



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 08/9/2023

ITEM NO: 3

ADDENDUM

DATE: August 8, 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.

REMARKS:

Exhibit 15 includes public comment received between 11:01 a.m., Friday, August 4, 2023, and 11:00 a.m., Tuesday, August 8, 2023.

EXHIBITS:

Previously received under separate cover:

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

Previously received with August 9, 2023 Staff Report:

2. Location Map
3. Required Findings
4. Draft Conditions of Approval for Architecture and Site, Variance, and Lot Merger

PREPARED BY: Jennifer Armer, AICP
Planning Manager

Reviewed by: Community Development Director

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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 8, 2023

EXHIBITS (continued):

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

Received with this Addendum Report:

15. Public Comment received between 11:01 a.m., Friday, August 4, 2023, and 11:00 a.m., Tuesday, August 8, 2023.

From: Georgina Van Horn
Sent: Monday, August 7, 2023 5:27 PM
To: Planning <Planning@losgatosca.gov>
Subject: Planning Commission Mtg Wed. Aug. 9

[EXTERNAL SENDER]

Dear Planning Commission,

This email is concerning the Architecture and Site Application S-21-008 15860 Winchester Blvd. I live at [REDACTED], one of the two closest townhouses at the [REDACTED].

The building proposed for the site is enormous! It comes almost to our wall that separates the two properties. It would overwhelm the entire area south of Daves Ave. and a main entrance into town. Winchester Blvd. from Lark is lined with trees to Daves. From that point all the buildings are low and mostly behind trees.

We at the [REDACTED] have worked to keep us looking like a woodsy area because of the parks right across the street from us on University Ave. Also to keep our small town feel.

My townhouse door faces the huge side of the two to three story building. They would be looking into my upstairs three bedroom windows and I would be able to see into their windows.

The town has a 40% coverage. They are asking for 50%. Looking at the front of the building it looks like it takes the whole lot. We should be able to see that it only covers 40%!

I ask you to please consider these many factors. Having a building that size would not only impact this whole area but also many lives.

Thank you for all your work for our town.

Sincerely,
Georgina Van Horn

From: Demian Raspall [REDACTED]
Sent: Monday, August 7, 2023 7:05 PM
To: Planning <Planning@losgatosca.gov>; Jennifer Armer <JArmer@losgatosca.gov>
Cc: Dave Weigand; Karen Vincent
Subject: Swenson's Development Proposal for 15860 Winchester Boulevard [S-21-008, U-21-010, V-21-003, M-22-008]

[EXTERNAL SENDER]

Dear Members of the Conceptual Design Advisory Committee,

I am the serving president of the University Oaks Homeowners Association. Our community is located directly adjacent to the proposed development by Swenson.

On behalf of our homeowners, I kindly request the attached pdf letter to be included in the packet for the CDAC meeting, and thoughtfully considered when reviewing Swenson's application.

Please don't hesitate to contact me if you have any questions.

Respectfully,

Demian Raspall
on behalf of University Oaks Homeowners.

Ref: Architecture and Site Application S-21-008, Conditional Use Permit U-21-010, Variance Application V-21-003, Subdivision Application M-22-008

University Oaks Condominium Association
707 University Ave
Los Gatos, CA 95032

Planning Commission
Town of Los Gatos
110 E. Main St.
Los Gatos, CA 95030

August 7th 2023
Via electronic mail

Ref: 15860 Winchester Boulevard

Dear Members of the Conceptual Design Advisory Committee,

We would like to share our concerns regarding the proposed project on the adjacent parcels to our community. We believe this project, as presented, is not a good fit for our town. This situation is amplified by the developer's lack of interest in being a good neighbor.

Lack of communication

- Swenson has been developing this project for the last few years. However, the last communication we had with them was in **October 2020** when they shared their preliminary design and we provided our initial feedback.
- For more than 30 months Swenson refined the project without seeking any feedback from our community.
- 2 weeks ago, in the midst of confusion with the hearing dates, they reached out to schedule a meeting with us. We held that meeting on August 2nd.
- Swenson shared, for the first time with us, their project plans in the application. Their general tone was *"this project is finalized, you can voice your concerns at the public hearing"*.
- As far as we know, Swenson has not reached out to other members of the community either.

