


# **Appeal of Approval for 15860 Winchester Blvd**

Project / Application Number: 5-21-008 | U-21-010 | V-21-003 | M-22-008

- 
1. **Town Council Should Deny Variances**
  2. Setbacks Should Follow R-M Zoning
  3. Height Variances Shown are Misleading
  4. Digital Survey Results

The variances requested are the result of the project design, not site constraints or topography.

Similar three-story buildings in the vicinity do not require variances.



## Town Code Sec. 29.20.170

The deciding body, on the basis of evidence submitted at the hearing, may grant a variance if it finds that:

1. Because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zone; and
2. The granting of a variance would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

On August 9, the Planning Commission voted 5-2 making the findings to grant the variance request citing topography despite:

1. Another project had already been approved on the exact same property requiring no variances.
2. Town Staff being unable to make the same findings.
3. Other buildings in the vicinity (notably the apartments two properties south at 1025 N Santa Cruz Ave) step down to match the same slope.
4. The project on 400-420 Blossom Hill Road is a three-story assisted living and memory care facility that meets the 35 height limit.



## Town Code Sec. 29.20.170

The deciding body, on the basis of evidence submitted at the hearing, may grant a variance if it finds that:

1. Because of special circumstances applicable to the property, including size, shape, *topography*, location or surroundings, the strict application of this ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zone; and
2. The granting of a variance would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

If a building was designed for this property and did not require variances for height and lot coverages then the property itself cannot be the issue:

1. Granting this variance would constitute a special privilege for this development



August 2017

Building height of 35' above lower  
of natural or finished grade **with  
no variance**



November 2022

Building height of 50'  
**with variance**



Photos above are from Google Street View, at same location, at the corner of Via  
Sereno and Winchester Boulevard.



# No Site Specific Issues

WINCHESTER ASSISTED LIVING - PROPOSED

SITE DESCRIPTION

## Site Description

Location:	15860 Winchester Boulevard Los Gatos, Santa Clara County, CA 95030 The property is located at the southeast corner of Winchester Boulevard and Shelburne Way.
Shape:	Rectangular
Topography:	Gentle slope
Land Area:	1.310 acres
Frontage:	Good
Access:	Good
Visibility:	Good
Soil Conditions:	We did not receive nor review a soil report. However, we assume that the soil's load-bearing capacity is sufficient to support existing and/or proposed structure(s).
Utilities	The site is served by all typical utilities, including water, sewer, electricity, and natural gas.
Site Improvements:	The site improvements will include asphalt and concrete paved parking areas, curbing, signage, landscaping, exterior lighting and drainage.
Land Use Restrictions:	We do not know of any easements, encroachments, or restrictions that would adversely affect the site's use. However, we recommend a title search to determine whether any adverse conditions exist.

The Applicant engaged Cushman & Wakefield to complete a market study and analyze the market conditions for the proposed development of the 125 unit, assisted living / memory care facility to be situated on a 1.31-acre parcel of land in Los Gatos.

The site description does not indicate any abnormal conditions in the site which would indicate topographical reasons for a variance for building height or coverage.



## Assisted Living - Rental Rates

Based on our analysis, the following chart summarizes our estimate of probable assisted living unit sizes and rental rates for a senior project such as the subject in the Los Gatos area.

SUBJECT - Probable Rental Ranges - Assisted Living						
Unit Type	Unit Size (SF)	Subject Range			Subject Range	
		\$ /Month			\$/SqFt/Month	
Studio	353 - 496	\$5,500 - \$6,500			\$13.10 - \$15.58	
One-Bedroom	511 - 677	\$8,000 - \$9,000			\$13.29 - \$15.66	

We emphasize that these ranges are based on the data available and represent the general range of potentially achievable rates for assisted living units within a good quality project. These ranges are noted as falling within the current per square foot per month ranges in the Primary Market Area, but are considered achievable based on the growing dynamics of the area, as well as the physical and locational characteristics of the proposed subject development.




## Memory Care Unit - Rental Rates

Based on our analysis, the following chart summarizes our estimate of probable memory care unit sizes and rental rates for a senior project such as the subject in the Los Gatos area.

SUBJECT - Probable Rental Ranges - Memory Care						
Unit Type	Unit Size (SF)		Subject Range		Subject Range	
			\$ /Month		\$/SqFt/Month	
Studio	362	- 556	\$8,000	- \$9,000	\$16.19	- \$22.10

We emphasize that these ranges are based on the data available and represent the general range of potentially achievable rates for memory care units within a good quality project. These ranges are noted as falling within the current per square foot per month ranges in the Primary Market Area, but are considered achievable based on the growing dynamics of the area, as well as the physical and locational characteristics of the proposed subject development.

- 
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  2. **Setbacks Should Follow R-M Zoning**
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  4. Digital Survey Results

While the property is zoned Office, the building and intended use are more in-line with a multi-family development.

Accordingly, any setbacks should follow residential multi-family zoning.



# Zoning Uses

## Office Zone

The following uses are permitted in O zone:

- Offices, administrative, professional, medical, dental and optical laboratories associated with a professional use, real estate, insurance, stocks and bonds, and other similar offices characterized by absence of retail sales.
- Retail sales by a pharmacy within a medical building

## Residential Multi-family Zone

The following uses are permitted in a R-M zone:

- Single-family dwelling
- Two-family dwelling
- Small family day care home
- **Residential care facility, small family home**
- Multiple Family Dwellings and Condominiums



# Greater Zoning Height Limits for Residential Multi-Family

## Office Zone

The maximum height of a principle building in the O zone is 35 feet.

(measured 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).

## Residential Multi-family Zone

The maximum height of a principle building in the RM zone is 30 feet.

(measured 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).

If a building has cellar parking the maximum height is 35'.



# Greater Zoning Setbacks for Residential Multi-Family

## Office Zone

- Front 25'
- Rear 20'
- Street side 15'
- Side 10'


## Residential Multi-family Zone

- Front 25'
- Rear 20'
- Street side 20'
- Side, multiple family dwellings 10'

Provided that if the wall facing the side yard contains:

- Bedroom windows 12'
- Living room windows 20'



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The requested variances are even more contentious when viewed in context for how far outside the limits the requests go.

# 50' – 81,633 sq ft

The proposed maximum height is 50'1" and the gross floor area is 81,633 sq ft.

*Source: Page 3 of the Applicant's Project Plan Document on file with the Town*

The proposed height is **42% above the maximum height limit.**

It is **271% larger** than the previous development (30,070 sq ft).

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## Previous Project Preserved View of Ridge



Aug 201

## Current Project Completely Obscures View of Ridge



# Variance Areas Shown by Applicant are Misleading



The Applicant's plans do not show the requested height variance areas accurately.

The top image shows the variance area above the natural grade from the ground closest to the perspective view. Measuring height is from the lower of natural or finished grade directly below each part of the building.



The bottom image implies the entirety of the building is below the maximum height limit, which conflicts with the architectural plans.

The Applicant's plans showing the height variances are misleading and cannot be relied upon.

## Variance Areas Shown by Applicant are Misleading



Yellow highlighting added, not present in Applicant's plans

Many of the renderings in the project plan show variance area in the legend but do not represent it on the plans.

The image shows a cross-section of the building with the southern portion removed, showing the height of the building above finished grade.

The building is four stories and more than 50 ft tall.

Failing to show the height variance is misleading.

# Variance Areas Shown by Applicant are Misleading



Yellow highlighting added, not present in Applicant's plans

The eastern view the building shows it is over 50' above finished grade. This variance highlighting was not shown on the submitted plans, though it is defined in the legend.

This overlay shows the area that is above the height limit from page 45 of the submitted plans.



## Variance Areas Shown by Applicant are Misleading



Yellow highlighting added, not present in Applicant's plans


The south facing wall is three stories, which exceed the zoning requirement of 35'.

This building contains both living and bedroom windows, not offices, directly facing south - which for a Residential Multi-family zone would require a setback of 20' and a height limit of 30' (reflected in blue highlighting).

The balconies and windows on the second and third floor offer views directly into the living rooms and bedrooms in the adjacent University Oaks.

The building approved by Town Council in 2017 did not offer such views.



- 
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  4. **Digital Survey Results**

A link to a digital survey was posted on NextDoor on September 11 and made available to the community.

As of 10:00 am on Thursday, September 14, sixty-eight (68) individuals responded to the digital survey.

Attached is the raw summary of the responses to the survey.

Also attached is a link to a non-production version of the digital survey.

The following survey results will be updated prior to the Town Council meeting on Tuesday, September 19.

**Of 68 respondents, only 13%  
support the approved plan.**

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**85%** oppose a height variance

**82%** oppose a lot variance

**85%** worry traffic is an issue



**41%** live in the immediate area

**32%** would've joined an information session if offered by the Applicant

**7%** were invited to an information session by the Applicant

**0%** believe their input was considered



**34%** aware of the story poles from 2022

**38%** thought project on hold or abandoned

**21%** aware of video exemption to poles



**13%** saw the video prior to the survey  
**57%** believe video misrepresents height  
**50%** aware building exceeds the height limit

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# Voices from the Community

“This building is way too big for the current area. It is out of scale and not be fitting the neighborhood. The other size will just create more traffic and parking issues as well as ruining the view of the neighborhood.”

