



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 08/9/2023

ITEM NO: 3

DESK ITEM

DATE: August 9, 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 16 includes public comment received between 11:01 a.m., Tuesday, August 8, 2023, and 11:00 a.m., Wednesday, August 9, 2023.

The Staff Report inadvertently omitted reference to the Conceptual Development Advisory Committee (CDAC) review of preliminary plans for the proposed project, which occurred on June 10, 2020.

The agenda and link to the staff report are available online here:

<https://www.losgatosca.gov/AgendaCenter/ViewFile/Agenda/06102020-1692>.

The meeting minutes are available here:

<https://www.losgatosca.gov/AgendaCenter/ViewFile/Minutes/06102020-1692>

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 9, 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
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

Previously received with the August 9, 2023 Addendum Report:

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

Received with this Desk Item Report:

16. Public Comment received between 11:01 a.m., Tuesday, August 8, 2023, and 11:00 a.m., Wednesday, August 9, 2023.

Dear Planning Commission,

As a planner, I understand the importance of early and consistent engagement with affected neighbors of any new development project. This engagement allows neighbors to express their concerns to the project team and be part of the design process to ensure a project that is compatible and, most importantly, welcomed by the neighborhood.

As a planner *and an affected neighbor*, I am disappointed in the applicant and Town staff's lack of engagement, public outreach, and collaboration on this project.

Here are some points to consider in your deliberations:

1. The applicant only conducted one neighbor meeting, August 2nd (last Wednesday) with my community on this version of the project.
2. Town staff received no public comments on the draft IS/MND because they failed to notice the neighborhood adequately.
3. The applicant installed non-compliant story poles before receiving an exception and did not attempt to install the approved alternatives before receiving a second exception for the now-installed on-site project boards and video simulation (which no longer works as of writing this letter).
4. The project's Town webpage is cumbersome and lacks timely information like upload/revision date, making navigating the project application packet challenging, even for someone like me.
5. Town staff's project oversight is lacking and biased towards the applicant; sending an earlier (July 26, 2023) public hearing notice when the on-site boards states an August 9th hearing date is one example.
6. In Section G of staff's report, there is no mention of how the project does not meet the following 2020 General Plan Land Use Element policies (not an exhaustive list) : LU-1.1, 1.3, 1.4, 1.6, 1.8, 6.1 through 6.10, 7.2 through 7.4, 9.1, 9.9, 10.4
7. In Section G, Town staff references the 2040 General Plan in certain instances, but the application was submitted in 2021 and should only be subject to the 2020 General Plan.
8. The applicant does not provide any information about the facility's operations in the application, mostly because they have yet to identify a potential operator.
9. Town staff relies on the applicant-provided market study, which are solely intended to determine project financial feasibility and return on investment (ROI), to make required CUP findings.
10. Project design makes heavy assumptions about the facility's operations such as required number of units/beds, parking spaces, etc. without an identified operator or regulations for such facilities.

11. Assisted living facilities are regulated and licensed by the state. Still, no information in the application packet confirms this facility would meet regulatory requirements (market study makes vague statements such as *“this market study assumes competent management will be in place”* and *“proper adherence to state regulations is assumed.”*)
12. This facility *“is targeting at the high-end of the private pay marketplace”* per the market study (page 35, PDF page 136); not what a reasonable person would consider affordable housing.
13. Project proposes senior housing, which would make this project not a pure commercial use but more so a mixed-use development, which has additional Code requirements such as parking for each proposed use.
14. Variance findings cannot be made because the property does not have unique or extraordinary circumstances; the height and lot coverage exceedances are a pure disregard for Town development standards to make the project profitable
15. Applicant was aware, especially in light of the previous project's administrative record of proceedings, of the property's challenges to development and what a project that fits the neighborhood context would look like comparatively
16. Project does not fit within the neighborhood context of the surrounding community and does not conform to O Zone development standards
17. My community has always been available to discuss and collaborate with the applicant, but the applicant has made little effort to do so with us and other neighbors.
18. Town staff should have required more neighbor outreach from the early stages of this project as a requirement before setting this project for hearing.
19. The applicant's August 2nd meeting was in vain; I do not realistically believe the applicant will make any changes to the project based on my community's feedback this late in the process
20. I support the proposed assisted living use, but not the project as-designed.

In sum, I hope the above points will help you determine that this project should be recommended for denial not just based on staff's inability to make the required Variance findings, but for two other reasons: (1) general lack of compatibility with the surrounding neighborhood, and (2) a general lack of engagement, outreach, and collaboration with affected neighbors.

I look forward to continued engagement, outreach, and collaborative work with Swenson for a much-needed use in our community.

Respectfully submitted,

Dylan Parker, [REDACTED]

From: James Parker
Sent: Tuesday, August 8, 2023 1:05 PM
To: Jennifer Armer <JArmer@losgatosca.gov>
Subject: Re: Swenson Public Comments

[EXTERNAL SENDER]

Hi Jennifer,

I have an additional question - why wasn't the staff report, meeting minutes, and public comments received for the June 2020 CDAC meeting not included in the packet? It is part of the administrative record of proceedings for the project and PC should be made aware of the CDAC's feedback and directions provided early on in the Town's review process in light of public comments received. I am hopeful this was an oversight and will be quickly corrected.

Please consider this email as additional public comments to forward as a desk item for the Wednesday PC hearing.

-Dylan Parker

From: James Parker
Sent: Wednesday, August 9, 2023 10:48 AM
To: Jennifer Armer <JARmer@losgatosca.gov>
Subject: Re: Swenson Public Comments

[EXTERNAL SENDER]

Hi Jennifer,

I have another supplemental public comment for today's Desk Item report (see below):

In my opinion, the project traffic analysis is inaccurate in many aspects:

1. Only weekday local traffic counts when weekend traffic should be taken into consideration. For example, Winchester and University become parking lots during peak summer beach cut through traffic. I have noticed this year alone (2023) that cut through traffic has increase dramatically both in volume and duration.
2. Traffic report does not reflect the reconfiguration of Winchester Boulevard conducted in late 2022, most notably the reduction of one northbound lane of travel and introduction of two buffered bike lanes on both sides. In my observations, I have noticed that this new configuration has increased traffic volumes during peak travel times (and during the hellacious beach traffic mentioned above).
3. Local traffic counts were conducted during the COVID-19 pandemic, when most people were not commuting or otherwise generating VMTs. The consultant instead uses a questionable tactic of adjusting the counts upward to match total volumes from a 2016 study conducted for the previous office building project. Perhaps more counts should of been conducted in 2023 to more accurately reflect current commute patterns in light of the COVID pandemic restrictions expiring or otherwise not being an determining factor of artificially lowering the counts.

