



MEETING DATE: 3/3/08
ITEM NO: 6

COUNCIL AGENDA REPORT

DATE: February 26, 2008
TO: MAYOR AND TOWN COUNCIL
FROM: GREG LARSON, TOWN MANAGER


SUBJECT: 506 UNIVERSITY AVENUE (APN 529-08-017)
PROPERTY OWNER: ARNERICH REVOCABLE TRUST
APPLICANT: DENNIS LOWERY, CAPITAL VENTURES
A. CONSIDER INTRODUCTION OF ORDINANCE TO ZONE A PARCEL
TO R-1D FROM RM:12-20 (ZONE CHANGE Z-07-001)
B. CONSIDER ADOPTION OF RESOLUTION TO AMEND THE GENERAL
PLAN TO MEDIUM DENSITY RESIDENTIAL (5-12 UNITS PER ACRE)
FROM HIGH DENSITY RESIDENTIAL (12-20 UNITS PER ACRE)
(GENERAL PLAN AMENDMENT GP-07-002)

RECOMMENDATION:



1. Hold the public hearing and receive public testimony;
3. Close the public hearing;
4. Move to adopt a Resolution approving the General Plan Amendment (Attachment 4) (**motion required**);
5. Direct the Clerk to read the title of the Zone Change Ordinance (Attachment 5) (**no motion required**);
6. Move to waive the reading of Zone Change Ordinance (Attachment 5) (**motion required**);
7. Move to introduce the Ordinance to effectuate Planned the zone change (Attachment 5) (**motion required**);

BACKGROUND:

The project site is located at the southeast corner of University Avenue and Towne Terrace. The site is zoned RM-12:20, which is the same as the properties to the north and east. The properties to the south and west are zoned R-1D. The subject property serves as a transition between the two zoning districts.

PREPARED BY: 
Bud N. Lortz
Director of Community Development

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Reviewed by:  Assistant Town Manager  Town Attorney _____ Clerk Administrator
____ Finance _____ Community Development

The property is developed with a pre-1941 single family home, detached garage and a storage building. The existing structures and site are legal non-conforming with respect to setbacks. In 2006, the Historic Preservation Committee (HPC) reviewed a preliminary request to demolish the home. The HPC felt the house was architecturally significant and appeared repairable. Based on the information provided, the HPC indicated they would not support demolition of the home.

The applicant has submitted a proposal to refurbish the existing home and construct two new single family homes. The subject lot is approximately 14,948 square feet, where 15,000 square feet is needed for three conforming single family lots in the R-1D zoning district. One of the lots is proposed to be 4,683, which is less than the 5,000 square foot minimum lot size. The applicant is proposing to rotate the historic home to place the front entrance on Towne Terrace. New fencing would be provided along University Avenue.

The Conceptual Development Advisory Committee (CDAC) reviewed the proposal on May 9, 2007. The Committee supported the proposal. Committee members felt the change in the General Plan and Zoning created a logical transition between the single family homes on University Avenue and the multi-family development on Town Terrace. They also noted that retaining the pre-1941 home created the necessity for the variance, which they also supported. Several committee members requested input from the Historic Preservation Committee (HPC) regarding the reorientation of the pre-1941 home (Exhibit 8).

The HPC reviewed the project on August 15, 2007. The Committee supported the applicant's request to reorient the home and the proposal for fencing along University Avenue.

The GPC reviewed the project on September 26, 2007. Committee member Bourgeois commented that there is a lack of owner-occupied affordable housing and did not support reducing the density on this site. Committee member O'Donnell was concerned about the loss of an opportunity for relatively affordable housing. He also noted that the applicant has proceeded in conformance with direction provided by CDAC and was reluctant to recommend a different approach. While the variance for lot size requested by the applicant was not part of the GPC's review, staff noted there were no special circumstances associated with lot configuration or topography that are normally required to grant a variance. The Committee voted 5-1 (Bourgeois opposed) to recommend approval of the General Plan and Zone Change (Exhibit 9).

DISCUSSION:

The application before the Council includes a General Plan Amendment and Zone Change. The Planning Commission has approved the associated variance and parcel map, subject to Town Council approval of the General Plan Amendment and Zone Change. The Planning Commission's action will be discussed in more detail in the next section.

The General Plan designation for the site is Multi-Family Residential 12 - 20 du/ac. The zoning designation of the site is Multi-Family Residential 12 - 20 du/ac. To implement the project as proposed requires a General Plan Amendment and Zone Change. This property is the transition

between the single family and multi-family designations. All the properties along Town Terrace are zoned RM 12 – 20 du/ac.

This site is one of the few areas in Town zoned for high density residential. The Town is generally hesitant to reduce the density of sites because doing so could hinder the Town's ability to meet its regional housing requirement. The Land Use and Housing Elements contain policies that the Town should maintain its capacity to meet its housing needs as identified in the Housing Element. Typically, that requires identifying a site to replace the housing opportunity being lost due to the reduction in density. In this case, the impact may not be significant since the project will only result in one less housing unit than could be developed under the existing zoning.