“I attended the Planning Commission meeting that approved the variance and felt the comments of myself and fellow neighbors to the construction site were totally ignored and our concerns not addressed.”

“Comes right up to front doors of University Oaks Condos...they’ll see into our bedrooms and we’ll see into theirs.”

“Such a dense structure is not supported by the recently narrowed Winchester Blvd. This project has inadequate driveway and parking space and will add too much traffic, which is already extremely heavy on Winchester Blvd during school hours, commute hours and on weekends. The development poses numerous traffic safety hazards for elementary school children and the broader community.”

“The height variance is a big deal. This community does so much to maintain the character of the community...trees and etc. Why would they bend on this. I am opposed to this variance. The other thing that concerns me is the traffic flow disruption, extra parking on street, environmental impact for trees and wildlife.”



“Essentially disappears from the story post to be a massive project that is under represented in the video. Furthermore, none of it was socialized with neighbors like myself. It’s evident from the story poles that this massive building will block the entire hillside and ridge line which is currently visible from Winchester.”

“The Eichlers in Via Sereno are ‘inside-out’ designs with lots of floor to ceiling glass in all rooms including bedrooms and bathrooms. A tall building will allow a view of those private areas from windows and balconies. This is an unacceptable intrusion into the privacy of those houses.”

“It sets a precedence that affect the integrity of our neighborhood for future construction and it is way out of place for the area.”

“They make the height limit to keep Los Gatos a town and not a city - it should be followed.”

“This will also add a lot of traffic. As is, we can’t get to town during summer as Winchester traffic is horrible.”

**The variances requested are the result of the project design, not site constraints or topography.**

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**From:** [REDACTED]  
**Sent:** Tuesday, September 12, 2023 12:14 PM  
**To:** Jennifer Armer <JArmer@losgatosca.gov>; Joel Paulson <jpaulson@losgatosca.gov>  
**Subject:** 15860 Winchester Boulevard - Survey Underway

[EXTERNAL SENDER]

Hi Jennifer/Joel,

I am letting you know that there is a digital survey being conducted to provide data to Town Council for their meeting next week.

The survey is fairly sophisticated as the response to one question leads to different subsequent questions.

Also, the survey gathers data on the video rendering of the proposed project. I know that the story pole regulations being reviewed to determine how to change the requirements.

The survey is "in production" so it cannot be changed, and it will cloud the results if you were to explore/surf through the production survey.

There is a non-production version that is identical to the production survey.

Here is a [link to the non-production digital survey](#).

Please try using the non-production survey and explore the different routes through it. Answer questions one way and follow them through and submit the survey. Then, start again and answer the questions differently so you can see how the questions change. There are no results with the non-production survey. It will give you a better understanding of how to interpret the results of the digital survey that is currently in production and gathering responses.

Also, feel free to share the link to the non-production survey with others so you can evaluate its usefulness and validity.

If you have any questions, I'd be pleased to answer them.

Best,

Bryan

--

Bryan Mekechuk

[REDACTED]

**From:** [REDACTED]  
**Sent:** Thursday, September 14, 2023 9:15 AM  
**To:** Jennifer Armer <JARmer@losgatosca.gov>  
**Cc:** 'Eric Hulser' [REDACTED]  
**Subject:** 15860 Winchester Boulevard - Note to Town Council

[EXTERNAL SENDER]

Good morning Jennifer,

Please include the attached statement in the packet for the appeal.

More to follow but wanted to get this stand-alone item to you.

Best,

Bryan

--

Bryan Mekechuk

[REDACTED]

## Digital Survey Note to Town Council

To gather data from residents on the proposed development, a digital survey was created for the proposed development and a link to the digital survey was posted on NextDoor on Monday, September 11, 2023. The notice on NextDoor was:

Hello Neighbors,

You may have wondered about the status of the project on Winchester Boulevard at Shelbourne Way. There is a digital survey to canvass local opinion and provide information to Town Council. Here is the link to the digital survey:

<https://form.typeform.com/to/LB8L7BuG>

The Los Gatos Planning Commission approved the project on August 9, 2023 and that decision is being appealed and will go in front of Los Gatos Town Council on Tuesday, September 19.

As background, a two-story 30,070 sq ft building was approved in 2017. The current building proposed is three stories and 81,633 sq ft. Here a link to the proposed development on the Town's web site:

<https://www.losgatosca.gov/2393/W>

While it may appear to be a good use of the land, there is a very similar facility that is almost completed on Blossom Hill Road. You may have seen the construction site just on the east side of Highway 17. It is a senior living/memory care facility as well. There will be two very similar facilities less than 0.7 miles apart. This is a link to The Grove At Los Gatos:

<https://groveseniorliving.com/>

I encourage everyone interested to complete the survey. The survey is open to all people in our community and asks the frequency of travel on Winchester Boulevard.

Thank you for considering the survey.

As well, links to the survey were emailed to residents and neighbors in the area.

The digital survey is fairly sophisticated as the response to one question leads to different subsequent questions.

To understand the results of the survey, it would be helpful to have seen the survey questions, including the flow and design of the survey. It would be beneficial to explore the digital survey yet it would not be appropriate to use the "production version."

Since the survey is in production it cannot be changed, and it will cloud the results if you were to explore/surf through the production survey.

We therefore created a non-production version that is identical to the production survey.

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**From:** [REDACTED]  
**Sent:** Thursday, September 14, 2023 10:59 AM  
**To:** Jennifer Armer <JArmer@losgatosca.gov>  
**Cc:** 'Eric Hulser' [REDACTED]  
**Subject:** Survey Results - Unredacted

[EXTERNAL SENDER]

Attached are the survey results.

We are redacting the results to remove personally identifiable information and will send you the redacted survey results shortly.

--

Bryan Mekechuk  
[REDACTED]

# Winchester Development Survey v1.0

70 responses

To get started, what is your first name?

70 out of 70 answered

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

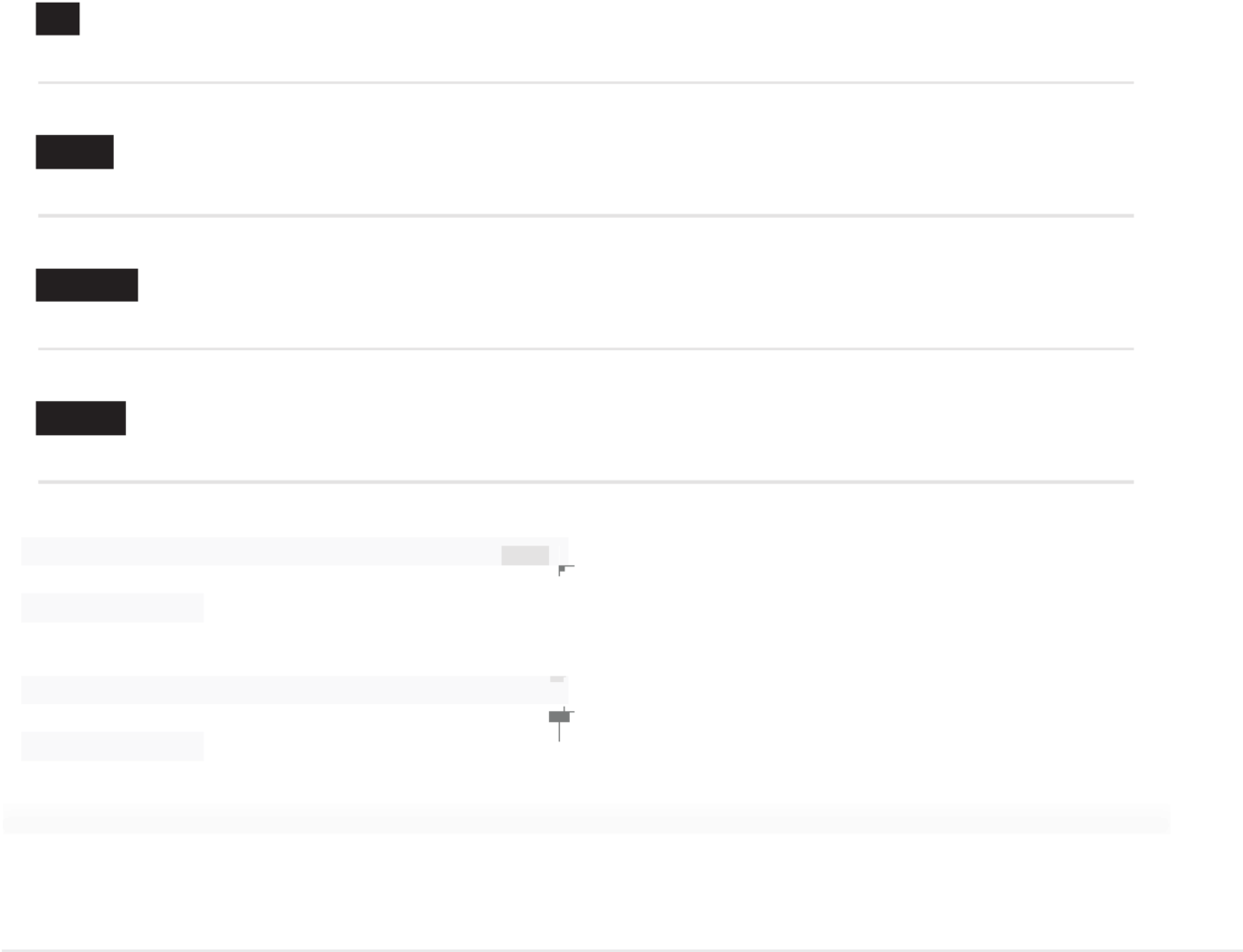
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[REDACTED]

