

August 31, 2023

Jennifer Armer
Planning Manager
Community Development Department
110 E. Main Street
Los Gatos, CA 95030

RE: Response to Appellant's Basis of Appeal dated August 21, 2023

Dear Jennifer Armer,

Please find below our responses (in bold) to the appellant's Basis of Appeal they provided to the Town of Los Gatos regarding our project located at 15860 Winchester Blvd. S-21-008, U-21-010, V-21-003, and M-22-008:

1. Town Staff were unable to make the required findings for the height and lot coverage variances and recommended denial.
 - a. **Staff could make the findings for one variance and support the project. Staff could not make the findings for both variances and requested the Planning Commission to evaluate supporting both variances based on applicant's effort to minimize the impacts of the height variance.**
2. The project design, not site constraints, were the driving factor for the variance request.
 - a. **To have a functional facility based on the permitted use and viability for operation, the proposed project needs adequate units to afford the required state services and support space. Additionally, due to the nature of use, the project needs to maintain safe and functional access, and cannot be stepped with the terrain as would a residential facility. The layout serves to meet ADA and California Accessibility requirements.**
3. Project site is already developed with several buildings and driveway areas; topography has already been altered to accommodate the development.
 - a. **We are unsure what point the appellant is trying to make with this comment.**
4. Site topography does not present a special circumstance; other properties in the vicinity have similar topography and their development pattern "steps down with the slope."
 - a. **The special circumstance is presented due to the proposed use. If the project minimized, the facility would be too small to be a viable operation. The project has made every attempt to meet conforming standards along the addressed**

site frontage of Winchester Blvd, which we feel is the premier frontage and elevation which has the most visibility along the corridor.

5. Planning Commission only considered the site's topography with respect to the purported loss of proposed RHNA housing Units if the variance request was denied.
 - a. **Regional Housing Numbers Allocation (RHNA) was one of multiple considerations for approving the variance with regards to topography. The Planning Commission took into account the proposed use and functionality challenges of the commercial facility as one structure. Individual buildings such as townhomes are easier to accommodate sloping conditions, but the required services and functionality of the proposed use necessitates one building.**
6. Planning Commission failed to consider the granting of the variances requested constitutes a granting of special privilege to exceed the O zone height and lot coverage minimums.
 - a. **The granting of the Lot Coverage variance was in line with the outlook of the Town's General Plan, and the approval of the variance was utilized by the town's own mechanisms in place. The height variance was granted not as a special privilege but viewed as difficult circumstance for the establishment of the proposed use. The proposed project made every effort to minimize the impacts of the height variance request. The proposed site grading is actually lower than the existing site grade today, in an effort to compress the building lower and minimize the visual impact of its height to the surrounding neighbors. What the appellant visual sees from their home, would be the same view regardless of the granted height variance, due to their narrow-bound window view. The Planning Commission also considered the unrealistic height standard of 35 feet to be limiting in the ability provide any type of new residential use, regardless of facility type.**
7. Planning Commission failed to consider that granting of the variances could result in precedent setting behavior where similar projects within the O zone may seek similar height and lot coverage exceedances.
 - a. **The Planning Commission did consider that the granting of the two variances as precedent. The commission was adamant that they review projects on a case-by-case basis and felt that the approval would not set precedent.**
8. Planning Commission erroneously granted these variances based solely on the loss of housing units would occur if the project was required to conform to the O zone development standards as codified.
 - a. **The Planning Commission considered multiple factors to grant the variances. They discussed topography, functionality of the proposed use, quality of architecture, the appropriateness of the site location in a transitional neighbor and corridor, and overall need for assisted living, as well as overall housing**

needs. The Planning Commission also discussed the benefit of having this type of facility in the Town of Los Gatos and the opportunities it provides for community members that are aging into their senior years.

Thank you for your time and consideration,

Jessie Bristow
Development Project Manager
Swenson
831-706-8672
jbristow@swenson.com

***This Page
Intentionally
Left Blank***