Planning staff and the Town Attorney did not support the variance requested by the applicant to allow one of the proposed three lots to be less than the 5,000 square foot minimum. This lot does not have the required 15,000 square feet necessary to create three conforming lots. If the pre-1941 home was demolished, there would still not be sufficient lot area to create three conforming lots.

Staff had recommended that the Planning Commission amend the General Plan and Zoning for the corner lot to preserve the pre-1941 home and retain the existing General Plan and Zoning on the remainder of the site. This approach eliminated the need for a variance. However, the Commission preferred the applicant's proposal and recommends approval of the applicant's request.

Planning Commission

The Planning Commission reviewed the proposal at its meeting of January 23, 2008. Several residents of University Avenue spoke in support of the applicant's proposal. The Commission voted 5-2 (Sayoc and Bourgeois opposed) to approve the variance and parcel map and to recommend that the Town Council approve the General Plan Amendment and Zone Change.

The Commission included a condition of approval that requires the A&S applications for the home to be approved by the Planning Commission. The applicant agreed that the new home immediately adjacent to the pre-1941 home will be single story. Normally, new homes can be approved by the Development Review Committee (DRC). The Commission wanted to review the reorientation of the pre-1941 home and the design of the two new homes to make sure they are compatible with the pre-1941 home being retained. Alternatively, the Council could direct that the A&S applications be approved using the standard DRC process.

The Commissioners in support of the proposal felt the special circumstance for the variance is that the area surrounding the subject lot is primarily single family and the lot is only 50 square feet less than the 15,000 square feet necessary for three conforming lots.

The Commissioners opposed to the proposal felt the staff recommendation to retain the home and amend the General Plan and Zoning for the remainder of the site was appropriate. This

approach would allow a total of four multi-family units in addition to retaining the pre-1941 home. They could not make the findings for the variance and felt it was important to retain the multi-family designation along Towne Terrace because this is one of the few high density areas in Town that provides housing opportunities not generally found in the community.

Alternative

Staff recommends the following alternative to the applicant's proposal:

1. Retain lot one at the corner of University Avenue and Town Terrace as proposed by the applicant. The parcel would be approximately 5,182 square feet and would include the existing historic home.
2. Amend the General Plan designation for lot one from Multi-Family Residential 12 - 20 du/ac to Medium Density Residential 5 - 12 du/ac.
3. Change the Zoning designation from Multi-Family Residential 12 - 20 du/ac to R-1D (Single Family Residential Downtown). This matches the General Plan and Zoning for the parcels to the south and west of the project site.
4. Retain the existing multi-family General Plan and Zoning designations on the remaining 9,766 square foot lot, which would allow a development of two to four units.

While the applicant prefers the proposed single family concept, they are receptive to staff's recommended alternative if that is the Town's desire. Staff did note in the Planning Commission report that this approach does require the removal of more trees than would be necessary for the development of two new homes.

Should the Council prefer this concept, staff recommends that the application be continued and that the Council direct the applicant to revise the application to be consistent with the recommended development alternative. The revised application would be returned to the Council for final approval of the General Plan Amendment, Zone Change and a two-lot parcel map.

CONCLUSION:

The Planning Commission recommends approval of the applicant's request to amend the General Plan and Zoning for the site. The Commission's approval of the variance and parcel map is contingent upon the Town Council approving the General Plan Amendment and Zone Change. Staff's recommendation is stated above.

ENVIRONMENTAL REVIEW

It has been determined that this project could not have a significant effect on the environment and the project is not subject to the California Environmental Quality Act (Section 15601).

FISCAL IMPACT: None.

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MAYOR AND TOWN COUNCIL
SUBJECT: 506 UNIVERSITY AVENUE
March 3, 2008

Attachments:

1. Location Map
2. Minutes from the January 23, 2008 Planning Commission meeting (26 pages)
3. Staff Report for the January 23, 2008 Planning Commission meeting (without attachments) (8 pages)
4. Draft Resolution approving the General Plan (2 pages)
5. Draft Ordinance approving the zoning amendment (2 pages)
6. Letter of Justification (1 page)
7. Letter to the Planning Commission received January 22, 2008
8. Letter to the Planning Commission received January 23, 2008
9. CDAC Minutes and Staff Report (without attachments) (5 pages)
10. GPC Minutes and Staff Report (without attachments) (7 pages)
11. Development Plans (2 pages)

BNL:CB:mdc

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Los Gatos Planning
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LOS GATOS PLANNING COMMISSION 1/23/2008
Item #1, 506 University Avenue

P R O C E E D I N G S:

CHAIR TALESFORE: So with that I will refer to our continued public hearing of 506 University Avenue. It's a General Plan Amendment GP-07-002, Zone Change Z-07-001, Subdivision Application M-07-145, Variance Application V-07-144, and Commissioners, you do have two Desk Items on this application, and I think you can take a few minutes to read those. Look up and let me know when you're finished. Thank you.