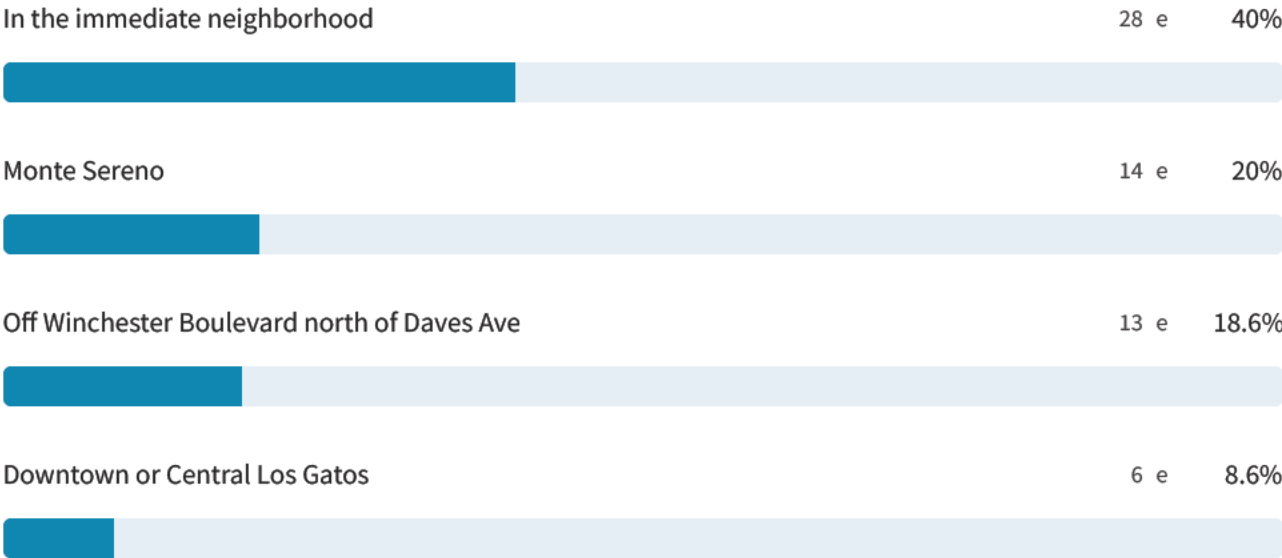
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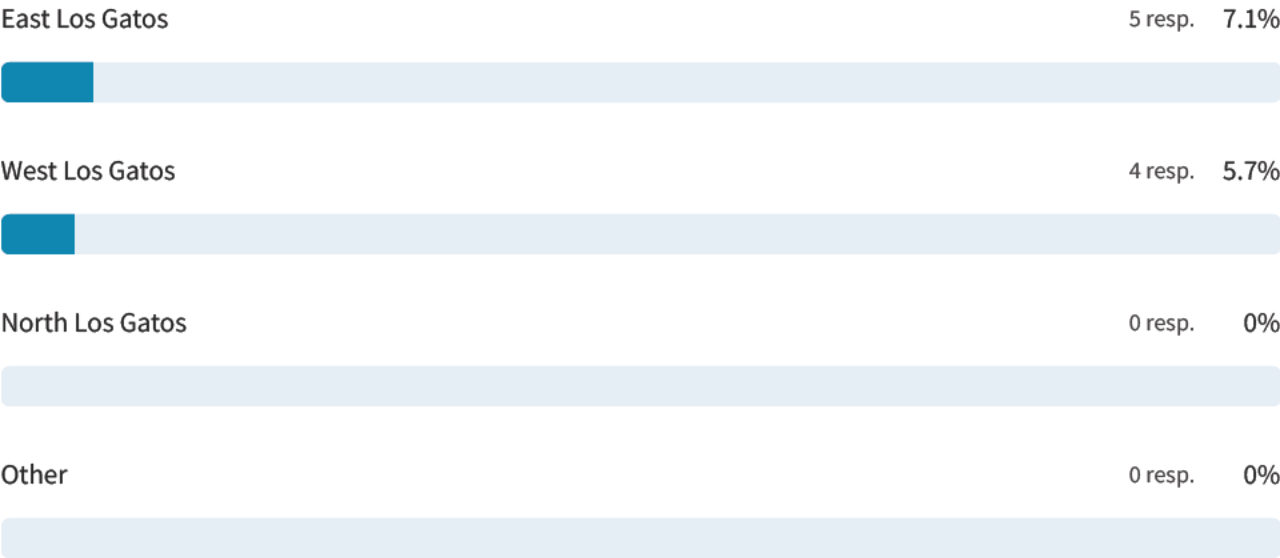
[REDACTED]



, what area do you live?

70 out of 70 answered





What street do you live on?  
28 out of 70 answered

- Winchester
- Via Sereno
- Via Sereno
- Via Sereno
- Via Sereno
- Roberts Road

North Santa Cruz Ave

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University

---

University Av

---

University Avenue

---

Via Sereno

---

Blanchard

---

Poppy Lane

---

Winchester

---

Blanchard

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Winchester Blvd

---

Blanchard Drive

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Mariposa

---

N Santa Cruz Ave

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Santa Cruz Ave

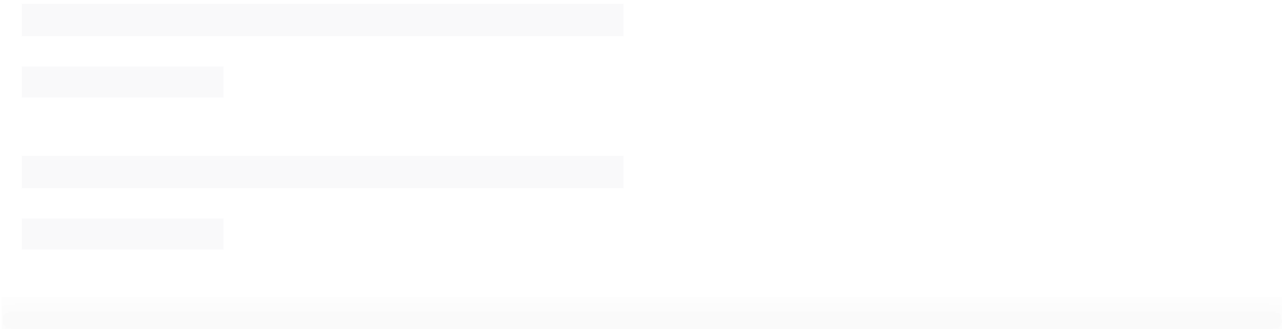
Mariposa

Winchester Blvd

Daves Ave.