This list could go on, but I am stopping at three points since I think is is quite evident with these comments, and the ones previously provided, that staff really was not reviewing these documents and or managing the application packet as thoroughly as I would expect as a fellow planner. All the items I have commented on thus I would customarily flag and comment to my applicants in the intial completeness (or what the Town calls deficiencies) review so they may correct before the project goes to hearing.

It also begs the question of who was peer reviewing these documents on the Town's behalf? It is commonplace for this size of project to have Town consultants do so, at the applicant's expense, to provide an unbiased third party opinion.

-Dylan Parker

Bryan J. Mekechuk/Jo-Anne Sinclair

Monte Sereno, CA 95030

August 9, 2023

Planning Commission
Town of Los Gatos
110 East Main Street
Los Gatos, CA 95030

Dear Commissioners:

Re: 15860 Winchester Boulevard
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-22-001d

We support Staff's recommendation of "Denial" for the applications noted above and request that the Planning Commission deny the applications.

For context, we own a house across Winchester Boulevard, less than 150 feet from the corner of Winchester and Shelburne Way, which is the North West corner of the proposed development. We have owned [REDACTED] since 1997. Also, we own a dwelling at [REDACTED] in Los Gatos. We have enjoyed living in the Los Gatos community for the past 20 years – we look forward to at least another 20 years in the same location.

My wife and family welcome the development of the proposed site provided it is an attractive and sustainable development that fits with Los Gatos. Attached to this letter are six (6) individual letters that we have written regarding this property since 2017.

As evidenced by these letters, the various and changing Applicants to develop this landmark property on Winchester Boulevard have created an immense amount of work by others to identify the problems and errors in the applications. This effort has been undertaken by residents in the Los Gatos community, Town Staff, the Planning Commission, and Town Council. The issues identified in the six letters that we have written have not been addressed by the Applicant.

In this application, Mr. Jessie Bristow of Swenson Builders is 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.

Swenson Builders has refused to work on the issues and communicate with the community. Specifically, there has been no neighborhood outreach. While the Town does not require applicants to communicate with the community, community outreach is a leading practice promoted by planning commissions in most jurisdictions so applicants can understand and address community concerns prior to public hearings.

Immediately after the public hearing in the Town Council meeting on April 4, 2023 regarding the Applicant's request for a Story Pole Policy exemption, I met with Mr. Bristow, gave him my personal contact information, and asked him to convene a neighborhood meeting that the residents of Via Sereno could attend. He indicated that I live in Monte Sereno, not Los Gatos, and input from a neighboring jurisdiction is not required. Jesse acknowledged my request then ignored me.

Regarding the findings that must be made to approve the individual applications¹ associated regarding the proposed development at 15860 Winchester Boulevard, please note the following:

Outdated and Stale Plans and Reports

First, please note that the findings by Staff are based on outdated and stale plans. Please refer to all dates in the documents, plans and reports. For example, the Winchester Memory Care Assisted Living sheets are dated April 1, 2021 and the Existing Conditions are dated November 1, 2021.

The letters from the Applicant are dated from December 13, 2021 and the latest revision date is August 2, 2022. The conditions and statements in the letters should be current, not stale (e.g., traffic conditions, bicycle conditions, neighborhood outreach and communications, etc).

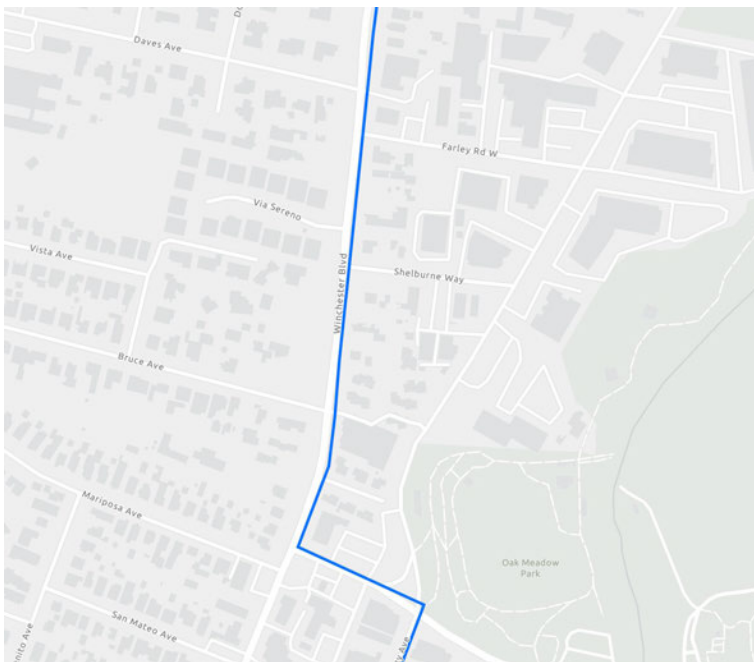
The traffic study referred to by the Applicant, and relied on by Staff in the findings, is noted under the caption, "Transportation Element". This traffic study is inaccurate and outdated. See also *Traffic Study by TJKM*.

Several of the required findings to support these applications are included in the Town's Consulting Architect Report by Cannon Design Group. This report is dated May 4, 2021 and is stale. The photographs and renderings do not include the Class IV bike lanes, which are an important and valuable feature of Winchester Boulevard. Findings should cannot be based on outdated reports.

High Pressure Natural Gas Pipeline under Winchester Boulevard

Since we live on Winchester Boulevard, we receive confidential communications regarding Pacific Gas & Electric's high pressure natural gas transmission pipeline that feeds the Town of Los Gatos is under the Northbound lane of Winchester Boulevard. This high pressure natural gas transmission line is similar to the transmission line that exploded in San Bruno on September 9, 2010, killing eight people.

Please refer to the map published by Pacific Gas & Electric below.



¹ 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.

On sheet A-2.0, the Water Boiler, Generator and Electrical Room will be 25 feet from the property line. The underground excavation for the underground garage will go further West from the finished wall. The location of Pacific Gas & Electric's high pressure natural gas transmission line is not noted on any of the plans (due to the confidential nature of such transmission lines).

The smaller the setback, the closer excavation will be to the underground transmission line. The Applicant should propose a setback that will include a safety factor that corresponds to the increased risk of disturbing the existing high pressure natural gas transmission line. The front setback proposed in the prior application was 35 to 44 feet along Winchester Boulevard – this should be considered as the underground setback as well.

Homeless Individual on Shelburne Way

The Town understands and estimates that there are an estimated 18 to 20 permanent homeless individuals that reside in Los Gatos. The Town has funded initiatives to help these individuals. At the same time, the Town has invested in justice, equity, diversity and inclusion (JEDI) consulting work.