(Pause as commissioners read Desk Items.)

CHAIR TALESFORE: All right, Commissioners. So the application is asking for a request of approval to one, amend the General Plan to Medium Density Residential (5-12 units per acre) from High Density Residential (12-20 units per acre); two, to rezone a parcel to R-1D from R-M:12-20; three, a tentative map to create three parcels; and four, a variance to reduce the minimum lot size. APN number is 529-08-017. The property owner is Arnerich Revocable Trust and the applicant is Dennis Lowery, Capital Ventures. And this

LOS GATOS PLANNING COMMISSION 1/23/2008
Item #1, 506 University Avenue

1 continued from January 9th, if you remember, and Mr. Banks,
2 I think you have a presentation.

3 CURTIS BANKS: Yes, I do. Thank you, Chairperson
4 Talesfore and members of the Commission. This application
5 involves the redevelopment of the site at 506 University
6 Avenue, which is on the corner of University Avenue and
7 Towne Terrace. The property is currently developed with a
8 pre-1941 single-family home and a detached garage and
9 storage building. Many of the existing structures on the
10 site are legal, non-conforming with respect to setbacks.

11 The applicant has submitted a proposal to
12 refurbish the existing home and construct two new single-
13 family homes. The applicant is proposing to rotate the pre-
14 1941 home to place the front entrance on Town Terrace. New
15 fencing would be provided along University Avenue. Those
16 applications are not before the Commission this evening;
17 those can be addressed at Staff level pending approval of
18 the applications. The Historic Preservation Committee has
19 reviewed the reorientation of the home and supports the
20 modification and fencing as proposed by the applicant.

21 One of the lots proposed is less than the 5,000
22 square foot minimum lot size required by the RD zoning
23 district. For this reason the applicant is requesting
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25

1 approval of a variance along with the General Plan
2 amendment, zone change, and subdivision map.

3 Justification for the variance is based on
4 retaining the pre-1941 home. Variances from provisions of
5 the Zoning Code may only be granted upon the finding of
6 fact owing to special conditions or enforcement of
7 provisions that would result in undue hardship. The Town
8 has specific findings that are based on specific special
9 circumstances applicable to the property, such as the size,
10 shape, or topography, location, or surroundings where the
11 strict application of the Zoning Code would deprive the
12 property of privileges enjoyed by other properties in the
13 vicinity under the identical zone.

14 Second, the granting of the variance cannot be
15 considered a grant of special privileges inconsistent with
16 limitations upon other properties in the vicinity and zone
17 in which the property is located.

18 The Town Attorney and Staff cannot recommend that
19 you make the findings necessary for the variance based on
20 the preservation of the existing home, the reasoning being
21 this site is less than 15,000 square feet, which is
22 necessary to create three conforming lots. If this home was
23 demolished or not on this site, this site would not have
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25

1 sufficient lot area to create the three conforming lots. As
2 such, we cannot recommend that the retention of the pre-
3 1941 home is sufficient justification for the variance.

4 This application has been reviewed by the General
5 Plan Committee and the GPC. The GPC reviewed it, did
6 recommend approval based on retention of the pre-1941 home.
7 The General Plan Committee voted 5-1 also to approve the
8 project. I would note that the General Plan Committee is
9 focusing on the General Plan amendment and zone change,
10 although Staff did express the concerns regarding the
11 variance for the project.
12

13 Staff has included in the Staff Report an
14 alternative recommendation that would allow for retention
15 of the existing home; allow it to be rotated as proposed by
16 the applicant. Basically to summarize, Staff suggests that
17 the lot at the corner as proposed by the applicant go
18 forward and that the remainder of the lot remain with its
19 existing multi-family General Plan and zoning designation.
20 As such the home would be retained and the back portion,
21 which would be approximately 9,700 square feet, would allow
22 the development of two to four dwelling units.

23 I would also note that the setbacks in the RD in
24 the front and rear would be similar for both the multi-
25

1 family and single-family zones. They're both 25' in the
2 front; they're both 20' in the rear, and under either
3 proposal Staff would be recommending as part of the
4 Architecture and Site approval either for the single-family
5 homes or multi-family dwellings, significant tree plantings
6 along the rear of the property to provide privacy
7 protection.
8

9 Tonight Staff is recommending that the Commission
10 deny the variance request and continue the remainder of the
11 General Plan, zone change, and subdivision map to be
12 amended as described in the alternative section of the
13 Staff Report, to again, retain the home at the corner with
14 one lot and leave the remainder of the lot as multi-family.
15 The applicant would then return with a revised tentative
16 map depicting that proposal, and could also provide some
17 conceptual plans to show you a multi-family project along
18 the back portion of the lot, a potential development
19 pattern for that concept as well.

20 So that concludes the Staff Report and I can take
21 any questions you may have at this time.

22 CHAIR TALESFORE: Commissioners, do you have
23 questions? I see two hands. Commissioner Micciche and
24 Commissioner Bourgeois.
25

1 COMMISSIONER MICCICHE: Just help me on one
2 thing. If we were to go to four units besides the
3 historical unit, would that trigger a BMP requirement?