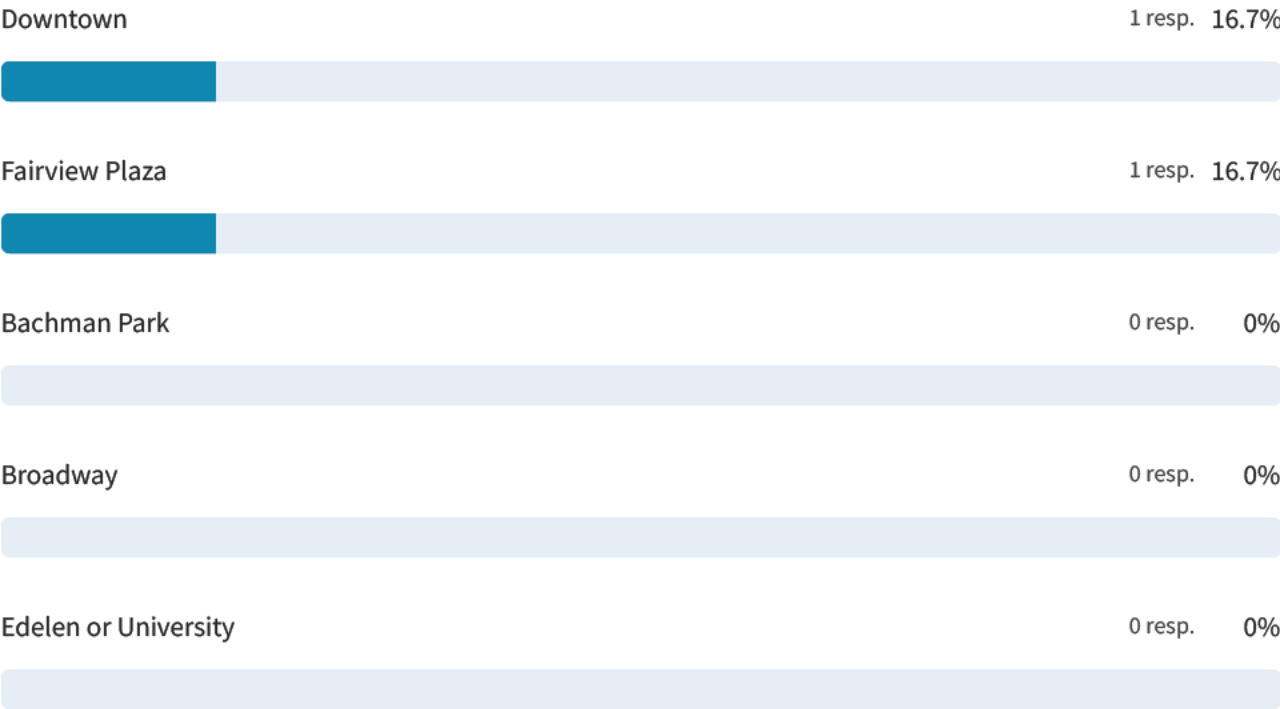
Via Sereno

Winchester Blvd



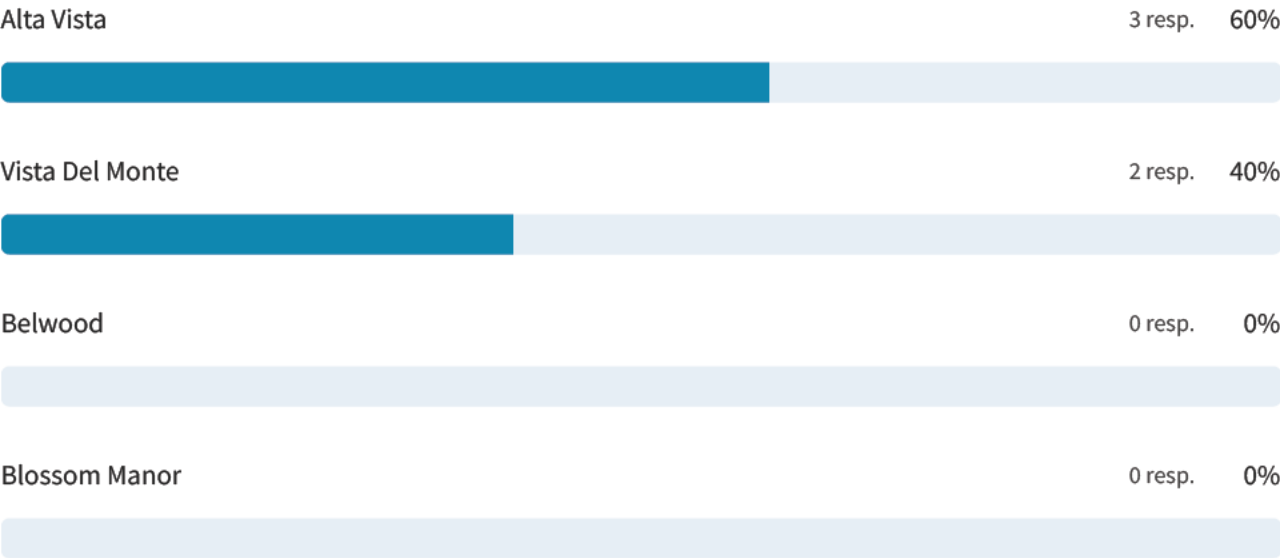
You're in Downtown or Central Los Gatos Which neighborhood do you live?  
6 out of 70 answered





You're in East Los Gatos. Which neighborhood do you live?

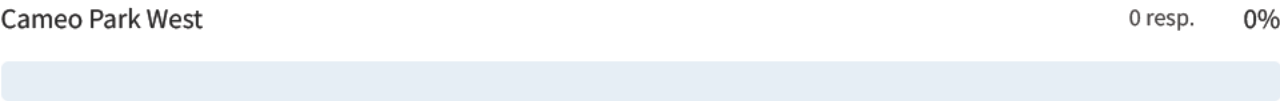
5 out of 70 answered





You're in West Los Gatos, which neighborhood do you live?

4 out of 70 answered



Fisher Area

You're in North Los Gatos, which neighborhood do you live?

0 out of 70 answered

Nobody answered this question yet

You live in the immediate neighborhood - were you invited to an information session by the prior developer (Valley Oak Partners)?

28 out of 70 answered



Did the current developer, Swenson Builders, invite you to an information session?

28 out of 70 answered



Great! Swenson invited you to an information session that you attended.

Did Swenson consider your input in their application?

5 out of 70 answered



If you would have been invited to an information session, would you have attended?

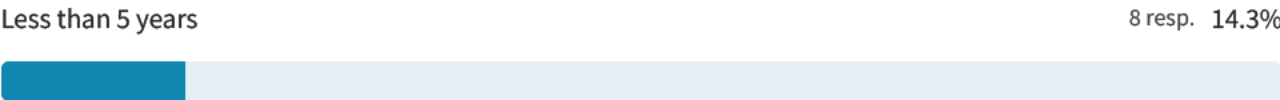
23 out of 70 answered





, how long have you lived in the Los Gatos area?

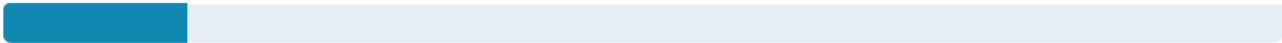
56 out of 70 answered



, how long have you lived in Monte Sereno?

14 out of 70 answered





5-10 years 1 resp. 7.1%



How often do you drive, bike or walk on Winchester Boulevard between Lark Avenue and Blossom Hill Road?

70 out of 70 answered

More than once a day 40 resp. 57.1%



At least 5 times a week 15 resp. 21.4%



Twice a week 6 resp. 8.6%



Once a week 4 resp. 5.7%



Once a day 3 resp. 4.3%



Once a month 1 resp. 1.4%





Do your children attend Daves Ave Elementary School?

58 out of 70 answered

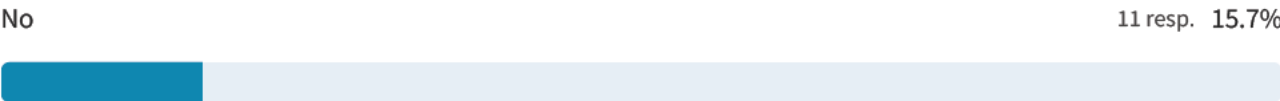


Do you believe traffic is an issue on Winchester Boulevard?

70 out of 70 answered







Did you know that a development proposed in 2017 was approved by Town Council?

70 out of 70 answered



How did you become aware of the new proposed building in 2023?

35 out of 70 answered





Other 1 resp. 2.9%



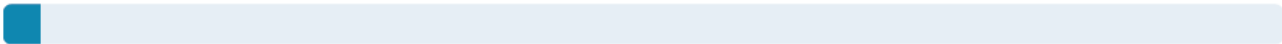
nimbys on nextdoor



Did you attend any of the previous hearings on the 2023 proposed development?

35 out of 70 answered

Yes 1 resp. 2.9%



No 34 resp. 97.1%



Did you see the Story Poles that were put up in 2022?

35 out of 70 answered

Yes 23 resp. 65.7%





What did you think the status of the project was with the faded Story Poles that have been in place since 2022?  
35 out of 70 answered



- Moved here after the proposal.
- No idea
- Didn't know
- Not aware
- No opinion
- Project moving slowly

Wasn't sure what was going on, figured project may have been having approval problems or builder ran out of money

Didn't know- thought it was residential

Are you aware that Swenson requested an exemption to the Story Pole requirements in exchange for a web-based video rendering of the project instead?

70 out of 70 answered



, would you like to see the video rendering that Swenson created?

56 out of 70 answered





Did you see the video rendering?  
14 out of 70 answered



Did the video rendering give you a clear understanding of the size and mass of the building?  
70 out of 70 answered





You couldn't see the size and mass. Why not?  
31 out of 70 answered



Did the video rendering give you an understanding of where the building was on Winchester Boulevard?  
70 out of 70 answered





You couldn't understand where the building was on Winchester. Why not?

33 out of 70 answered

It didn't look like Winchester Boulevard

24 resp. 72.7%



I couldn't see other buildings

20 resp. 60.6%



It was misleading

19 resp. 57.6%



Did the video rendering allow you to understand the height of the building if you were westbound on Shelbourne Way?

70 out of 70 answered

No

39 resp. 55.7%





You couldn't understand the height of the building on Shelbourne Way. Why not?

39 out of 70 answered



Did the video rendering allow you to understand the height of the building if you were eastbound on Shelbourne Way?