Since we often walk on Shelburne Way, we have observed the permanent homeless person that lives in her car at the South West corner of Shelburne Way and University Avenue.

Previously, the Town approved a 30,070 sq ft, two-story office building and the Applicant proposes a 81,633 sq ft three-story facility. The larger the building at 15860 Winchester Boulevard, the more excavation and concrete will be needed. The volume of trucks and length of construction time will increase dramatically.

Consideration should be given to how the increase in size will affect this homeless individual.

Traffic Study by TJKM

The Traffic Impact Analysis Report by TJKM dated March 25, 2022 cannot be used for any findings to support these applications because it is wrong and outdated.

This report does not acknowledge or consider the effect of the existing Class IV bike lanes on Winchester Boulevard (see 3.3 Existing Bicycle Facilities). Further, Table 4 refers to intersection control as "Signal" at Winchester Boulevard & Shelburne Way, and University Avenue & Shelburne Way. These signals do not exist. Figure 6 is wrong.

Vehicle traffic timing and patterns associated with an assisted living and memory care facility, which operates 24 hours a day, 365 days per year, are materially different than traffic patterns associated with an office building. Both our mothers spend their final years in assisted living facilities and we observed the visitor patterns to the aging patients. Many of those visits are on weekends and during meal times. The children and grandchildren of aging patients visit often on weekends.

Although "beach traffic" is at its worst on Saturdays, it is significant on Sundays. Any traffic studies used in findings to support the applications must analyze and quantify the effect of staff and visitor traffic to 15860 Winchester relative to beach traffic. The traffic studies used do not consider such traffic patterns.

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As recommended by Staff, we ask that the Planning Commission deny the applications related to 15860 Winchester Boulevard.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bryan J. Mekechuk', with a long horizontal flourish extending to the right.

Bryan J. Mekechuk

A handwritten signature in black ink, appearing to read 'Jo-Anne Sinclair', written in a cursive style.

Jo-Anne Sinclair

Attachments

01/19/17	Letter to Planning Commission
01/24/17	Letter to Planning Commission – ADDENDUM
01/30/17	Letter to Doug Rich, Valley Oak Partners, LLC
10/14/17	Letter to Town Council
10/17/17	Letter to Town Council
10/22/22	Letter to Town Council

Bryan J. Mekechuk/Jo-Anne Sinclair

Monte Sereno, CA 95030

January 19, 2017

Planning Commission
Town of Los Gatos
110 East Main Street
Los Gatos, CA 95030

Dear Commissioners:

Re: 15860, 15880, 15894 Winchester Boulevard

We own a house across Winchester Boulevard, less than 150 feet from the corner of Winchester and Shelburne Way, which is the North West corner of the proposed development. We have owned [REDACTED] since 1997. In addition, we own a dwelling at [REDACTED] in Los Gatos. We have enjoyed living in the Los Gatos community for the past 20 years and we look forward to at least another 20 years in the same location.

My wife and family welcome the development of the proposed site provided it is an attractive and sustainable development that fits with Los Gatos. We were invited to, and attended the information session hosted by the applicant, then reviewed the story poles in December and January, and went through the complete application as filed with the Town of Los Gatos.

After reviewing all information available and based on living opposite the property, in our opinion the proposed development does not meet the required findings in order to be approved by the Planning Commission. Specifically, the proposed project does not meet the Commercial Design Guidelines regarding mass and scale.

Concerns

First, and foremost, one of the most desirable attributes of Los Gatos is its setting – Los Gatos is a small town that is framed by beautiful hillsides on each side of Los Gatos Creek. The town prides itself on maintaining its character and has approved developments that are consistent with its character and setting. Importantly, the Town of Los Gatos (and Monte Sereno) have managed the development of the surrounding hillsides to preserve their natural beauty for the enjoyment of everyone.

The Town of Los Gatos established Hillside Development Standards and Guidelines to manage the development of the hillsides around Los Gatos. The Planning Commission has invested significant time and resources to implement and maintain those guidelines, including the size and visibility of

structures and even lighting at night (consider 15680 Gum Tree Lane). The Planning Commission has been extremely diligent in protecting our hillsides.

Winchester Boulevard is one of the major arteries into Los Gatos and one has excellent views of the hillsides when going South on Winchester into Los Gatos.

The proposed development will box in that view and establish a precedent for building height of future developments along Winchester Boulevard. Specifically, the proposed application is to build to the maximum allowed height of 35 feet.

The Office Professional zone starts at the Southernmost part of the proposed development and continues North along Winchester to half way between Farley Road West and Pleasant View Avenue. The full block between Shelburne Way and Farley Road West may still be developed.

Underscoring the precedent that this proposed building will establish, the applicant has even included another two story building on the North side of Shelburne Way – see the sketch on sheet IM1.2.

Although set back from Winchester, the face of the building is a monolithic wall, broken with two open glass rooms looking down onto Winchester. While perhaps breaking the lines, these two features serve to block the views of the hillsides even more as these features are higher than the majority of the roofline.

The applicant stated in their covering letter, “Large glass openings complete the design while providing plenty of natural light and views of the hills to the east.” The applicant acknowledges the views and, by providing those views for their tenants, the proposed structure will blocking the views for everyone else.

While the application is consistent with the general plan and zoning and may follow the ‘letter of the law’, the application does not follow the ‘spirit of the law’ as set forth by the Town of Los Gatos. For example, it is desirable to have a transition to building heights and other dimensions at the perimeter of a zone and individual properties. Said differently, the general plan and zoning is not an algorithm – hence the need and role for a Planning Commission to review proposed developments, encourage community outreach and hold public hearings.

Approving the application with the maximum height will block views of the Los Gatos hillsides, which the Town of Los Gatos has committed to preserve.

Denying the application as submitted should not be a surprise to a developer in Los Gatos. Developers are encouraged to engage neighbors and other stakeholders prior to submitting their application to the Planning Commission.

The applicant hosted an information session on September 12, 2016. I attended that presentation and, with the others in the room, I found it difficult to understand the scale and scope as no cross sections or elevations were presented – it was somewhat abstract. Since then, the applicant has added additional information to their application (e.g., the sketch referred to earlier with the two story building on the North side of Shelburne Way).

At that meeting, I asked a number of questions and outlined four major concerns: (1) size and mass of the proposed structure; (2) traffic turning left into and left out of the at-grade parking from/to Winchester Boulevard; (3) traffic turning left from Winchester Boulevard onto Shelburne

Way for access into the underground parking; and (4) the loss of privacy related to a balcony at the North side of the proposed building on Shelburne Way.

