors we reduced the height from three stories and lost 15 units, pushed it back from a 10-foot setback to 15 feet, and provided more vegetation for privacy. We stepped in the building and went from a double corridor to a single corridor and lost ten units there in order to reduce the height variance. The south elevation facing University Oaks is now 23 feet with the mansard roof

that shields the equipment, and all the way back is 33 feet. University Oaks has asserted that we have provided no middle ground, but this project is the middle ground; our proposal is low intensive use. The alternative is SB 6 or AB 2011 where up to 60 units per acre is allowed, so on our 1.31 acres we could build 80 units, not including the density bonus where we could get a 50 percent increase, meaning 120 units.

Joseph Gemignani

- There have been many proposals for this site over the years, and I haven't liked any of them, but this is a beautiful project. The architecture is timeless and would fit in with Los Gatos from a historical perspective, yet it has pizzazz and is forward looking. Please don't change this project just for a few feet and keep the roof.

Albert Lestre, Carpenters Local 405

- It is great to see new development come to Los Gatos, but it would be great to see some area standards in these new projects, such livable wage, apprenticeship, local hire, and healthcare. A living wage ensures construction workers can afford rent in Los Gatos and support their families. Having a responsible contractor to provide healthcare ensures that construction workers have healthcare for their families and will not become a burden to the system. Apprenticeship promotes training and education for youth, minorities, and women. Local hire promotes quality of life for construction workers.

Chris Sullivan

- I'm the property manager for Park Hill View Apartments between University and Santa Cruz Avenue. It is interesting to learn there is a slope on the subject site. My two concerns are: 1) shoehorning this project into the corner and impacts on the water table; and 2) parking. Putting a complex with 107 people plus staff, even with underground parking, would be a problem. We love the project's concept, but the project should not be approved in its current form, because it would not work for us.

Mary McCloy

- I live at Park Hill View Apartments, two doors down from the proposed project, and next door to University Oaks. I walk by the proposed construction site often. My concerns are: 1) the video describing the proposed building shows a chalet type structure with no other buildings around and multiple trees with an unobstructed view of the Santa Cruz mountains, but in reality this is an existing neighborhood with homes and small businesses that are mostly one-story or two-story. Winchester is a very busy traffic corridor. This is not a quiet site for an assisted living facility and the building is out of place and out of proportion for this neighborhood, exceeds the height limit, and would set a precedent. I also received no notice of this project until the signage went up.

Georgina Van Horn

- I live at the University Oaks. My concern is the proposed building is absolutely enormous, comes almost to the wall that separates the two properties, and would overwhelm this

area. Winchester is a way into Town and becomes North Santa Cruz at this point, so it would drastically affect this area. Our front doors would be facing a whole side of the property and I am concerned about seeing into those windows and them seeing into mine. At University Oaks we have tried to keep the woodsy feel of our Town, and this building does not fit with our small town feel.

Dylan Parker

- The applicant has said they have met with the neighbors and met our concerns through modifying the project, but they have essentially said this is a foregone conclusion and if they don't get what they want as designed with a variance, they will apply for a builder's remedy, SB 6, or AB 2011. The true intentions of the applicant were not to collaborate with the neighbors but to build what they want, how they want, with complete disregard to the concerns of the neighbors, the Town, and the Town's development standards.

Demian Raspall

- I serve as the president of the University Oaks HOA. Swenson consulted with our community and we are agreeable with the proposal. However, we disagree in two aspects: 1) the building is too large, too tall, and is too close to our community; and 2) it is clear from applicant's slide #2 that there was no outreach of any kind between June 2021 until August 2023, 26 months, during which time Swenson continued to develop and fine tune the project, and we were never invited to have any type of conversation.

Bryan Mekechuk

- My wife and family welcome the development of the proposed site provided it is an attractive and sustainable development that fits with Los Gatos. What we would like to see there is a project similar to what was designed and approved by Town Council before, but this project is a multiple of the size of that. The applicant is being disingenuous in terms of outreach to the community. The building will be massive on Winchester. The plans and reports are outdated and stale, and the Planning Commission cannot make the findings with them.