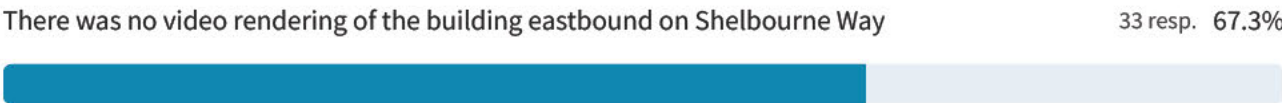
70 out of 70 answered







You couldn't understand the height of the building eastbound Shelbourne Way. Why not?  
49 out of 70 answered



Did the video rendering allow you to understand the height of the building if you were southbound on Winchester Boulevard (going into Los Gatos)?  
70 out of 70 answered



Yes

35 resp. 50%



You couldn't understand the height of the building looking south on Winchester Boulevard. Why not?

35 out of 70 answered

There was nothing to put the height into perspective

31 resp. 88.6%



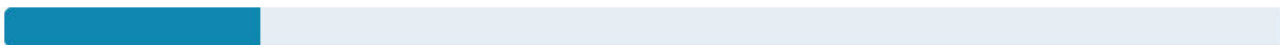
It was misleading

17 resp. 48.6%



I couldn't see the top of the building

7 resp. 20%



Did the video rendering allow you to understand the height of the building going northbound on Winchester Boulevard (going towards Highway 85)?

70 out of 70 answered

No

41 resp. 58.6%





You couldn't understand the height of the building northbound on Winchester Boulevard. Why not?

41 out of 70 answered



Did the video rendering allow you to understand the total height of the back of the building?

70 out of 70 answered





You couldn't understand the maximum height of the back of the (east side). Why not?

49 out of 70 answered



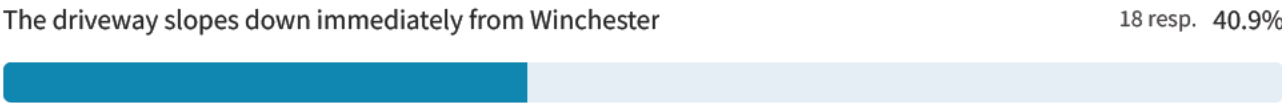
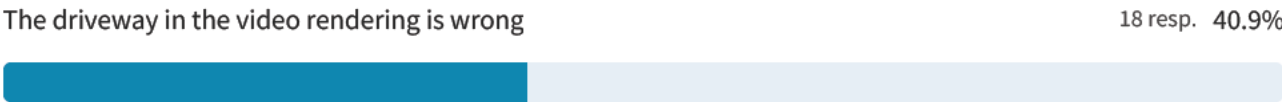
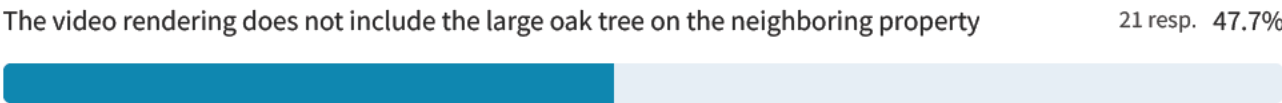
Did the video rendering allow you to understand the perspective of the neighboring properties?

70 out of 70 answered





The neighboring properties and driveway don't look realistic. Why not?  
44 out of 70 answered



In general, was the height of the building evident in the video?  
69 out of 70 answered



No

38 resp. 55.1%



Are you aware that Swenson is proposing a building that exceeds the maximum allowable height?

69 out of 70 answered

Yes

35 resp. 50.7%



No

34 resp. 49.3%



Do you know that the Planning Commission approved a height variance in their meeting on August 9, 2023?

70 out of 70 answered

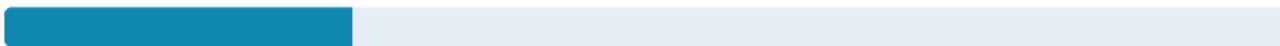
No

43 resp. 61.4%



Yes

19 resp. 27.1%



What is a variance?

8 resp. 11.4%



Are you in favor of granting the height variance?

70 out of 70 answered

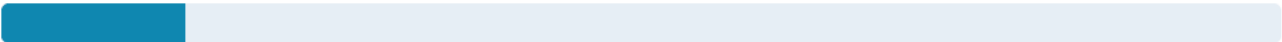
No

53 resp. 75.7%



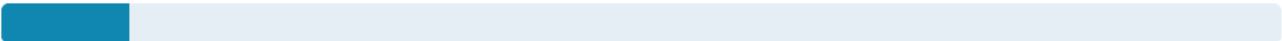
Yes

10 resp. 14.3%



What are the findings required to grant a variance?

7 resp. 10%

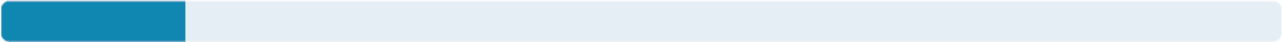


Are you in favor of granting the height variance?

7 out of 70 answered

Yes

1 resp. 14.3%





, why are you in favor of granting a height variance?

11 out of 70 answered



Anything else in favor of the height variance?

9 out of 70 answered

It will be an adjustment but worth it.

Los Gatos residents need to stop appealing every single step and get with the program. One day they might want to live in this building.



we need to use the land more efficiently to fight sprawl. Only way to do that is build up you nimby morons

It's all commercial property to the east and the limited residential to the north is distanced by Shelburne. Residential to the west is distanced by Winchester. The condos to the south have very limited windows and are angled; not looking directly into the proposed new building.

compromises reached

No

We need quality memory care facilities. This one looks good

I believe the design effort supports the variance along with the proposed use is needed. The existing site is an embarrassment to Los Gatos as a whole and to our local community

It isn't that much different then the standard height allowed

, why would you deny the height variance?

58 out of 70 answered

Adversely affects others who bought properties nearby believing in the height limitations

50 resp. 86.2%



Height variance grants a special privilege to the developer

42 resp. 72.4%



Other buildings follow the height limits

41 resp. 70.7%



Make the building smaller

28 resp. 48.3%



Variance findings are not met

21 resp. 36.2%



---

Anything else to deny the height variance?

33 out of 70 answered

A variance should be granted to enable a developer to complete a project that would otherwise not be possible within the property. This would be slight changes to accommodate a development. Going from a 35' limit to a 50' height is a gross disregard for the community and neighbors. This is no slight modification, this is pure corporate greed to maximize profit.

Too high and too dense of a project for this area. It is out of character and will pose a danger to flow of traffic to Daves Elementary. Also, Winchester Blvd recently narrowed to one lane, already resulting in much greater traffic congestion.

This development will negatively impact traffic flow and safety near an elementary school. It will have a great deal of ambulance traffic that is not safe to have in this location. And the structure does not provide adequate space for medical and other emergency vehicles that inevitably need to regularly visit a memory care/assisted living facility of any size and especially a massive one, such as this. It needs to be relocated near the Good Samaritan Hospital and North 40 Development and away from Daves Elementary School.

The building is too large for the neighborhood. The zoning sets the limit for a purpose and there is no reason to exceed the limit

---

Following height variance is a must for the natural beauty of the town

---

It seems to me that the Town and the Developer are attempting to mislead the public in the overall height of the project.

---

There is nothing unique regarding this property that would allow the findings to approve a variance. People buy properties and rely on the zoning for building heights and setbacks and do not expect variances to be granted without making specific findings.

---

It looks like a behemoth and it is dwarfing the properties surrounding

---

Common sense and understanding

---

I along with many others live close by, the height will block the view.

---

Massive building will impact our neighborhood

---

Town has worked hard to maintain 35 ft limit. Why is video showing young, active people if it's memory care? LG knows developers try to trick us (N40). Town council needs to overrule the Planning Commish, send Swenson back to the drawing board.

---

It looks too big

---

New building should match the surrounding buildings.

---

The height variance is a big deal. This community does so much to maintain the character of the community...trees and etc. Why would they bend on this. I am opposed to this variance. The other thing is that concerns me is the traffic flow disruption, extra parking on street, environmental impact for trees and wildlife.

---

they make the height limit to keep os gatos a town and not a city - it should be followed

---

The Eichlers in Via Sereno are "inside-out" designs with lots of floor to ceiling glass in all rooms including bedrooms and bathrooms. A tall building will allow a view of those private areas from windows and balconies. This is an unacceptable intrusion into the privacy of those houses.

---

Traffic flow would be severely disrupted

---

Needs to belong to the nature of the neighborhood

---

More traffic with more area

---

No

---

Citizens don't like their representatives cutting secret backdoor deals to enrich their friends, at the cost to the community as a whole. There is no valid reason that a person with integrity would approve such an unfair deal.