We are extremely disappointed with the way Swenson has treated us. Following our initial feedback in 2020 we have never been approached again. We have serious concerns with the design but we were never given an opportunity to discuss with them. They clearly had no interest in getting our input on their design.

Size of the building facing our community

- The proposed building is massive in size and has a very tall facade facing our University Oaks community.
- The buffer area between our community and Swenson's building is insufficient to provide visual screening and sound abatement.
- Swenson argues they kept only 2 stories facing our property but, in reality, because of the steep grade it is really a 3 story structure.
- Project is not designed with the neighborhood context or surrounding environment in mind, like the existing scale and character of surrounding structures. This area would be better suited with the established character of the area of single and two story residential and non-residential structures.

Additional concerns raised by members of our community include

- Density
- Parking/Traffic
- Bulk/Massing/Height
- Tree removal
- Visibility/Privacy
- Artificial Light Encroachment/Shadow Effect of Building

We would have liked an opportunity to sit with the developer, discuss our concerns and be given an opportunity to explore alternatives that can make their building compatible with our needs. Unfortunately, Swenson has avoided contact with our community and downplayed the size and impact of their project, with us and with the community at large, by avoiding outreach. It is not only disappointing but it also **sets a very bad precedent as to how land development could be conducted in our town.**

We understand it is the responsibility of our community to provide for senior housing, we also understand there is a reasonable standard of what needs to be provided and this project exceeds this standard significantly in respect to density, height, bulk, and overall compatibility within the surrounding community. **Had we been given an opportunity to discuss with the developer and attempt to unlock that middle ground, we could be approaching This Commission with different feedback.**

We thank you for your time and consideration of our concerns and look forward to your thoughts on the matter.

Yours truly,
Residents of University Oaks Homeowners Association.

From: Suzanne Rollin

Sent: Monday, August 7, 2023 8:47 PM

To: Planning <Planning@losgatosca.gov>; Jennifer Armer <JARmer@losgatosca.gov>

Subject: 15860 Winchester Boulevard

[EXTERNAL SENDER]

Dear Planning Commission:

I am writing to you regarding the proposed project for redevelopment located at 15860 Winchester Blvd. adjacent to the [REDACTED] where I have lived for over 25 years.

I recently attended a meeting of our homeowners association with a representative of Swenson and I have reviewed the presentation of their plans online. I wish to express my concerns:

The size of the proposed building relative to other buildings and residences on Winchester Blvd. is enormous. In addition, Swenson is asking for usage of 50% of the land vs. 40%. Swenson is also asking for a height variance in excess of 35 feet. The effect of the massive size of the proposed building, its height and 10 foot setback from the wall of our property will place our homes in a cavern. In addition, the proposed building will have residential units with windows that will look directly into some of our homes. Swenson's drawings and video of the proposed building do not illustrate what their building will look like next to our complex, resulting in a less than accurate illustration of the project.

It appears that Swenson is relying on a 2016 Traffic Operation Analysis that is very out of date. There is very heavy traffic on Winchester Blvd., particularly on weekends. The recent addition of the bike lanes has also affected traffic. My understanding is that in addition to the residents, there will be 24 employees at the building per shift, in addition to the traffic generated by deliveries and residents coming and going.

I am also concerned that the proposed building does not negatively impact the two very large and old oak trees (Large Protected Trees) on our property.

Sincerely,

Suzanne Rollin

[REDACTED]

Los Gatos, CA 95032

From: Eric Hulser
Sent: Tuesday, August 8, 2023 10:06 AM
To: Jennifer Armer <JArmer@losgatosca.gov>
Subject: Objection to 15860 Winchester Blvd

[EXTERNAL SENDER]

Hello Jennifer,

I am writing in opposition to the proposed project at 15860 Winchester Blvd. I apologize if there is another email I should send this to. This is the formal document I am submitting, and I will be presenting some additional slides tomorrow in-person at the council meeting.