Given that I articulated these issues, I expected the applicant to follow up with me, one way or another, since they requested my name and contact information from all attendees at the information session.

Since the meeting, I did not receive any further communications from the applicant. Upon reviewing the application as submitted to the Town of Los Gatos, none of my concerns were addressed whatsoever. Clearly, the information session was a perfunctory 'check the box' step in their application.

Considerations for Applicant

To support this application, which we would like to do, we offer the following for the applicant to consider:

1. Move the building East by approximately 10 feet and lower the maximum height above grade, as measured from Winchester Boulevard, to 25 feet. This will continue to allow views of the iconic hillsides on the East side of Los Gatos.
2. Integrate sustainability elements in the design. For example, consider future mounts for solar photovoltaic panels and even stationary storage (vs. generator back up). In their review of the conceptual plans on January 13, 2016, the Conceptual Development Advisory Committee commented, "LEED certification would be preferred." The applicant ignored this comment and has not outlined their reasons for doing so. Other applications in the Town of Los Gatos pursue various levels of LEED certification (e.g., Silver or Gold).
3. Protect the Coastal Oak trees on the property that are being saved. This would be accomplished by moving the building East and, to some extent, making the building length shorter (not as far North to the Coastal Oak on Shelburne Way).
4. Prohibit vehicles from turning left when entering or exiting the at grade parking.

Given the opportunity, we will meet with the applicant to review proposed alternatives and provide feedback.

* * * * *

It is in everyone's best interest to see the site developed in such a way as to add value to the developers, the surrounding neighborhood, and the Town of Los Gatos.

Sincerely,



Bryan J. Mekechuk



Jo-Anne Sinclair

Bryan J. Mekechuk/Jo-Anne Sinclair

Monte Sereno, CA 95030

January 24, 2017

Planning Commission
Town of Los Gatos
110 East Main Street
Los Gatos, CA 95030

Dear Commissioners:

Re: 15860, 15880, 15894 Winchester Boulevard
For ADDENDUM

We are providing additional information to our letter dated January 19, 2017. In doing so, we reiterate the following:

My wife and family welcome the development of the proposed site **provided** it is an attractive and sustainable development that fits with Los Gatos. We do admire the style of the building.

To summarize this letter, we believe that the Planning Commission should **CONTINUE** the applications to a later date so the applicant can:

1. Provide information as requested (e.g., additional cross sections and elevations) and answer questions the applicant is unable to answer during the meeting.
2. Meet with interested members of the community and present information to them and receive their feedback (i.e., additional community outreach).
3. Update the Transportation Impact Analysis to include traffic flows to/from Daves Avenue Elementary School via Bruce Avenue.

If the Planning Commission must make a decision on January 25 then we ask that the Planning Commission **DENY** the applications.

Increase Community Outreach

Unfortunately, as with the North 40, the Planning Commission (and Council) probably recognize now that the public really doesn't get involved until story poles are put in place. Until then, many members of the community are reticent to review the plans in detail and focus on the proposed development. The only outreach in the community for this project was a meeting held on September 12, 2016. Two signs were erected when the story poles went up in December 2016, which is when the community really became aware of the project.

We are disappointed with the limited community outreach associated with this application. It was misleading to have the applicant's structural engineer at the meeting on September 12, 2016 and then see the applicant imply this person attended as a member of the community. Regardless of the intent, the financial interest should be disclosed to be transparent to staff and the Planning Commission.

On a positive note, the applicant did follow up with residents only immediately adjacent to the project, which they promised to do at the September 12 meeting.

We are offering to attend any future meetings and provide feedback to the applicant, and we believe others in the community may attend such meetings as well (similar to Alberto Way).

Provide Cross Sections and Elevations

During our review of the application, we found the single East/West and North/South cross sections to be inadequate to understand the application. In addition, we believe the maximum height of the building was stated incorrectly by the applicant as the highest point of the roof was noted at 414 ft whereas the actual highest point is almost 416 ft.

Further, the applicant shows the reference elevation for the 35 ft maximum building height in the North West corner of the project as 382 ft (see A2.0), and is 6-1/2 ft further West than most of the building. That may be fine for that part of the building – the reference elevation for the Southern portion of the building should be on the existing grade of the driveway, which is approximately 375 ft.

The reference elevation at the East side of the proposed building should be 372 ft. resulting in a maximum height of 407 ft. The applicant has picked a “high point” and carried the absolute maximum height across the property resulting in the proposed building exceeding the maximum allowable height for Office Professional.

The elevations shown on A4.0 are difficult to understand as the land is sloped and the reference points are not clear. The structure on the roof, behind the parapet, in the South East corner rises significantly above the line of the raised seam steel roof, which is shown on A2.0 to be 35 ft above grade.

Please refer to the attached sketches identifying the eight cross sections and elevations that we would like to see. For clarity, the reference elevations should be labeled on each drawing.

Perform Transportation Impact Analysis

Traffic studies are an estimate and are a starting point for any analysis. After reviewing the transportation impact analysis completed by Hexagon Transportation Studies, Inc., we identified significant gaps in the analysis and I spoke with the author of the report on Friday, January 19, 2017. While the author acknowledged our concerns, he stood by the conclusions (as one would expect).

The major gap in the analysis was understanding the traffic flows generated by Daves Avenue Elementary School. The traffic flows at the T intersection of Bruce Avenue and Winchester Boulevard, just steps South and across the street from the proposed development were not identified whatsoever in the analysis (see diagram below, taken from Figure 1 Site Locations and Study Intersections).



Although the Town of Los Gatos specifically requested that the impact on Daves Avenue be considered in the transportation impact analysis, the intent was probably to understand the impact on drop-off and pick-up at Daves Avenue Elementary School. The report included the following:

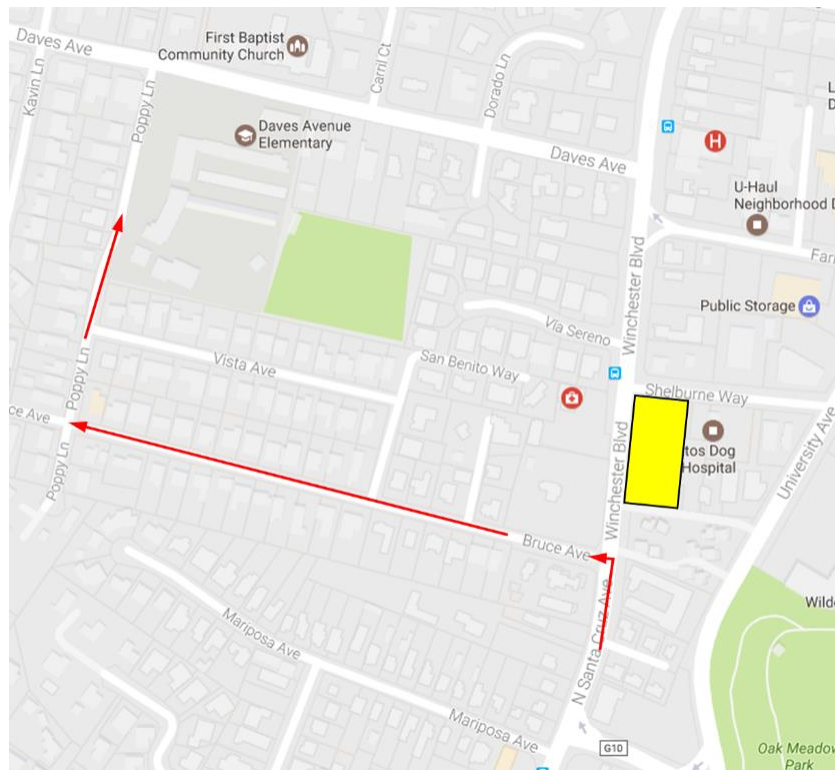
Project Impacts on Daves Avenue during School Peak Hours

Daves Avenue Elementary School is located approximately 2,000 feet west of the project site. At the request of the Town, a qualitative discussion of project impacts on Daves Avenue during peak morning drop-off and afternoon pick-up periods is provided.

Daves Avenue Elementary School currently begins classes at 8:15 AM for all grades and ends at approximately 2:30 PM for all grades on all weekdays except Wednesday, when students end classes at approximately 12:15 PM. Hexagon observed traffic operations on Daves Avenue during the peak school morning drop-off and afternoon pick-up hours. As discussed in Chapter 2, only minor congestion issues were observed, and the congestion lasted a period of approximately twenty to thirty minutes. During the school morning drop-off peak period, the proposed project is expected to generate three trips within an hour on eastbound Daves Avenue. During the school PM pick-up hours, office land uses typically generate little traffic, and the project is not assumed to generate any traffic on eastbound Daves Avenue. Overall, during both the morning drop-off and afternoon pick-up school peak periods, the proposed project is not expected to add a noticeable amount of traffic to eastbound Daves Avenue, which experiences minor congestion for the peak twenty to thirty minutes of school activity.

During both the morning drop-off and afternoon pick-up hours at Daves Avenue Elementary School, Hexagon observed that the majority of the drop-off and pick-up operations occurred on-site. Only a few parents dropped-off or picked-up their children while parked along Daves Avenue. Overall, students are being dropped-off and picked-up in a safe manner. Because the project is expected to add only three trips during the morning peak hour and no traffic during the afternoon school peak hour onto Daves Avenue, it is not expected that the proposed project would significantly affect the current drop-off and pick-up patterns and affect student safety.

The map below shows the streets in the vicinity; many drivers use Bruce Avenue when dropping off and picking up students at Daves Avenue Elementary School:



Failing to identify and analyze the traffic flows into and out of Bruce Avenue at Winchester damage the credibility of the analysis and conclusions of the entire report. Anyone familiar with the area understands the traffic routes surrounding drop-off (AM) and pick-up times (PM).

In addition, other student activities after school generate PM traffic by parents, teachers and staff, and others. Further, it is difficult to establish traffic patterns related to Daves Avenue Elementary School with only one data point (March 2016).

Restrict Entrance/Exit to At Grade Parking from Winchester Boulevard

The transportation impact analysis reviewed the Winchester entrance/exit to the at grade parking and states, "Sight distance requirements vary depending on the roadway speeds. The speed limit on Winchester Boulevard and Shelburne Way is 25 mph." Very few vehicles follow the posted speed limit on Winchester Boulevard. If actual vehicle speeds were only 25 mph then the recommendations regarding the entrance/exit could be plausible – in reality, vehicles are generally accelerating after the Blossom Hill/North Santa Cruz intersection and are going more than 30 mph where the entrance/exit would be located.

Fortunately, since there is a vehicle speed indicator for Northbound traffic on Winchester Boulevard, it would be easy to sample vehicle speeds to see how fast vehicles are actually going.

Allowing vehicles to turn left into or turn left out of the at-grade parking will be dangerous and an accident will occur. Prohibiting such left turns should be a condition of any proposed development.

In 2016, Traffic Flows are Dynamic, based on Smart Phone Apps

The data sources used by the traffic consultants and their methodology and analysis software completely ignores the increasing use of smart phone apps, including Waze, Google Maps and Apple Maps. These apps have changed the dynamic of traffic flows by moving traffic to alternative routes quickly when arteries are delayed, congested or blocked. These new technologies, which are increasingly available, affordable and functional, have been recognized by California lawmakers in establishing new laws regarding the use while driving. Unfortunately, the transportation analysis industry has failed to include the impact of these new technologies in their analyses. Hexagon (the traffic consulting firm) should have included a proviso and warning in their report stating that the use of smart phone apps has not been considered in their analysis or conclusions, which may cause material errors.

As the Planning Commission knows, minor delays in common traffic patterns are immediately recognized by smart phone apps; drivers going through Los Gatos as well as drivers living in Los Gatos rely on changing their route to save a small amount of time (because it takes little such effort). Smart phone apps that re-route traffic can make dramatic changes in traffic volumes quickly.

Although a peer review of the transportation impact analysis may have been completed, since the traffic study industry is based on traditional (obsolete) driver behavior, it is not surprising that this transportation impact analysis is fatally flawed by not considering driving patterns and routes influenced by smart phone apps.

Mitigated Negative Declaration – This Project Has a Substantial Adverse Effect on a Scenic Vista

EMC Planning Group Inc. prepared the Mitigated Negative Declaration dated November 2, 2016 for this project. This Monterey-based organization concluded that under "1. Aesthetics a) Would the project have a substantial adverse effect on a scenic vista?" there would be Less Than Significant Impact. We

disagree with this conclusion as the analysis fails to consider pedestrian traffic and a significant amount of other traffic on Winchester Boulevard, which now varies due to smart phone apps as described.

Statement of Reasons to Support Findings (page 2 of November 2016 report)

a. Have a substantial adverse effect on a scenic vista? (Less Than Significant Impact)

The scenic vista toward the Santa Cruz Mountains is already partially obscured under existing conditions and the proposed buildings would only affect a brief view of the mountains from westbound Winchester Boulevard, the proposed project would have a less-than-significant impact on a scenic vista.

Winchester runs North / South, not East / West ... let's turn to what is this conclusion based on.