---

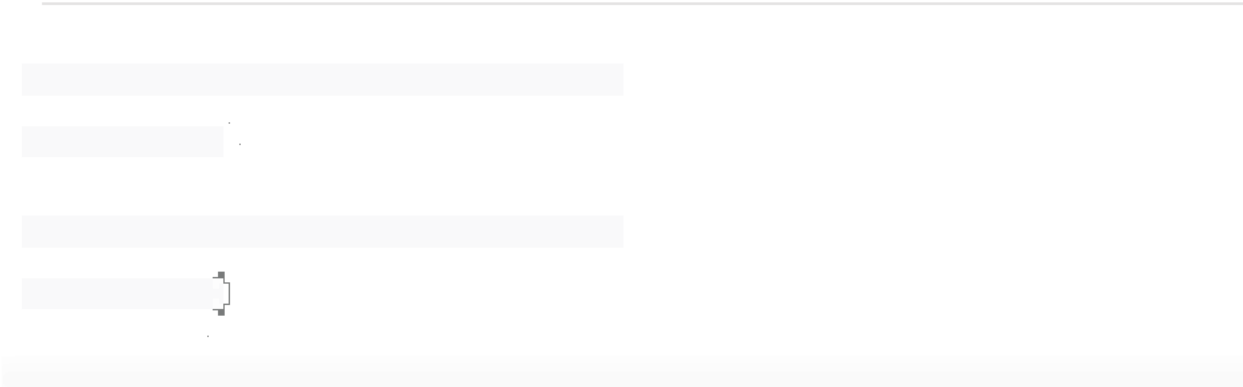
The question should not be "why deny the variance," it should be "why should it be approved?" And approving the variance will pave the way for other projects that want the same.

---

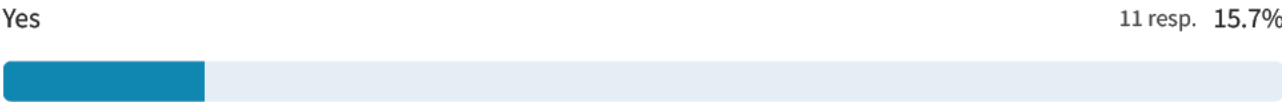
No

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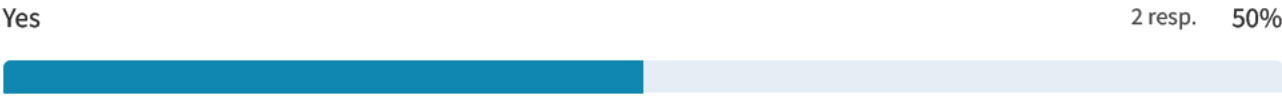
This will also add a lot of traffic. As is, we can't get to town during summer as Winchester traffic is horrible.



Are you in favor of granting the lot coverage variance?  
70 out of 70 answered



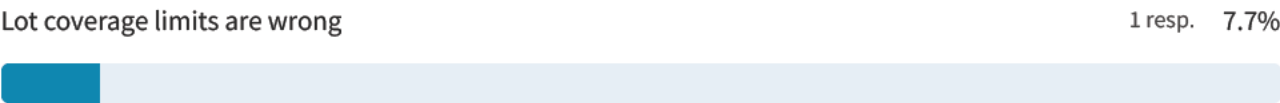
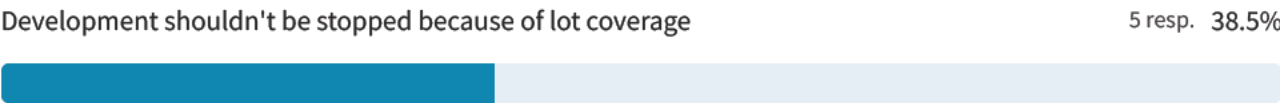
Are you in favor of granting the lot coverage variance?  
4 out of 70 answered





, why are you in favor of granting a lot coverage variance?

13 out of 70 answered



Anything else in favor of the lot coverage variance?

8 out of 70 answered

Nothing but a necessity to increase respect to neighbors most impacted by change.

For a business like this with limited outdoor use (residents won't go outside much) I'd rather let the lot be used for square footage than parking lot space or whatever the alternative is.

This use is greatly needed as our population is aging. If there is limited mobility with residents having interior ADA accessible communal space will more valuable and safer for these residents and their neighbors.

x

No

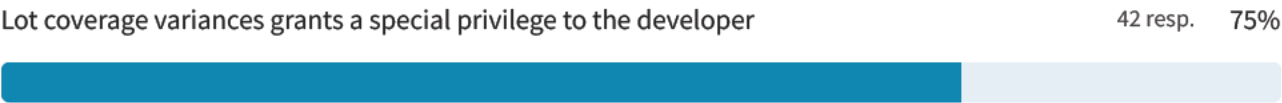
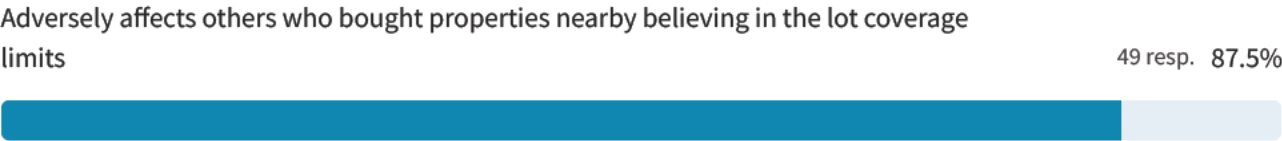
Better to have lot coverage variance than height variance

I would be willing to give lot coverage for reduced height. A compromise.

They could go wider and not taller.

, why would you deny the lot coverage variance?

56 out of 70 answered



Other buildings follow lot coverage limits

42 resp. 75%



Make the building smaller

28 resp. 50%



Variance findings are not met

22 resp. 39.3%



---

Anything else to deny the lot coverage variance?

29 out of 70 answered

The lot coverage is for an office building, the setbacks are for an office building. This property is zoned for an office building. What is proposed is a multi-family residential unit, a memory care unit, which otherwise should have double the setback from the adjacent property. Extending from 40% to 50% and pushing up to the complete edge of our property line while constructing a 50' high building increases the overall mass of the building monstrously.

This area is already massively congested with school traffic, commute traffic and beach traffic. It does not need a massive assisted living facility that will generate a great deal of extra emergency vehicle traffic at all hours.

Such a dense structure is not supported by the recently narrowed Winchester Blvd. This project has inadequate driveway and parking space and will add too much traffic, which is already extremely heavy on Winchester Blvd during school hours, commute hours and on weekends. The development poses numerous traffic safety hazards for elementary school children and the broader community.

The building is too large for the neighborhood which includes residential properties immediately beside it



Disproportionate to neighborhood homes - UNSIGHTLY

---

I would want to know why the Town is interested in granting the requested variances to this developers of this project? It seems suspect and misleading.

---

There is nothing unique regarding this property that would allow the findings to approve a lot coverage variance. People buy properties and rely on the zoning for lot coverage and do not expect variances to be granted without making specific findings.

---

It seems every developer goes for an outrageous height and lot coverage proposal as a negotiating starting point rather than proposing something reasonable. They are playing a game.

---

Common sense and community awareness

---

Granting the variance will detract from the "small town" atmosphere of Los Gatos and Monte Sereno

---

It is bigger than anything else around

---

Everyone needs to follow the same rules

---

no

---

I think the lot coverage specs are there for a reason. For example, would the lack of permeable land 1) cause more run off from storms and cause a negative impact like flooding on neighbors, and 2) remove habitat for animals, insects and plants. The City of Miami Beach had to reduce the allowed percent of coverage allowed about 10 years ago.

---

same reason as i put for height variance

---

Traffic flow would be severely disrupted

---

Residential areas across the street are impacted

---

More traffic and congestion in area

---

I was not allowed either

---

Citizens don't like it when their representatives cut shady backdoor deals to enrich their friends at the cost of the community. No person with integrity would make such a deal. Allowing "no story poles" was a ham-fisted attempt to hide this malfeasance from the community. Shame on you all.

---

No

---

Again, it is too big for Winchester. It will be horrible for the neighborhood and lower our investment

---

The size of the building is too large for the lot size. It is out of place in size not in keeping of the look of our Los Gatos neighborhood on Winchester

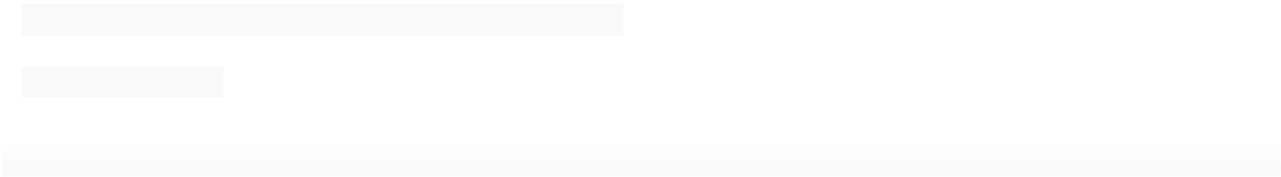
---

Common sense. We have lived in Los Gatos for 14 years. Trying to shoehorn this building into an undersized lot is going to bring nothing but problems. Our planning commission was given incorrect information and intimidated the panel. They are unscrupulous and untruthful. Don't do business with them. Please. We live here. Approving the variance is tacit president approval for other deceitful opportunists to prey on Los Gatos.