Thank you,
Eric Hulser

Dear Council Members,

My name is Eric Hulser, I am writing on behalf of myself and my wife, Ashley Abercrombie Hulser, as well as my fellow homeowners in the [REDACTED] located at [REDACTED]. We are the nearest neighbors to the proposed project at 15860 Winchester Boulevard and are writing in strong opposition of this project plan's approval. They have submitted to the planning committee variance requests that go far above what is an acceptable adjustment and I intend to show plainly why these should be rejected.

Zoning Requirements

Firstly, this property is zoned for Office use. I understand that they have been granted a conditional use permit to build an assisted living facility - and we have aligned with them on that. However, these are no longer offices, these are going to be residential units - units with living rooms and bedrooms and courtyards for their residents, with units directly facing our homes in our property. Based on the project plans, this building aligns to the definition of an R-M zone, which defines requirements for assisted living facilities with courtyards as this project is proposing - as such, we should hold the building requirements to the same standard. For instance, in zoning for an Office, the height limit is 35 feet and the setback requirements from a side wall are 10 feet, which is what this plan is built toward. But in an R-M zone, there are specific callouts for buildings with living and bedroom windows facing a side wall, as this building will have. In that case the setback requirement is 20 feet, not 10. In addition, any parts of these buildings that are *not* over cellar parking should then have a 30 foot height limit as opposed to 35 feet. This may be zoned as an office, but they are not building an office, they are building a multi-family residential assisted living building, they cannot treat it as an office.

Variance Requests

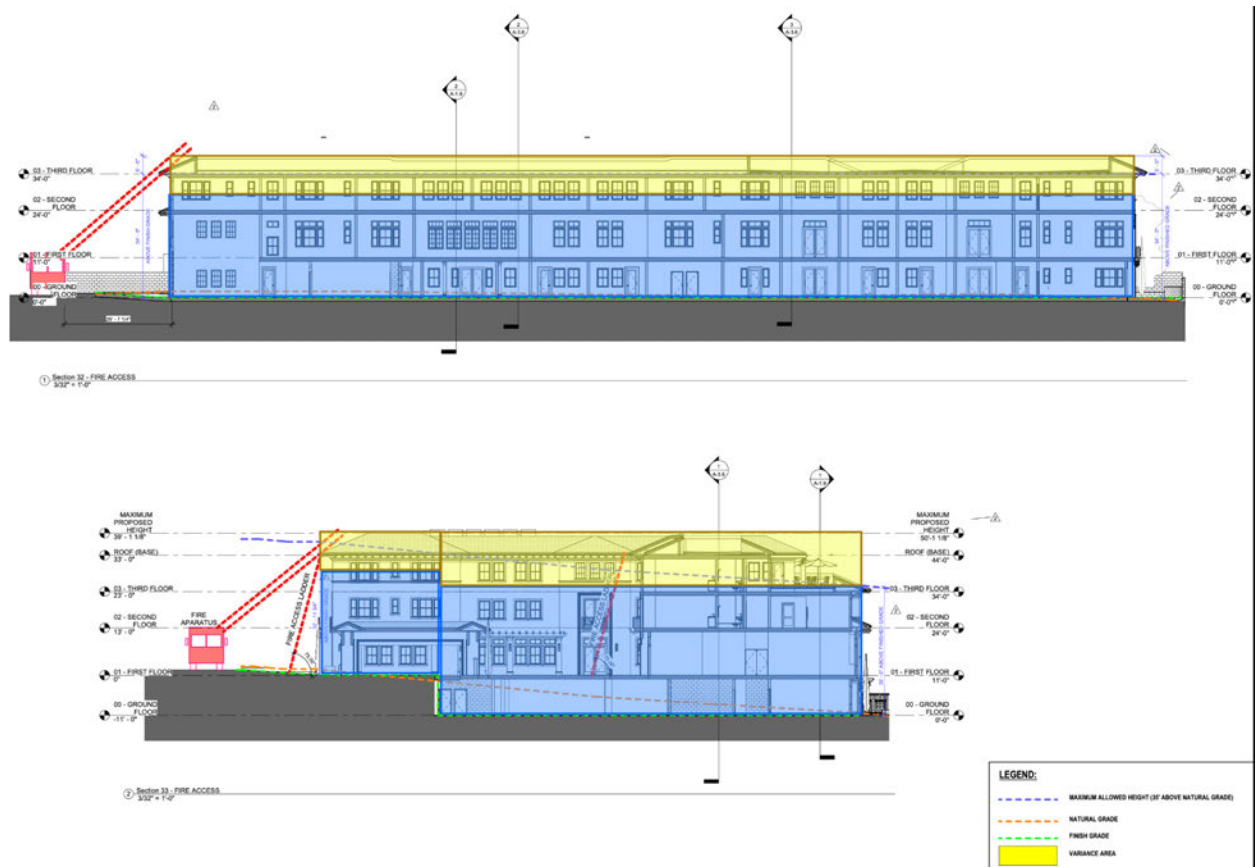
Going then into the requests, the height variance that is being requested here is to exceed 35 feet - much of this building goes as high as 50 feet above the finished grade. This is not a slight variance, depending on the zoning requirement we set that is 15-20 feet above the height limit for our community. The net result of this is a building that is far larger than anything else on this street, and a size that has caused various other issues with this project already.