4 RANDY TSUDA: It would not.

5 COMMISSIONER MICCICHE: Would not, okay. Thank
6 you.

7 CHAIR TALESFORE: Commissioner Bourgeois.

8 COMMISSIONER BOURGEOIS: I have a couple
9 questions. One, the General Plan tells us we have to
10 maintain the housing stock to fulfill the housing element.
11 Could Staff maybe comment on the new numbers we received
12 for our housing element and how that may or may not apply
13 to this case?

14
15 RANDY TSUDA: Those numbers, the Regional Housing
16 Needs Allocation or the housing allocation that we've
17 received from the Association of Bay Area Governments is
18 currently in draft form and that number is roughly four
19 hundred and...

20 CURTIS BANKS: The number is roughly 630 units.

21 RANDY TSUDA: Six hundred and thirty units. The
22 current ABAG allocation that we have is roughly 450 units,
23 so it's gone up by 175 to 200 units. That allocation will
24 be finalized we expect later on this year and that will be
25

1 the target number that the Town needs to provide in its
2 updated housing element. If we do any reductions in housing
3 potential in the Town we would simply need to come up with
4 additional sites on which we can replace that housing
5 allocation, and in this case we're talking the difference
6 of one or two units, not a substantial number. But I think
7 the cautionary note that Staff is providing is that we do
8 not have very many high-density housing sites in the Town.
9 This is one of those areas that are already designated for
10 high-density housing, and Staff's preference is that it
11 remains high-density housing.
12

13 COMMISSIONER BOURGEOIS: Can I follow up, Madam
14 Chair?

15 CHAIR TALESFORE: Yes.

16 COMMISSIONER BOURGEOIS: Does the housing element
17 dictate or have any preference for the type of units? Low-
18 income? Senior? Does that in any way affect, or it's just
19 straight units?

20 RANDY TSUDA: The housing element law requires
21 that we provide adequate sites to meet those housing
22 numbers. It also requires that we address the needs for
23 seniors, low-income, handicap units, a full range of
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1 housing opportunities in the Town, so all of that needs to
2 be addressed in the housing element.

3 COMMISSIONER BOURGEOIS: Thank you. I have one
4 more question, Madam Chair.

5 CHAIR TALESFORE: Yes, go ahead.

6 COMMISSIONER BOURGEOIS: The rotation of the
7 historic home, it was my understanding that that originated
8 because having three single-family homes, they wanted them
9 all facing Towne Terrace instead of having one facing
10 University and two facing Towne Terrace. With the proposal
11 that Staff is putting forward where we only have the
12 single-family home on Lot #1, is the rotation still
13 necessary and/or recommended?
14

15 CURTIS BANKS: I would think the rotation would
16 still be necessary and recommended just because of the lot
17 pattern; the remainder of the lot allows for a rectangular
18 lot to be created behind Lot #1. I think you can look at the
19 tentative map and see how that would be. The applicant, if
20 they came and had a proposal, they could certainly propose
21 something keeping it in its present location. Just looking
22 at the lot and the lot pattern along University is about 50'
23 wide lots. This one lot is approximately a little over a
24 hundred feet wide. We have a map on the screen. It may be a
25 little difficult to determine that, but I think the lot
pattern, creating a lot along here would leave kind of an

1 irregular L-shape lot around it, so our initial thought in
2 reviewing this is that the home would still be rotated.

3 CHAIR TALESFORE: So the reason we want to rotate
4 it is it would give more room to the other two lots?

5 CURTIS BANKS: I think initially the reason, my
6 thought on rotating it, and the applicant can certainly
7 propose other concepts, but I think the lot that would be
8 remaining, they would either have a very wide lot that the
9 depth of it may impact the development of the rear portion.
10 The lot pattern along University is 50' wide lots. This is a
11 little over 100' wide along University. So if you wanted to
12 retain the existing home you'd be cutting this front portion
13 roughly in half, so you'd have a portion along the corner
14 and then this back area.

15 Now again, we can look at proposals that the
16 applicant may have to do multi-family. What I've seen to
17 date it would still involve rotating the home, and again, I
18 think it leaves a more viable, more developable parcel in
19 the rear once you create the subdivision.

20 CHAIR TALESFORE: Okay, thank you. Commissioner
21 Sayoc.

22 COMMISSIONER SAYOC: Mr. Tsuda, could you just
23 clarify for me and for others that may not understand, these
24 housing allocation numbers, is it that we need to create 450
25 more units by a certain time? Am I understanding that
correctly?

1 RANDY TSUDA: The Town doesn't necessarily need to
2 create or produce the units. The first step is the Town
3 needs to document how it can accommodate in this case the
4 650 units, so that would need to be 650 units that are above
5 and beyond our current maximum housing capacity.

6 COMMISSIONER SAYOC: And is that by a certain
7 time?

8 RANDY TSUDA: The planning timeframe for our next
9 housing element is a seven-year window. It has a seven-year
10 window from two thousand...