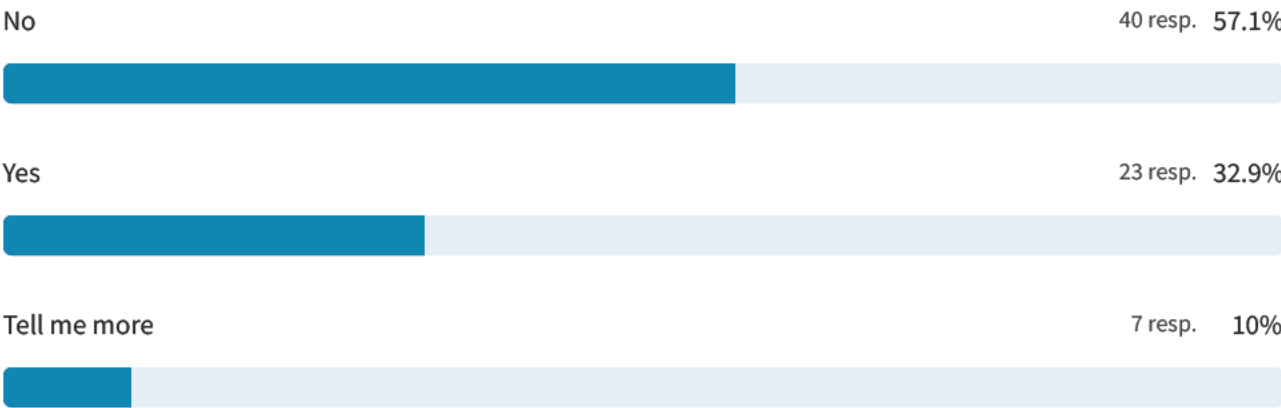
---

no

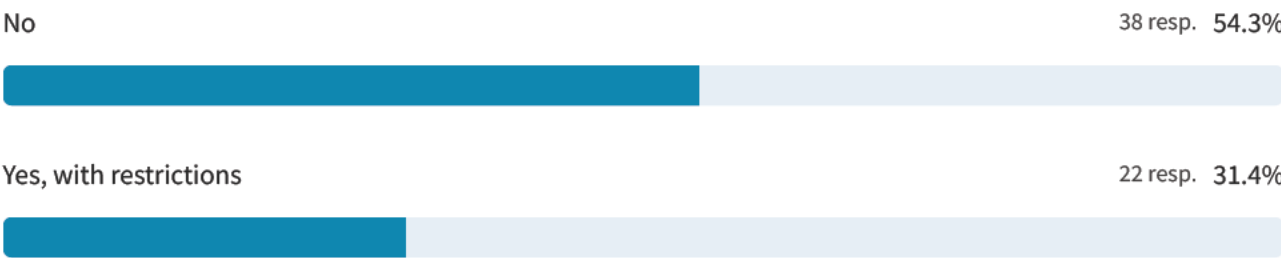
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Are you aware of the memory care facility currently being built at 400-420 Blossom Hill Road?  
70 out of 70 answered

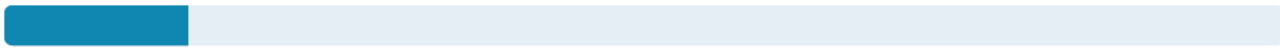


Overall, should Town Council allow the Winchester Development to proceed?  
70 out of 70 answered



Yes

10 resp. 14.3%



---

Please make any additional comments on why you are in favor of this development.

5 out of 70 answered

Our population is aging. Having another location to house our elderly respectfully is good in my opinion. The buildings look very good.

Los Gatos residents need to stop appealing every single step of the development process and accept that buildings change with time. I have also reviewed the traffic study, static and and video renderings, and other material on the planning department website and do not have any concerns with what I have seen.

This use will not impact our schools, limited traffic with the lower parking ratio of this demographic. Our town should meet the residential needs of all ages and these new developments are doing just that.

None

Over the years the town has been more and lenient with the size of homes being built in downtown LG neighborhoods. These extremely large home are changing the character of our neighborhoods. I don't feel that the proposed building changes the character of Winchester. And, I am strongly in favor of new memory/nursing care facilities. Most facilities in the area are dated and run down and our senior

population needs and deserves a more up-to-date, and clean environment to spend the remainder of their lives.

---

Please make any additional comments on the restrictions that the Town Council should consider for this development.

9 out of 70 answered

The building should take into consideration that there are residential properties in the immediate vicinity and should follow the zoning requirements that other buildings and developments are required to follow. No special privileges should be granted

---

Town Council should not grant the variances and direct the applicant to change the design for the proposed building so it meets the zoning requirements.

---

Overbuilding Los Gatos

---

I work in this health care setting. Currently I have seen them being built in larger numbers than what the population currently will require going forward

---

They need to consider the environmental impact.

---

TOO MUCH TRAFFIC FOR THE AREA!

---

Design restrictions adhering to “the look and feel of Los Gatos”. NOT the type of design instituted for The North Forty.

---

This building is way too big for the current area. It is out of scale and not fitting the neighborhood. The other size will just create more traffic and parking issues as well as ruining the view of the neighborhood.

---

The nature of this business is not conducive to the residential peace safety of our neighborhood

---

Please make any additional comments on why you are opposed to this development.

16 out of 70 answered

The builder has shown disregard for the community, dishonesty in their dealings with this project there have been numerous shady practices from erecting story poles incorrectly then going and asking for exceptions, letting the poles go derelict, posting incorrect dates on their signage, posting incorrect statistics on their signage, threatening the council with builders remedy, cracking callous jokes at our expense by claiming the proximity to our homes shouldn't be a problem due to the fact the elderly wouldn't be able to see in anyway There has been no attempt to work with us as a community to come to an amenable solution and their attitude towards the town at large has been deplorable There is no cause to grant these variances, we should not grant them

---

There is no precedent for such a massive structure anywhere in the vicinity, and as such, it does not meet the requirement for a variance. To grant a variance is most definitely the inappropriate granting of special privileges to a developer!!!

---

It is set much too close to a busy street with not enough ground level driveway and parking for residents, visitors and the numerous medical and emergency vehicles that such a facility would inevitably require.

---

There is already quite a bit of traffic on Winchester, especially on summer weekends and when school is in session. I can't imagine what this would do to the neighborhood residents.

---

Too big and too tall buildings are disproportionate and unsightly for the neighborhood and town

---

Instruction will make a huge mess in the area. Traffic will be degraded. It looks ugly.

---

I live off Winchester just two blocks up the street from the proposed development. Over the course of 30 years I have seen more and more nondescript office complexes pop up along Winchester and replace smaller, perhaps run-down houses. These new buildings make it feel more like an office park rather than a residential community; the corporate, charmless aesthetic contributes to an overwhelming feeling that Los Gatos and Monte Sereno are interchangeable with any other generic Bay Area suburb. If the area is inevitably to be developed then I would urge the town to make it much smaller in height and lot size—i.e. human scale—and make meaningful steps to reduce car traffic and speed and increase walkability and bikeability (especially since this development is geared towards elderly people with limited mobility). The last thing we need is more traffic on Winchester, which increasingly feels like an artery road for Highway 17 rather than a residential street. I am not opposed to development, but I am tired of seeing generic, multi-story buildings pop up rather than community-focused spaces that would actually be appealing destinations for the neighborhood residents. This one reason why young people, including myself, are moving away or considering it.

---

The neighborhood character is negative

---

Once I learn that my representatives are lying to me, a citizen, I will do anything I can to shut them down everything they touch is now poison Is that clear enough?

---

The question should not be "why deny the variance," it should be "why should it be approved?" And approving the variance will pave the way for other projects that want the same.

---

None

---

I attended the planning Commission Meeting that approved the variance and felt that the comments of myself and fellow neighbors to the construction site were totally ignored and our concerns not addressed.

---

Our tenant have a very difficult time parking near our apartments. The increased traffic will only cause greater problems on Santa Cruz Ave and University Ave.

---

This is a main route for bicycles and children getting to school. A massive increase in traffic (due to building size and operational functions - patients, workers, visits, medical vehicles, trash, food delivery, etc) for a facility where patients have diminished mental capacity and physical performance in negligent to the community

---

Comes right up to front doors of University Oaks Condos...They'll see into our bedrooms and we'll see into theirs

---

Not consistent with surrounding neighborhood which consists primarily of homes on both sides of Winchester all the way from Lark to Blossom Hill. Massive footprint.

---

Thank you for answering our survey . To add more credibility to the survey, would you be willing to state your last name?

70 out of 70 answered

Yes

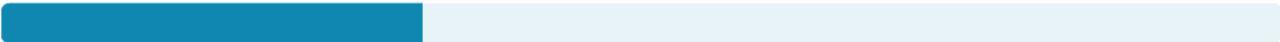
47 resp. 67.1%





No

23 resp. 32.9%



Thank you . What is your last name?

47 out of 70 answered

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[REDACTED]

[REDACTED]

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[Redacted]

[Redacted]

[Redacted]

Final question:

Would you like to receive an update of the status of the appeal and staff report prior to the Town Council meeting on Tuesday, September 19?

70 out of 70 answered



, please provide your email address below.