Image References

This view is on page 32 of the Project Plan submitted to the city. You can clearly see where they are claiming the Maximum Allowed Height, and it is called out as being above the natural grade - that is not the measurement, the finished grade is clearly lower and should be what is used per our zoning requirements.



This is a more accurate representation of this page and the variance request according to the R-M requirements, assuming this finished grade to be where the garage parking is located (so still 35' in the back).



Similarly this is the view presented on page 43 of their project plan document, this would be the theoretical view from our property. However, again, this is a misrepresentation as this vantage point would only be achievable if you were *behind* our homes - it is rendered as though our property does not exist.



The second render clearly shows a height limit and attempts to portray that the building is underneath it in its entirety - going as far as completely omitting the building behind it as though it does not exist, and does not even align with the first image..

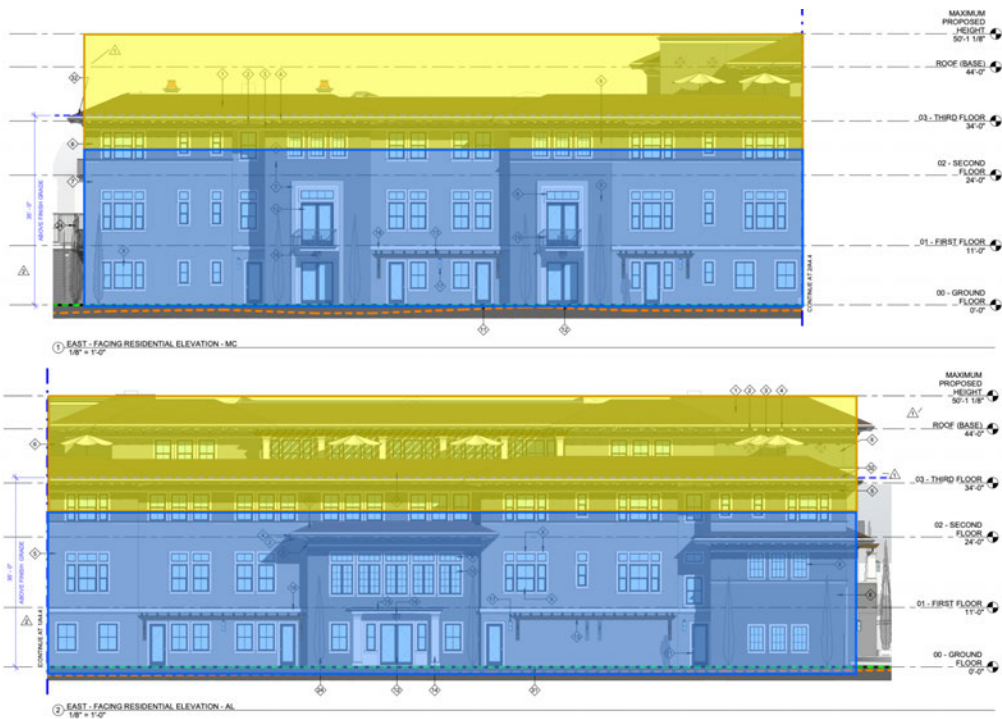
Overall, this rendering is blatantly false as that is *not* the height limit as shown below.