11 CURTIS BANKS: 2007 to 2014.

12 COMMISSIONER SAYOC: Okay. And then just for my
13 own information, that lot currently houses one house. How is
14 it that there's one house in a multi-use zone?

15 CURTIS BANKS: That's a pre-existing home. It was
16 built obviously pre-1941, so it's been there for quite some
17 time.

18 COMMISSIONER SAYOC: Okay, thank you.

19 CHAIR TALESFORE: Commissioner Kane.

20 COMMISSIONER KANE: Mr. Banks, since you're
21 representing Staff on this I'll talk to you about it. I
22 don't know if you prepared the report or not. In the second
23 paragraph under Background, it says the property is pre-
24 1941, existing structures, et cetera, and then it says in
25 2006 the Historic Preservation Committee reviewed a
preliminary request to demolish. The HPC felt the house was

1 significant, appeared repairable. Based on the information
2 provided, the Historic Preservation Committee indicated they
3 would not support demo of the house. And then the Staff
4 Report goes on to other matters.

5 One gets invested in things when one works on them
6 from the beginning, pride of authorship or just investment
7 in a given project. I was on the Historic Preservation
8 Committee in those days and we had two meetings on this
9 question. Not an en passant treatment either. Len Pacheco,
10 the chairperson, Kendra Burch, myself, Steve Rice, Bob
11 Cowan, received the architects design initially. There might
12 have been a change in parties in there, but initially the
13 fellas wanted to knock the house down. We said no, you can't
14 do that, and what we could do is this, and we started to
15 talk about the fact that this was an entrance to Towne
16 Terrace, this was a transition property, that we're going
17 from single homes to apartments, and we were looking at the
18 landscape on University as that hit the eye, a stream of
19 one-story houses. We said we really have to preserve this
20 corner. We didn't say it just this way, but what it was was
21 a deal. We thought we could meet the intent of the Historic
22 Preservation language, the General Plan, et cetera.

23 What we put out at the first meeting, I think it
24 was at the first meeting, tentatively, but definitely that
25 was in August, definitely at the December 2006 meeting we
brought up the concept of one-one-two, and I thought that

1 was so significant that I'm disappointed it's not in the
2 Staff Report. I didn't call to discuss it and I should have.
3 But the one-one-two meant that as we got into the transition
4 of the neighborhood the historic house would be preserved as
5 a one-story, the house next to it would be one-story, and
6 then the developer could put in a two-story as that
7 approached the two-story apartments, and the line of sight,
8 instead of being perhaps a sharp 45-degree, put the two-
9 story house next to the historic house, would be more of
10 maybe a 60-degree, it would be more of a 30-degree slope
11 from the original house on the corner to the second house to
12 the third house, which was two-stories. We did that at
13 length. I talked to Len Pacheco and Kendra Burch today and
14 said, "Am I thinking right? It's not in the minutes. Did we
15 really say one-one-two?" I remember I said it; I was looking
16 for confirmation.

17 And unit investment. When you work with the
18 applicant, you come up with what you think is a good idea
19 and it seems to have disappeared, and I think what happened?
20 Because I think that's a good idea. I'm open to listening to
21 multi-developments and housing requirements, but we had a
22 deal. And so in my listening as the case develops tonight,
23 if I'm going to have to move I'm going to have to come off
24 that original deal, because I thought that was a good idea,
25 one-one-two. I remember the simplicity of it is easy to
remember, thank goodness, or I wouldn't. But it made sense,

1 it was memorable, and I'm going to ask the architect who is
2 shaking her head-yes, I have validation-that we had a one-
3 one-two deal and it seems to have disappeared. I don't think
4 CDAC heard about. I don't think the General Plan heard about
5 it. I still think it's a good idea, and that's the direction
6 I want to move tonight, depending upon the rest of the
7 evidence that I hear. Are you aware of any of what I'm
8 talking about?

9 CURTIS BANKS: I wasn't aware of that. There was
10 discussion during the CDAC about how the single-family homes
11 might develop. That may have been the discussion. It would
12 still entail a variance if you were creating three lots and
13 the variances is where Staff is having the issues with the
14 finding. I understand the Historic Preservation Committee's
15 desire to retain the home and the Committee may support a
16 variance on here, but it's still this Body would have to
17 make the findings that are in the zoning code that a
18 variance is justified, and again, Staff cannot recommend
19 those findings on the basis of this lot is not 15,000 square
20 feet, which is what you need to create three conforming lots
21 under the proposed zoning designation. So irrespective of
22 the home being there, it's a lot that conforms to the Zoning
23 Code now, and in order to create three lots you would need
24 to make a finding for the variance.

25 COMMISSIONER KANE: Yes, sir, I understand it's
not 15,000 square feet. I think it's 14,999.2 or something.

1 I mean it's very close. Fourteen thousand, nine hundred and
2 forty eight, so we're talking 50' to prevent the one-one-
3 two, which I think serves the neighborhood, and improves,
4 enhances, what is there and makes it even better.