D. Evaluation of Environmental Impacts (page 17)

a. The Town of Los Gatos 2020 General Plan EIR (general plan EIR) identifies southward views of the Santa Cruz Mountains and ridgelines as the primary protected scenic vistas within the Town. Due to the heavily-wooded nature of the Town, these views are most prominent from the southbound lanes of the Town's major north-south running streets.

There are limited distant views of the Santa Cruz Mountains looking southward from Winchester Boulevard, but most currently available views of the mountains are perceivable when looking across Winchester Boulevard away from the project site and thus would not be obstructed by project development. Potential views of the ridgelines across the project site are mostly obstructed by existing development or tree cover along Winchester Boulevard. The mountains are briefly visible across the project site at the corner of Shelburne Avenue. The existing house at that corner is about 18 feet tall with a gable roof and is set back from Winchester Boulevard by about 30 feet and Shelburne Avenue by about 40 feet. The proposed project building would be approximately 20 feet closer to Shelburne Avenue and almost twice as tall. The proposed project would eliminate the brief view of the mountains from westbound Winchester Boulevard. The project proposes to maintain several existing trees along Winchester Boulevard and to plant new trees lining the street frontage where trees are proposed for removal. The tree planting would preserve comparable views to those existing on Winchester Boulevard.

The proposed project would slightly reduce views of the mountains, but would not result in significant impacts to any designated scenic vistas as identified in the general plan. Thus, impacts would be less than significant.

The authors of the report equate the views of trees that block the mountains (as stated above) as identical to a two-story building blocking views of the mountains. We disagree strongly.

The authors should consider pedestrians walking on the West side of Winchester Boulevard. The Town of Los Gatos promotes and motivates pedestrian activity – anything that make walking less pleasant, such as blocking and eliminating views of the mountains, should be evaluated negatively.

For drivers, the authors believe there is only a brief view. Coming from Monterey, the authors may not be familiar with traffic issues Southbound on Winchester Boulevard. The Planning Commission knows that, increasingly, there are lengthy traffic delays Southbound on Winchester Boulevard, especially in the summer with beach traffic and with smart phone apps promoting alternative routes including using Winchester Boulevard to avoid congestion on Highway 17. By lowering the building height, anyone caught in traffic when driving Southbound on Winchester will have (more than a fleeting) opportunity to enjoy a view of the mountains (especially on beautiful sunny days that are prime beach traffic days).

Everyone driving East on Via Sereno will lose the view of the mountains when stopped at the corner of Via Sereno and Winchester. The view from that corner of Via Sereno is not "brief."

Overall, we disagree with the author's conclusion that there is Less than Significant Impact and request the Planning Commission find the impact as "Potentially Significant Impact". Mitigating this impact may be achieved by lowering the height of the building.

Provide Buffer to Residential Areas

Although the applicant claims that there is a 78 ft buffer on the South side of the site, the "at grade" parking structure is, in reality, just under a one-story structure (the cross sections requested previously in this letter will illustrate this). When viewed from the South, the proposed building is massive as it is more than 35 ft height above the existing grade.

Policy LU-6.3 states, "Protect existing residential areas from adjacent nonresidential uses by assuring that buffers are developed and maintained."

For a project such as this, some type of tiered buffer would be more appropriate under Policy LU-6.3.

Sustainability as a Condition for Approval

Other than related to bicycles, the applicant has not volunteered to incorporate any sustainable elements beyond which are required by Title 24. Ignoring sustainability of this project is underscored by the applicant's avoiding the comment by the Conceptual Advisory Development Committee regarding applying for LEED certification (see memorandum dated January 6, 2016).

The windows and orientation of the building will result in significant solar heat gain from the Western sun, which is apparent from SP4.0. The project design does not prevent solar heat gain, which will result in higher energy consumption for the life of the building. Occupants will have high operating costs and require additional equipment, such as moveable window blinds, that will adversely affect the benefits of the west-facing windows while detracting from the building appearance.

Applying for LEED certification will require the applicant to consider all aspects of building design and construction, including resource consumption (e.g., energy and water), durability and environmental impact.

For such a development in one of the most travelled gateways into Los Gatos, LEED certification should be a requirement by the Planning Committee.

* * * * *

As stated previously, we believe it is in everyone's best interest to see an attractive and sustainable development that fits with Los Gatos so that it adds value to the developers, the surrounding neighborhood, and the Town of Los Gatos.

If this application is continued, we will meet with the applicant and discuss all items set forth in this letter.

Sincerely,



Bryan J. Mekechuk



Jo-Anne Sinclair

Bryan J. Mekechuk
[REDACTED]
Monte Sereno, CA 95030
[REDACTED]
[REDACTED]

January 30, 2017

Mr. Doug Rich
Valley Oak Partners, LLC
734 The Alameda
San Jose, CA 95126

Dear Mr. Rich:

Re: 15860, 15880, 15894 Winchester Boulevard
Request for Information

We met on September 12, 2016 at the neighbor information session that you hosted at Los Gatos Lodge. Since then, you should have received copies of letters dated January 19, 2017 and January 24, 2017, and heard my public testimony on January 25, 2017.

The Planning Commission gave you specific directions to consult with neighbors and I have offered to provide you with feedback. To start, I ask you to:

1. Establish a date to meet with neighbors.
2. Review the maximum building height requirements as set forth by the Town of Los Gatos.
3. Provide cross sections showing existing grade and then provide cross sections showing the building perimeter and tallest points (as defined by the Town of Los Gatos codes).
4. Update the story poles with a contrasting color for any revisions to the building perimeter and profile.
5. Prepare a LEED checklist identifying the LEED points that this project would generate.

Each of these items are described below.

1. Establish a date to meet with neighbors

Please let me know when you would like to meet with your neighbors. Several people have asked me when the next meeting will be (they know that your project is on the March 22, 2017 Planning Commission agenda).

2. Review the maximum building height requirements as set forth by the Town of Los Gatos

At the January 25, 2017 Planning Commission meeting many people, including Commissioner Hudes and Mr. Paulson, felt your proposed building heights and building planes were confusing. I was puzzled by the reference on A2.0 of 382 ft with other elevations along the same building perimeter of 376 ft, which could result in a maximum building height of 411 ft at that plane (not 414 or 416 ft).

Since that meeting, I read the relevant Town of Los Gatos codes and noted the following:

Sec. 29.60.105. – Height. The maximum height of any principal building in an O or office zone is thirty-five (35) feet, and of any accessory building is fifteen (15) feet.

One must refer to the definition of height to see how it is measured (emphasis added):

Sec. 29.10.020. – Definitions.