This view found on page 51 however gives the same vantage point, without the trees and walls from the render, which clearly shows the finished grade going well below the natural grade that they are claiming to be the height limit in the previous image - though their height limit line does adjust accordingly which shows they are aware of the discrepancy. Here, they conveniently do not include the variance area shading - they show it in yellow on their diagram, however do not fill it in, leading to a misrepresentation again that there is no variance area..

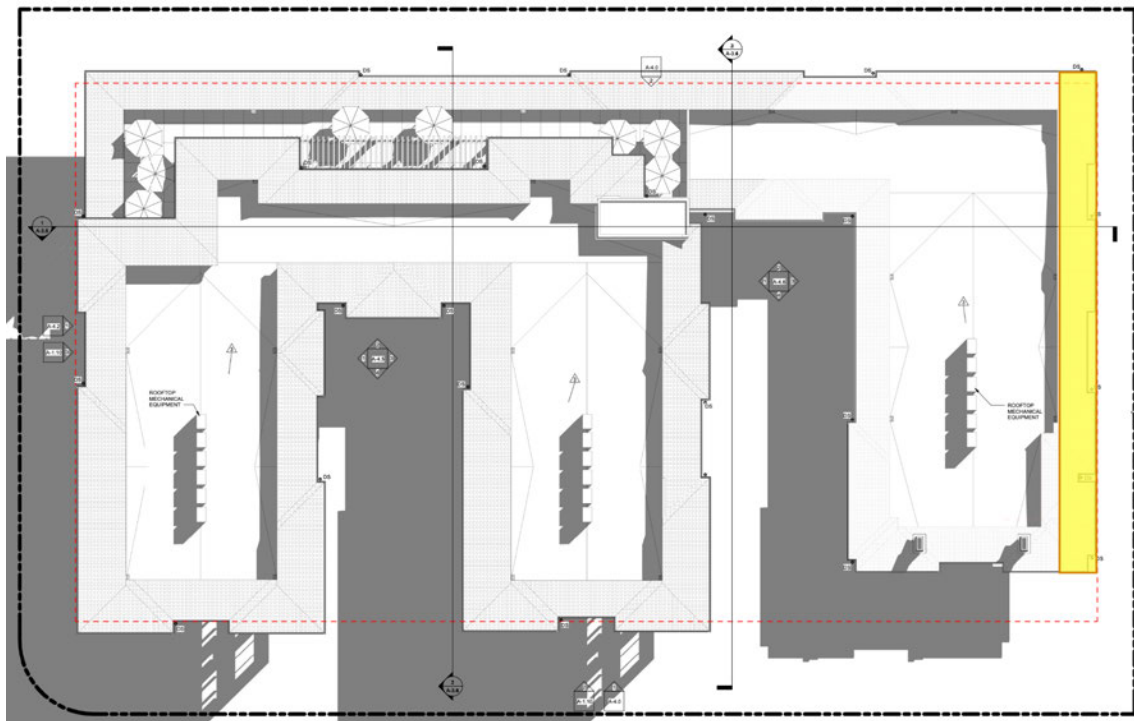


If we fill in the variance properly against the roofline (as per the zoning requirement which calls out the height being measured to the grade directly beneath that point) then we get a very different picture than the above renderings provided by the developer. Again, I would like to stress these are residential units *not* office rooms - those are living quarters coming out to a patio on that bottom floor, there is no cellar parking for this building, and thus *should* have a height limit of 30'.

This roofline goes to 50' above the finished grade, that is 15-20' above the height limit, for a *large* percentage of this project.



In addition, when viewed from above, you can also see the 10' setback limit, based on the other renders that show the redline being 10' from the side wall. This whole building is 10' too close to the side - given the fact that these are living patios and quarters for residents, it should be 20' away.