5 The rotation we gave in to because the extra land
6 was needed to do the additional two units, or we never would
7 have moved that off of University because of its
8 presentation to the main thoroughfare.

9 But that's historical information that I think is
10 very important to the Commission, I hope it is, but didn't
11 make it to the minutes, and if there was a change in
12 personnel or assignment maybe that's why it's not here.
13 Staff was present at both of those other hearings in 2006.
14 So that's where I'll be coming from tonight. I wanted to
15 share that with you. I thought we just overlooked it in the
16 report.

17 CURTIS BANKS: No, I think that's beneficial
18 information for the rest of the Commission to hear. The
19 summary minutes we have from the meetings are just that.
20 Summary minutes don't go into the type of detail that you
21 explained, but again the main crux that Staff has with the
22 proposal as is is being able to make those variance findings
23 and whether it's 50 square feet or a small amount, the
24 Zoning Code and the findings for variances, which come from
25 the state, are very specific, and we're making our
recommendations based on those findings.

1 COMMISSIONER KANE: Thank you.

2 RANDY TSUDA: And one last point about the
3 findings. One of the things the Commission must find, and
4 this comes out of state law, is that the variance is not a
5 grant of a special privilege, that it's not a special
6 privilege that another similarly sized or similarly shaped
7 lot wouldn't have. So in this case I think if somebody asks
8 you as a Commission generically out of a 14,900 square foot
9 lot I need 15,000 square feet to qualify for three lots. Do
10 you think you would give me a variance? I think your first
11 reaction would be well that certainly sounds like something
12 extraordinary and that sounds like the granting of a
13 privilege. That's Staff's concern with the findings, hence
14 our recommendation.

15 CHAIR TALESFORE: Okay, thank you. Did you have
16 something you wanted to ask, Commissioner Kane?

17 COMMISSIONER KANE: Thank you, Madam Chair. I was
18 focusing on the special circumstances and the fact that I
19 think the Mayor and the Vice-mayor supported that at the
20 General Plan. I wouldn't want to quote them, but there was a
21 lot of support from these other bodies that it was special
22 circumstances to save this house, and back in 2006 everybody
23 was trying to take it down, and it was a close call, because
24 they didn't like this, they didn't like that, they
25 architecture, this had been added on, and to get full
agreement on saving this house is why we supported the other

1 two houses also being built. I'm thinking, as did the mayor
2 and those other committees, that that was sort of special
3 circumstances to allow a 50' variance. Lord knows we do more
4 than that in the hillsides and other special sacred areas,
5 and this is only 50' to save that historical corner/quasi-
6 landmark.

7 CHAIR TALESFORE: Okay, thank you. Commissioner
8 Bourgeois.

9 COMMISSIONER BOURGEOIS: I would just make one
10 quick comment to clarify the record. The mayor and vice-
11 mayor were both not at that General Plan Committee meeting.
12 We had three members. There was only one dissenting vote,
13 which was me, but there were three members of the committee
14 that were not present that day, including the current mayor,
15 so I just wanted to clarify the record.

16 COMMISSIONER KANE: Commissioner Kane, you may
17 have been referring to CDAC.

18 COMMISSIONER KANE: Yeah.

19 CHAIR TALESFORE: Yeah. Memory is a great thing,
20 isn't it? Okay, I'm going to open the public hearing now on
21 506 University, and would the applicant please come to the
22 podium? Thank you. State your name.

23 DENNIS LOWERY: Thank you. Dennis Lowery. I'm the
24 applicant. I'll try to go fairly quickly. There was a lot of
25 great dialogue and I suppose if I get off track and start

1 trying to comment on that I could get distracted, so I would
2 ask if you have questions perhaps pose those to me.

3 First I want to start by thanking the Planning
4 Commission for their time tonight. All of your activity is a
5 great job and we appreciate the time that you invest into
6 it. I also want to thank the Staff, and especially Curtis
7 Banks, who has worked very long on this; we've been working
8 since the first quarter of 2007 on this project, and some of
9 the comments earlier had talked about earlier submittals and
10 I was not involved in those, but had become involved in 2007
11 when we began to look at this project fresh.

12 If I can just go back and go into a brief history.
13 Early in 2007 when we first looked at the site it became
14 very clear to us that the site would need creativity in
15 deciding how it could be developed, and from the very
16 initial point when we looked at the site we began to realize
17 that the house should be preserved and we've never
18 questioned or gone in another direction. And so with the
19 realization that the existing residence was something that
20 would be a benefit to the community and to that corner and
21 to the neighborhood we very early on realized that we would
22 have to look at the rest of the site and understand how it
23 could best be developed out.

24 The fact of the matter is if you do not rotate
25 this house you're left with sort of a fragmented piece of
land, and whether you develop it under multi-family or

1 whether you develop it under single-family, you will have
2 difficulties.