Eric Hulser

- I live at the closest property to this development. I have a number of objections to the project, but will focus today on the south-facing wall. A lot of the renderings presented are misleading to the Commission and public. This property scoots right up to the end of our property. This is presented as a two-story building, and that may be true on the Winchester side, but it quickly goes into a three-story building and that is what we would look at. From our living room you would not even be able to see the sky. If I remove that wall you can see clearly that that is a three-story building that we would stare at, not a two-story building. Additionally, the yellow would be what is above the 35-foot limit. Those are living rooms and bedrooms that are right up against the wall; that would be 20 feet back, not 10 feet back.

Jessie Bristow, Development Project Manager, Swenson Builders

- We do have a geotechnical report for the site. There are kitchens in the assisted living, there are no kitchens in memory care, and it's zoned Office, so we can't do single-family homes. I know people want a less impactful use, but we're dealing with what it's zoned for. Our position is this would be less traffic trips than an office building. The office use would be a smaller building, but it is a higher impact use, and the office building proposed to remove 31 trees and our project would only remove 29. It was never our intention to just build multi-family if we don't get our way, but the State does want more housing and bigger projects, which I think is difficult for people to get used to, but we have to build vertically or we'll run out of land. We're trying to build something of use and that was the direction we got originally in 2020. This will be a LEED Silver building as required by the General Plan.

Closed Public Comment.

Commissioners discussed the matter.

MOTION: **Motion by Vice Chair Raspe** to approve an Architecture and Site Application, Conditional Use Permit Application, Variance Application, Subdivision Application, and Mitigated Negative Declaration for 15860-15894 Winchester Boulevard and 17484 Shelburne Way, subject to the following alterations: the second and third floors shall each be reduced by one foot in floor plate height, and the roof shall be reduced 6 inches such that the overall height of the project shall be reduced by 2.5 feet.

Planning Manager Armer clarified with the maker of the motion that they intended to say that none of the findings for denial of the lot merger can be made.

The maker of the motion amended the motion to reflect the clarification.

Seconded by Commissioner Clark.

Planning Manager Armer clarified that the motion included the conditions of approval in Attachments 4 and 5 and the plans in Attachment 13.

The maker of the motion amended the motion to reflect the clarification.

Commissioners discussed the matter.

Commissioner Thomas requested the motion be amended to reflect a condition that screening trees on the south-facing side would be evergreen.

The seconder of the motion accepted the amendment to the motion.

VOTE: Motion passed 5-2 with Commissioners Burnett and Hanssen dissenting.

OTHER BUSINESS

REPORT FROM THE DIRECTOR OF COMMUNITY DEVELOPMENT

Jennifer Armer, Planning Manager

- The Town Council met August 1st:
 - Approved the Economic Vitality Code amendments to go into effect at the end of August 2023.
 - Granted an appeal of a fence height exception approval for 380 Blackwell Drive.
 - Discussed the Story Pole Policy modifications, continued until September 2023.
- The Town Council will meet on August 15th. Discussion and will include a status update of the Housing Element.
- The Housing Element Advisory Board will meet August 24th.

SUBCOMMITTEE REPORTS/COMMISSION MATTERS

Conceptual Development Advisory Committee

Commissioner Hanssen

- The CDAC met August 9th to hear a concept proposal for Venture Church on Hicks Road.

Commission Matters

Commissioner Clark

- Commissioner Clark reported that this is likely her last Planning Commission meeting, as she will soon move to New York to pursue a Masters at Columbia University. She spoke of how much she has enjoyed serving on the Planning Commission and thanked her fellow commissioners.

ADJOURNMENT

The meeting adjourned at 10:18 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the August 9, 2023 meeting as approved by the Planning Commission.

/s/ Vicki Blandin

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