These are a *lot* of variances that go well above the intended limits. In *addition* to these, this is a very large lot and yet still the developer is proposing to go over that as well using 28,436 square feet of their 56,889 square feet, above the limit by 10%. This is a *massive* project and it seems unfathomable to grant these requests given their size, impact and gross delta above the norm.

Netting Requirements + Public Opposition

Moving beyond the zoning limitations, we have already seen two variances granted for this project in addition to its conditional use permit - the first to avoid using netting to mark out the building lines and the second to avoid putting up additional flags when the builder failed to do it properly in the beginning. The *reason* they were unable to properly net this project is directly related to its size. It is so far above the limit that it created an unsafe condition for them to net. If they simply built a building to code then this would not have been an issue.

I would also like to call out that I was at the town hall meeting in April when the second variance was granted. I raised the point that this project is not garnering the appropriate attention within the community to raise awareness about the size and scope to drive a

proper opposition to it. The actions since seem to align with an attempt to thwart or dissuade this opposition. The poles that exist remain in a derelict state - the poles are leaning over, the flags are deteriorated. The developer was granted the second variance by the council citing the reasoning that it would take too long to fix due to the rains, erecting billboards would be faster. The hearing was in April, the billboards did not appear until late June or early July, I do not recall exactly when because they are so innocuous that it did not draw my attention, which was their explicit purpose and I was even looking for them. For someone not familiar with the project or area, simply driving down Winchester Boulevard to their home, they would likely not know it is there - let alone see the QR code to go view the movie.

In addition, the billboard had the incorrect date for the hearing (or we had the incorrect cards) however as of July 14th when we received our cards for the hearing, and up until the day of on the town's agenda, this hearing was stated for July 27th, not August 9th. Whether deliberate or accidental, or due to the length of time for the billboards to be erected, this undoubtedly created confusion for those who were following along to communicate their opposition.

Renderings

This leads me to the next point on the renderings. We met with the developer on August 2nd and brought up multiple objections to these views. Many of them do not properly show the building in context. These angles show vantage points that would be well farther removed from the side of the building they claim to represent, particularly where our community is concerned. The size and proximity of the building would not really allow for it because as stated, it is too tall and too close to show an accurate depiction from their side wall - it is virtually on top of our property. We will include videos from our community showing the true vantage point, and have asked for updates from the developer to show more of the building within proper scope and context of the community. Their video from their billboard does show a bit more, but none of the plans that are included on the town's website include that, so unless someone noticed this

signage and actively slowed themselves down to access that QR code link, they would not have seen it.

Traffic Operations Analysis

In addition to the variances, the size of this project will have a very large impact on traffic in the Los Gatos Community. As with numerous aspects of this project proposal, the traffic operations analysis that is being presented is outdated. This document references the “results of the intersection LOS analysis from the 2016 approved office development transportation study” and the fact that they claim there will not be a substantial change in impact to not perform an updated analysis. In addition the *Site Access and Circulation* analysis that accounts for the safety of pedestrians and cyclists was conducted on October 13th 2020. Given that this section is outlining the driveway site requirements and how to ensure a safe vantage point for vehicles to see cyclists, this needs to be revisited now that Winchester Boulevard has a new dedicated bike lane that was not present at the time of the initial study.

Beyond those oversights, we believe the trip estimation number provided needs to be revisited as well. The developer sites usage of ITE’s *Trip Generation Manual, Tenth Edition* as their source for trip estimation which was published in 2017. The *Eleventh Edition* of this manual was published in 2021 with more updated multimodal trip generation data and specifically calls out changes to the Assisted Living (254) and Congregate Care Retirement Community (255) rates in their *Updates to the Trip Generation Manual, 11th Edition* summary. These would have a direct impact on the estimations. The other objection we have with this calculation is that it only factors in the residential units - the number of beds and units within the facility and that due to the nature of the residents, there is likely to be less travel impact.