[Redacted]

1 out of 70 answered

1

2

3

4

5

6

7

8

9

10

11

12

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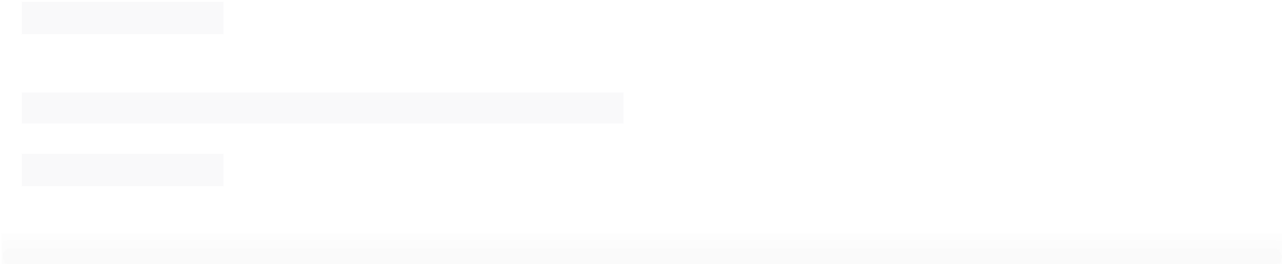
[REDACTED]

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Please confirm, is your email address ?

51 out of 70 answered



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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 University Oaks townhome community at 700 Winchester Boulevard. We are the nearest neighbors to the proposed project at 15860 Winchester Boulevard and I stand in strong opposition of its approval.

## **TRAFFIC OPERATIONS ANALYSIS**

To begin with, as with numerous aspects of this proposal, the traffic operations analysis is outdated.

The document references that “based on the results of the intersection LOS analysis from the 2016 approved office development transportation study, all study intersections would operate at acceptable levels of service.” We moved into our townhome in 2019 and there has been regular and considerable increases in traffic congestion year over year in the area - particularly on the weekends as people attempt to avoid the 17 by coming down Winchester, University and Blossom Hill. [This article highlights the issue](#), which I know the council is well aware of.

Similarly, the *Site Access and Circulation* analysis accounting for the safety of pedestrians and cyclists to the facility was conducted in October 13th 2020 and therefore outdated due to the changes in the bicycle lanes for the street. The recommendations put forth within the document reference back to when parking in front the curb was allowed and prior to the creation of the dedicated bicycle lane.

In addition, to arrive at the estimated 347 trips, Swenson sites the ITE *Trip Generation Manual, Tenth Edition* as their source for trip estimation, which was published in 2017. The *Eleventh Edition* of the manual was published in 2021 with more updated multimodal trip generation data and specifically calls out changes to the Assisted Living (25) and Congregate Care Retirement Community (255) rates in the ITE’s *Updates to the Trip Generation Manual, 11th Edition* summary. I would also like clarification as to why only the beds / units are being considered, as well as question its justification as a comparison to a previous estimate based on office traffic estimates. Given that the most similar use listed in the VTA is that of a hospital, it stands to reason that there will be much more traffic generated beyond just that of the occupants.



The document states that there may be up to 24 employees onsite per work shift. It makes no reference to how many estimated trips these employees would make, nor how many shifts. For an assisted living facility there will need to be at least some level of supervision 24 hours a day, which I can take to mean up to three shifts and therefore potentially *24 employees x 3 shifts x 2 trips = 144 trips* in addition to the given estimate. Similarly there is no mention whatsoever of how many estimated trips would be accrued through the loading zone for supplies, or additional visitors to the facility - both of which we can assume to be likely given the frequent mentions of the loading spaces being developed into the facility for just such purposes.

Overall, at minimum, I would request this study be completely redone today as we cannot rely on an impact study performed 7 years ago with estimates based on data collected in 2017. Just in April, at our town hall, 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 projects that would see a net increase in our traffic of so substantially should be heavily scrutinized in order to ensure we are keeping our community safe.

## **ZONING VARIANCES**

The increased load on traffic is a byproduct - and leads me into my second objection - of the sheer size of this project. As you can see from the rendered videos of the facility from the Swenson group, this would be far and away the largest structure on the street. There are two variances that are being requested that would enable this to be so - an increase in the lot usage from 40% to 50%, and the ability to exceed the 35 foot height limit. I would **strongly** object to granting either of these variances for two reasons:

Firstly, the land area for this project is already quite large and thus the normally zoned 40% seems to be perfectly adequate. One specific objection to this plan is that this property is normally zoned for Office space and thus a 10' setback from the side wall. However granting Swenson a conditionally approved usage permit to allow for an Assisted Living facility should then require them to follow the RM zoning guidelines which calls for a setback of 12'-20' from the side wall, depending on if the windows are part of a bedroom or living room. According to the plans on page 35, the setback is only planned for 10' from the south side wall - which is adjacent to our property - and will most likely need to be adjusted to 20' given these are living

units. If the building is updated to come into code, perhaps they would not require the additional 10% square footage variance.

Secondly, the height limit variance request claims that “due to the slope of the lot along Shelburne Way, the height of the building exceeds the 35-foot height limit at the mid and rear point of the property.” This language is attempting to downplay the exact length and amount above the limit that is planned, thus painting the project as necessitating it as an unfortunate consequence of the geography.

In reality, according to Page 32 of the *Project Plans* document, the guiding line for the maximum allowed height is blatantly inaccurate, with the document explicitly stating that it is measured against the natural grade. The town's website in contrast states that the “maximum height of a principle building in the zone is 35’ (measured 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).” Therefore, taking the *finished* grade (which the plans clearly mark as the green line), the bottom of third floor is at 34’ - thus making virtually the entire third floor above limit, with the building going up to as high as 50’ at the roofline. That is 42% above the limit which is an egregious amount to be over limit.

Even the western front on Winchester (which is at the lowest grade) is an entire 4’ higher than the limit. There does not appear to be even an attempt to adhere to the spirit of these requirements in creating a lower profile for the city with virtually the entire project above the 35’ limit. For contrast, the apartment building to the south side of our townhome community is two story and has tiered floors in order to match the grade versus keeping one continuous roofline that extends 50’ into the air.

In addition to these requests, I would also like to call out the seeming lack of respect the developer has shown the community to date. From the way they addressed the Brian Mekechuk, the Mayor of Monte Sereno, during our last hearing to the fact the developer was already granted multiple variances that have made objection to the project more challenging. Because of the massive size of this project they were able to request and were granted a variance to avoid use of netting to mark out a visual indicator of the building for the public to see. Instead, they erected (incorrectly) markers using flags (that today are not even upright) last year. When they failed to meet that minimum requirement, they requested (and were granted) another variance to avoid putting up and fixing their poles, instead to put up billboards with a QR code to a virtual render of the project. Small billboards with small text that are not

very visible or noticeable as you drive by the property. This was back in April, granted using a justification that the rains had delayed them so that they could not fix the flags quickly enough. Despite being granted that variance, it still took them over two months to put up the billboards, which in combination with the derelict poles and broken flags, absolutely do not draw the same level of attention that a properly marked out visual would have provided the community. Perhaps if they had not designed a building that has a 10% larger square footage and is 42% higher than the town's limit, they could have properly netted it.

To compound that, we received fliers mailed as late as July 14th stating that the hearing for this project proposal would be on July 27th, despite the billboards erected weeks earlier stating the hearing as August 9th. Even up until the day of on the town council's agenda it showed as the hearing for July 27th - I am out of town and called in just to be sure I did not miss the hearing in case I had the date wrong. I do not know if this was foreseen and simply unfortunate, or pushed out due to how late the billboards were put up for view, but it certainly seems like a deliberate attempt to confuse, misinform or dishearten the community from opposing this project.

## **PROTECTED TREES**

If somehow these points are not sufficient to reconsider this proposal, the final point I would like to raise to the council is the consideration of two protected trees on our property. The arborist and assessment that the developers are presenting only include the trees that are directly on their projects land, however there are two large oaks that sit on our property less than 30' from the proposed site. Encroachment on their setback limits will also be entering into their space. These oaks would be defined as protected under the town's Large Protected Tree provision as they are over 48 inches in diameter. If this project were to move forward as designed, I would ask, at a minimum, that there be an additional inspection performed as to the impact that the size of this building will have on these trees - both to their root system and based on the light that would be lost by the 50' wall erected next to them - and have any feedback taken into consideration to the design plans.


We work with an arborist on any projects we do within our townhome community and are so mindful that we do not dare even alter the soil composition underneath them in order to ensure we do not shock them.

## **CONCLUSION**

Taken all together, I personally believe that the best course of action would be for the council to deny Swenson the variances that are being requested, and would deeply implore the members to vote as such. We are already conditionally allowing this property to be re-zoned from an office space to a multi-family residential space - let us simply require it to be built according to code.

Allowing this project to go over the square footage limit by 10% *and* the setback limit by 50% *and* the height limit by 42% seems grossly abusive of the town's generosity as well as sets a precedent for other such developments in the future.

Alternatively, in simply denying these requests, the council would help (1) ensure that our traffic stays within moderation per the property size, (2) our town maintain the overall aesthetic and profile we're striving for, (3) provide a building of appropriate size, scale and timing that can be properly presented to the community for consideration and (4) ensure no undue risk to the natural environment that we are so proud of within our community.

Sincerely,  
Ashley & Eric Hulser  
  
Los Gatos, CA