3 And I think the question of density is an
4 appropriate question. It was appropriately raised in the
5 General Plan hearing of last year. If you look at the site
6 and you do not rotate it, the possibility of getting any
7 density beyond one or two homes, I'm not even sure if you
8 can get two residences in a multi-family scenario without
9 rotating that house, and most probably just one.

10 Additionally, by rotating the house we really
11 began to look at the site and tried to ask ourselves what
12 the urban pattern was and what were we benefiting by going
13 to a multi-family or a single-family? Commissioner Kane was
14 accurate in commenting on the fact that a one-one-two
15 scenario was discussed, perhaps earlier before we were
16 there, but in our meeting with the CDAC and the Historic
17 Preservation Committee those comments were added and were
18 welcomed on our part, and we had received them and had not
19 ever thought of anything different. In fact even last week
20 in talking with the neighbors we expressed that we looked at
21 two single-story, single-family units and one two-story,
22 which began to make a transition towards the very large
23 multi-tenant apartment complex as you move down Towne
24 Terrace.

25 But real quick, to continue on with the brief
history, we knew that we needed help and so we went to the

1 CDAC and did receive great help in that meeting, and
2 Commissioner Kane was also right to reference some of the
3 people that were attending that meeting. We received great
4 direction and support in that meeting. We went on to go to
5 the Historical Preservation Committee, and in that Committee
6 we received the guidance that we needed. There was great
7 direction, the one-one-two, and other things and
8 architectural elements.

9 I'm going to speed up just a little bit as I watch
10 the time. The project before you really is an accumulation
11 of the guidance we received from the Historical Preservation
12 Committee and the direction that we were able to gather from
13 the CDAC, and if it were under different circumstances we
14 would have most probably been in here in 2007, but the
15 question of density was raised in the General Plan meeting,
16 and when it was we've spent the last three months to try to
17 study what could be done.

18 I'm going to cut it short here because of my time.
19 But basically you almost have no increase in density in the
20 two scenarios, and in some ways we're talking semantics. We
21 want the density, and yet we have to pick one of the
22 regulations or another. I can tell you that there are other
23 lots in the neighborhood that are less than 5,000 square
24 feet. This would not be a special circumstance to have less
25 than a 5,000 square foot lot.

1 Additionally I can tell you that without moving
2 it, the cost of moving this residence and restoring it,
3 which is appropriately going to be spent, could not be done
4 otherwise.

5 CHAIR TALESFORE: Commissioner Kane has a
6 question.

7 COMMISSIONER KANE: How much money is going to be
8 spent?

9 DENNIS LOWERY: To preserve the house you have to
10 move it, and in order to move it, you incur an expense. We
11 felt early on that's an appropriate expense. It's one that
12 ultimately whether we like it or not gets passed on to the
13 cost of the development. You can pass it on to the cost of
14 multi-family or you can pass it on to the cost of single-
15 family, but the fact of the matter is when you're done you
16 need to move that structure. If you take a multi-family unit
17 the cost is much harder for it to bear this type of expense
18 and most probably can't be done, and so for that reason I
19 think you should consider that as an appropriate finding for
20 allowing the variance to that unit.

21 CHAIR TALESFORE: Thank you. Do we have questions
22 of this speaker, Commissioners? Yes, Commissioner Bourgeois.

23 COMMISSIONER BOURGEOIS: I just want to clarify
24 that last statement you made. So you're saying that the cost
25 of putting in a multi-unit complex as opposed to two single-

1 family homes is so much greater that it does not offset the
2 cost of the rotating the house?

3 DENNIS LOWERY: No, I wouldn't want to say it that
4 way, and forgive me if it came out that way. What I'm saying
5 is in a multi-family product you have smaller units. You
6 also have other infrastructure problems. You have additional
7 parking that you need, and that additional parking you're
8 most probably going to build a podium product, because you
9 must have not only the parking for the structure, but also
10 additional parking. That ends up shrinking the units. As you
11 shrink these units the cost goes down, because it's a
12 smaller house; you expect to pay a little bit more for a
13 bigger house and a little bit less for a smaller house. So
14 when you begin to add the burden of moving and restoring a
15 house under these smaller units it becomes a bigger
16 percentage, or if you will, a greater burden. I can tell you
17 that the single-family has become an effective component,
18 and it's consistent, and it supports the urban pattern, and
19 it has the ability to support the restoration and rotation
20 of the house. I can tell you after long study the last four
21 months and with the patience of Mr. Banks, we've worked on
22 multi-family and we find ourselves consistently crunched on
23 space, crunched on removing more trees, crunched on trying
24 to find creative ways to make up parking, and in the end you
25 end up sort of selling yourself short and having to come
back to the same density, and if you're going to have the

1 same density, then you say what would you rather have? And
2 the last thing that I didn't mention would be that the
3 neighbors in the area have consistently stated that the
4 single-family product is really something that they felt was
5 more consistent with what they would want as a neighboring
6 product.