However, later in the same document they reference that the VTA would treat an Assisted Care facility more akin to a hospital. This is due to the staff working there and trips that will be generated as far as loading, unloading of supplies as well as visitors to the residents in the community. These trips will happen at all ours of the day, as it also states (however does not factor into the calculation) there will be as many as 24 employees per shift, which will need 24 hour staffing, which can generate upwards of 144 trips that are unaccounted for alone (24 employees x 3 shifts x 2 trips). There is no mention of just how many additional ancillary trips there may be, however given the amount of times loading and unloading are called out within

this document, it seems to be a valid assumption that there will be frequent occurrences - considerably more than an office in today's hybrid work environment.

Overall at minimum we would request this study to be redone with the latest data and sources as we cannot rely on an impact study performed over seven years ago based on data derived in 2017. Given the importance and focus that the city is placing on traffic, getting an updated and accurate assessment seems critical. Just in April at the town hall I joined, I saw constituent after constituent implore the council to improve the safety of our intersections after a young mother passed away after being hit right up the road by a vehicle on Blossom Hill. Any project that would see a net increase in our traffic so substantially should be heavily scrutinized in order to ensure we are keeping our community safe, and the *reason* we would see such a high increase with this project is directly correlated to its size, which is only enabled by granting these variance requests.

Protected Trees

The final point we would like to bring to the council's attention is the consideration of the two large oaks that exist on our property. The arborist study that the developer presented only assesses the impact to the trees directly on their property, however the construction of this new building - and the height of it - will likely have an impact on the trees in our community as well, given the obstruction to the sun and the potential shock impact to their root system as they sit less than 15 feet away from the adjoining property.

These oaks would be defined as protected under the town's Large Protected Tree definition as they are over Oaks over 24 inches in diameter. Any project that we undertake within our community we consult the arborist for to ensure no impact to these oaks, at minimum we would request the developer conduct an updated study to understand the impact to them and adjust any plans according to the findings.

Conclusion

Taken all together, we believe that the best course of action would be for the council to simply deny this project the variance requests they are seeking, and would deeply implore the members to vote as such. We have already supported the conditional use to build an assisted

living facility - let's simply require the building to be built properly according to our zoning requirements.

Approving these requests, and thus allowing this project to go forward despite the many limitations it breaks would seem grossly outside of the town's principles as well as set a precedent for other such massive developments in the future.

Denying these requests however would help (1) our town maintain the overall aesthetic and profile we're striving for, (2) ensure that traffic stays within moderation per the property size, (3) provide a building of appropriate size, scale and presentation for the community to properly consider and (4) ensure no undue risk to the natural environment that we're so proud of within our community.

We implore you to vote against the granting of these variance requests and the approval of this project as is all together.

Sincerely,

Ashley & Eric Hulser

A solid black rectangular box used to redact the signature of Ashley & Eric Hulser.

Los Gatos, CA

8 August 2023

Los Gatos Planning Commission
Town of Los Gatos


Subject: Winchester Memory Care/Assisted Living Facility
Planning Commission 8/9/2023 Agenda Item #3

Dear Chair Barnett and Commission Members,

I am writing to **clarify and correct my letter of August 1, 2023** regarding the proposed Winchester Memory Care/Assisted Living Facility. I am in support of the facility as **originally approved** by the Planning Commission. The new proposal has greatly expanded the size of the original proposal which I do not support. While I support additional assisted living and memory care options in Los Gatos, I cannot support the newly proposed expansion of the Winchester facility on 15860 Winchester Blvd. The opinions contained in this letter are strictly my own.

Respectfully yours,
Tom Picraux

S. Tom Picraux


Los Gatos, CA 95032

From: Bryan Mekechuk
Sent: Tuesday, August 8, 2023 10:58 AM
To: Jennifer Armer <JArmer@losgatosca.gov>
Cc: Joel Paulson <jpaulson@losgatosca.gov>
Subject: 15860 Winchester Boulevard

[EXTERNAL SENDER]

Hi Jennifer,

Thank you for meeting with me yesterday.

This email is to advise you, and the Planning Commission, that I will submit a detailed letter setting forth my thoughts on the proposed development at 15860 Winchester Boulevard.

I fully understand and support Staff's recommendation of "Denial" for 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.

You will receive a detailed letter from me tomorrow, and I will attend the meeting tomorrow evening.

Best regards,

Bryan

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Bryan Mekechuk