Height means the height of all structures, excluding fences, shall be determined by the plumb vertical distance from the natural or finished grade, whichever is lower and creates a lower profile, to the uppermost point of the roof edge, wall, parapet, mansard, or other point directly above that grade. For portions of a structure located directly above a cellar, the height measurement for that portion of the structure shall be measured as the plumb vertical distance from the existing natural grade to the uppermost point of the structure directly over that point in the existing natural grade. No point of the roof or other structural element within the exterior perimeter of the structure shall extend beyond the plane established by the maximum height plane except as allowed by section 29.10.090.

Grade, (natural) means the lowest point of ground elevation of undisturbed soil as measured from a known fixed reference height benchmark or as a height referenced from sea level.

Grade, (finished) means the lowest point of ground elevation of the finished surface of the ground after any construction or grading activities (including, but not limited to cut and fill of existing slopes) as measured from a known fixed reference height benchmark or as a height referenced from sea level.

Additional sections are as follows:

Sec. 29.10.090. – Height restriction, exception.

Towers, spires, elevator and mechanical penthouses, cupolas, wireless telecommunication antennas, similar structures and necessary mechanical appurtenances which are not used for human activity or storage may be higher than the maximum height permitted by the zone. The use of tower elements or similar structures to provide higher ceiling heights for habitable space shall be deemed as a use intended for human activity and is therefore not exempt from the maximum height restrictions of a zone.

Sec. 29.40.045. - Height determination on sloping lots.

Where the slope of a lot (measured in the general direction of the lot lines) is greater than one (1) foot rise or fall in seven (7) feet of horizontal distance from the street elevation at the property line, building height is limited to a plane parallel to the surface of the ground unaltered by grading (including excavation) for the building in question. The plane is at an elevation set by the rules of each zone. Building height is measured vertically from the grade to the highest point of the coping of a flat roof (slope one (1) in twelve (12) or less), or the deck line of a mansard roof, or to the highest gable of a pitched or hip roof.

After reviewing the height requirements and definitions, please incorporate the heights referenced from sea level in future diagrams for clarity within and across sheets in your application.

3. Provide cross sections showing existing grade and then provide cross sections showing the building perimeter and tallest points

Based on the Town of Los Gatos codes, please provide elevations (cross sections) of the natural grade that will be under the highest points of the roof and parking structure, showing the elevation of the natural grade above sea level. If you (or your architect) are using BIM (*Building Information Modeling*)

software then this information should be easily and readily available. I use ArchiCAD and can “fly through” buildings and cut cross sections at any point. The shadow study diagrams on SP4.0 appear to be generated with BIM software.

Then, after you revise your building (if you choose to do so), based on the Town of Los Gatos codes, please provide elevations (cross sections) through the highest points of the roof and parking structure, showing the elevations of the roof relative to sea level.

In advance of the public meeting, please provide the eight cross sections that were requested in our letter to the Planning Commission dated January 24, 2017. Then, at the neighbor meeting you could present and explain the cross sections to help everyone attending to understand your proposal.

4. Update the story poles with a contrasting color for any revisions to the building perimeter and profile

After the wind and rain that we experienced recently, the story poles have sagged and are not indicative of the proposed project. If you revise the building structure and profile (e.g., location, heights, exterior features) then please update the story poles to reflect the changes. It would be very helpful to use a contrasting color, such as blue, to highlight the changes and make it easy and fast to understand.

5. Prepare a LEED checklist identifying the LEED points that this project would receive

During the Planning Commission meeting, Commissioner Hanssen asked you about pursuing LEED certification to which you responded that you represented that the project would pursue “LEED equivalent,” going through all the steps except actual certification.

Commissioner Kane suggested that you could “score” your project without the actual, and costly, certification process. You responded that you would complete a LEED checklist. Your architectural firm, T Square Studio, has two LEED AP accredited architects and one of those, Chris Roberts, obtained LEED Gold certification for the NoHo III Office Building.

Presenting how your proposed building would score by using the LEED checklist would certainly demonstrate (by its score) your level of commitment to sustainability for this project.

Please complete the LEED checklist, even if only a first draft, so the neighbors can understand the sustainability elements of this project. The LEED checklist and corresponding score should be updated prior to approval by the Planning Commission and when applying for your building permit.

* * * * *

Please contact me by telephone (██████████) or email regarding any part of this letter.

I look forward to hearing from you.

Sincerely,



Bryan J. Mekechuk

cc Jocelyn Puga, Associate Planner
Los Gatos Planning Commission

Bryan J. Mekechuk
[REDACTED]
Monte Sereno, CA 95030
[REDACTED]
[REDACTED]

October 14, 2017

Town Council
Town of Los Gatos
110 East Main Street
Los Gatos, CA 95030

Dear Town Council:

Re: 15860, 15880, 15894 Winchester Boulevard

My wife, Jo-Anne Sinclair, and I own a house across Winchester Boulevard, less than 150 feet from the corner of Winchester and Shelburne Way, which is the North West corner of the proposed development. We have owned [REDACTED] since 1997. In addition, we own a dwelling at [REDACTED] in Los Gatos. We have enjoyed living in the Los Gatos community for the past 20 years and we look forward to at least another 20 years in the same location.

My wife and family welcome the development of the proposed site provided it is an attractive and sustainable development that fits with Los Gatos. Further, the development should not block views of the Los Gatos hillsides, which the Town of Los Gatos is committed to preserve.

To date, I have attended information sessions hosted by the applicant, reviewed the story poles erected on the site, reviewed the complete application as filed with the Town of Los Gatos, attended all Planning Commission meetings where the application was on the agenda, and testified in public hearings.

The Planning Commission is extremely diligent when reviewing applications and seeks ways to approve proposed developments that will fit with Los Gatos. After an extensive and thorough review of the application in two meetings, the Planning Commission unanimously denied the application.

I ask the Town Council to deny the appeal. This letter sets forth the reasons why I believe the appeal should be denied.

Basis of Appeal

In the appeal, the applicant claims (emphasis added):

As part of the motion for continuance at the January 25th hearing, Planning Commission requested that the applicant "consider architectural tweaks to lesson [sic] the perception of the height or consider reducing the height of the building" and to "consider moving the building back." All of these requested revisions were made and appropriately demonstrated at the subsequent hearing. Furthermore, the presentation demonstrated that existing views are substantially impacted by existing perimeter trees that are being retained by the project, and that the architectural changes to roof lines and building height were strategically located to address all areas not encumbered by existing trees.

Although the applicant stated that all these requested revisions were made in the plans submitted for the April 26, 2017 Planning Commission meeting, the applicant failed to state that they made one [egregious] change – creating a corner office with broad glass showing the spectacular views of the Los Gatos hillsides and impinging on the privacy of the existing adjacent residential properties.¹

The applicant says that they complied with the architectural tweaks yet the applicant changed the South East corner of the proposed building at the last minute.

The appeal should be denied based on that misrepresentation alone.

Building Height is Understated

The applicant stated in their application covering letter (received by Town of Los Gatos Planning Division dated December 5, 2016), “Large glass openings complete the design while providing plenty of natural light and views of the hills to the east.” The applicant acknowledged the importance and value of those views and, by providing those views for their tenants, the proposed structure will block the views for everyone else.

I raised the issue with the building height in the Planning Commission meeting on January 25, 2017.² After that meeting, I sent a letter to the applicant dated January 30, 2017 (attached). I hand delivered copies of the letter to the Town of Los Gatos showing that copies were for Jocelyn Puga and the Planning Commission. I understand that this letter was stamped and in the Town of Los Gatos file but it was never provided to the Planning Commission or Town Council.

In that letter to the applicant, I described my concerns regarding the building height in detail and requested cross sections showing elevations/heights above sea level so everyone, especially the staff and Planning Commission, could understand the building height. Based on my review of the project site and my review of the actual land survey as submitted by the applicant, and the applicant’s decision to ignore my letter of January 30, 2017, I believe the applicant understated what the actual height of the building would be (references relative to sea level make elevations simple and easily comparable).

During my testimony on April 26, 2017 I referred to my letter (which the Planning Commission did not receive) and explained the issue.³ Commissioner Hudes asked a question regarding why I thought the building height may exceed the height requirements. I answered the question by referring to the elevations on the tree inventory sheets so the Planning Commission could understand the elevations.⁴

* * * * *

Again, I ask that the Town Council support the decision of the Planning Commission and deny the appeal.

Sincerely,



Bryan J. Mekechuk

¹ April 26, 2017 Planning Commission Verbatim Minutes, page 36 lines 14 to 24, and page 39 lines 12 to 16.

² January 25, 2017 Planning Commission Verbatim Minutes, page 61 line 13 through page 62 line 3.

³ April 26, 2017 Planning Commission Verbatim Minutes, page 36 line 24 through page 37 line 15.

⁴ Ibid, page 39 line 17 through page 40 line 14.

Bryan J. Mekechuk
[REDACTED]
Monte Sereno, CA 95030
[REDACTED]
[REDACTED]

October 17, 2017

Town Council
Town of Los Gatos
110 East Main Street
Los Gatos, CA 95030

Dear Town Council:

Re: 15860, 15880, 15894 Winchester Boulevard

This follows my letter dated October 14, 2017 where I reiterated my concern regarding the applicant understating the building height. With Attachment 18 added, the building height can be estimated with cross sections included in the applicant's original application.

Town Council should deny the appeal based on the height of the building. First, the building exceeds the maximum height allowed in Office zone, which is 35 ft. above natural grade. Second, even if the building complied with the maximum allowed height, the building blocks the views of the Los Gatos hillsides – those very hillsides that the Town is committed to preserve.

Regarding the building height, the applicant selected the highest point on the sidewalk to use as a reference point (383.84 ft.) and that reference point is used on the sheet "Reduced Building Heights". This sheet includes a note stating (emphasis added), "Building height as shown measured from sidewalk grade; building height measurement of project complies with Town Code." Sec. 29.10.020 states, "Height means the height of all structures, excluding fences, shall be determined by the plumb vertical distance from the natural or finished grade, whichever is lower and creates a lower profile, to the uppermost point of the roof edge, wall, parapet, mansard, or other point directly above that grade."

The elevations of the natural grade are shown as discrete points on the sheet "Building Shift Eliminated 2 Additional Trees Along Rear & Saved 1 Additional Tree Along Winchester". The maximum building height at any point may only be 35 ft. higher than any of those point elevations. The natural grade under the roof peak is 375 ft.

Starting from the sidewalk (383.84 ft.) the applicant shows the roof peak as 32 ft. 2 inches higher, or at an elevation of 416 ft. The elevation of the natural grade under the roof peak is 375 ft., resulting in a building height of 41 ft. This is 6 ft. higher than allowed by Los Gatos.

Again, I ask that the Town Council support the decision of the Planning Commission and deny the appeal.

Sincerely,



Bryan J. Mekechuk

Bryan J. Mekechuk/Jo-Anne Sinclair

Monte Sereno, CA 95030

October 30, 2022

Town Council
Town of Los Gatos
110 East Main Street
Los Gatos, CA 95030

Dear Town Council:

Re: Story Pole Exemption – 15860 Winchester Boulevard

Based on filings by the applicant, Town Council should deny the application for a story pole exemption.

Story poles indicate that an application has been submitted and is under consideration by the Town. Only after the applicant has filed accurate information reflecting existing and planned conditions at the site should Town Council consider, and accept, a request for a story pole exemption.

The applicant (1) omitted any reference, depiction or reference to the Class IV bike lanes from the drawings, renderings and photographs of the existing site and plans; (2) the traffic studies included in the application on the Town's website do not acknowledge or consider the effect of the existing Class IV bike lanes; and (3) the traffic study in Appendix F shows a traffic signal, which does not exist, controlling the Winchester/Shelbourne intersection. A brief, cursory review of the materials of the Town's website identified these deficiencies.

While one may advocate that having plans that omit existing conditions and traffic studies that do not consider Class IV bike lanes and have wrong traffic signals will not have a material effect on a request for a story pole exemption, Town Council should consider the precedent they are setting and the message they are sending to applicants, Town Staff, the Planning Commission, citizens and neighboring jurisdictions regarding the duty of care and accuracy required by the Town in filings on proposed developments.

Of material importance is that the staff report refers to "... variance from the maximum height and lot coverage for the zone ..." yet sheets A-4.2 and A-4.3 do not show any "Variance Area" in yellow while sheets A-3.2 and A-3.3 of identical elevations in the application highlight variance areas in yellow. This is misleading.

The application that was denied by the Planning Commission in 2017 and subsequently approved on appeal to Town Council had a two-story 30,070 sq ft office building with 128 parking spaces (87 below grade and 41 at grade). The front setback was 35 to 44 feet along Winchester. The proposed three-story building is 81,633 sq ft with 54 parking spaces (49 below grade and 5 at grade). The front setback is the minimum allowed, 25 feet, along Winchester.

The change in the project is staggering.

We ask that the Town Council deny the request for exemption until the applicant has prepared and filed documents that reflect existing conditions and include the variance locations on the plans.

Sincerely,



Bryan J. Mekechuk



Jo-Anne Sinclair