7 CHAIR TALESFORE: Commissioner Micciche.

8 COMMISSIONER MICCICHE: I'm not sure how to phrase
9 this, but I'll give it a shot here. I think what I've heard
10 tonight is regardless of our feeling on which may be better,
11 which is more logical, the fact that it's very close to the
12 15,000 square feet, et cetera, I think what I'm hearing is
13 that we can't make a finding for a variance. And that is a
14 state regulation, is that what I heard?

15 DAN SIEGEL: It's both municipal and state.

16 COMMISSIONER MICCICHE: So may I ask Staff a
17 question in between this one?

18 CHAIR TALESFORE: For clarification, of course.

19 COMMISSIONER MICCICHE: That being the case then,
20 the Town Council couldn't even override it? They'd have to
21 abide by the state regulation?

22 DAN SIEGEL: With any policy decision, this
23 Commission or the Council can make a policy choice. The
24 question is whether that's a supportable choice.

25 COMMISSIONER MICCICHE: That's what I'm asking.

DAN SIEGEL: And it's our position that it's not.

1 COMMISSIONER MICCICHE: Okay, so you're saying
2 it's not?

3 DAN SIEGEL: We've ruled that it's not. That
4 doesn't prohibit a commission or a council from deciding
5 that it is.

6 COMMISSIONER MICCICHE: My question is, have you
7 understood what we're trying to understand here right now?

8 DENNIS LOWERY: I do, and to answer that, the fact
9 of the matter is that you can find that the restoration of
10 this historical structure does not create a privileged
11 situation, you can find that that is an adequate finding,
12 the fact that it's going to be done, and you could do that,
13 and if you were to do that tonight, and you were to approve
14 that tonight, and it were upheld by Town Council, it would
15 be approved and it would go forward.

16 COMMISSIONER MICCICHE: I guess I'm really
17 confused. I think I'll search for other legal advice with my
18 favorite commissioner, Mr. Tom O'Donnell.

19 CHAIR TALESFORE: Commissioner O'Donnell.

20 COMMISSIONER O'DONNELL: I think, Commissioner
21 Micciche, you're omitting one fact, and that's the predicate
22 of this, that is to say if you can make the finding, then
23 you can do the variance. It is not Staff's position to tell
24 us whether we can make the finding. We just have to on the
25 facts decide whether we can make the finding. If we make the
finding we can do the variance. So we're going to listen to

1 all this I assume, and then when we close the public hearing
2 we'll talk about it and see whether we can make that
3 finding. But I don't think it's fair to say they've told us,
4 "You can't make the finding." I do not believe they told us
5 that, nor do I believe they could tell us.

6 COMMISSIONER MICCICHE: (Inaudible).

7 COMMISSIONER O'DONNELL: Yeah, that's what I heard
8 you to say, and I think they would deny that hopefully.

9 CHAIR TALESFORE: Do you want to clarify for us?
10 Thank you.

11 DAN SIEGEL: Yes, what I tried to communicate, and
12 maybe I didn't do it clearly enough, is Staff's, with
13 Planning and Legal's conclusion that the grounds are not
14 there to make the finding. But we don't sit to make those
15 findings, you do, followed up by the City Council to decide
16 whether you can make the findings or not. Just as Staff
17 generally comes with recommendations concerning mass and
18 bulk and parking and other issues, Staff comes with a
19 recommendation here. That recommendation is what's been
20 presented to us to date. We do not believe it is sufficient,
21 as Mr. Banks has said, because the lot is not 15,000 square
22 feet and you can't get three 5,000 square foot lots from
23 less than 15,000 square feet.

24 It puts the Staff in somewhat of an awkward
25 position, because we sound like we are advocating one
position or another, and that's not what we are attempting

1 to do. We're trying to provide you with the best information
2 that we have, and that information is that we don't believe
3 that the grounds are there to make the finding. However, as
4 Commissioner O'Donnell just said, that decision is up to
5 this Body to make.

6 COMMISSIONER MICCICHE: Okay, thank you.

7 CHAIR TALESFORE: Thank you. And just as a
8 reminder that variance and subdivision applications are
9 final unless they're appealed and that the General Plan and
10 zone change are our recommendation to Town Council anyway.

11 Do we have any other questions of the applicant at
12 this point? No, I don't think we do. Okay, thank you very
13 much. I will open the floor then to speakers on this issue.
14 I have two cards in front of me and the first one is Lois
15 Morrison-Keffer.

16 LOIS MORRISON-KEFFER: Good evening, my name is
17 Lois Morrison-Keffer and I live at 504 University Avenue,
18 which is the property adjacent to 506. I live there with my
19 husband and my 12-year-old boy. We bought our home nine
20 years ago. In about three weeks is the anniversary date of
21 when we purchased the home, so we have been neighbors of the
22 Arnerich family that entire time until Mr. Arnerich passed
23 away in 2006.

24 We have a single-family home. We have single-
25 family homes now on both sides of us, behind us, across the
street. It's a neighborhood with single-family homes. That

1 is what we bought into, that's what we expected we would
2 have the entire time we lived in Los Gatos. We were not made
3 aware when we bought the home that it was zoned for multiple
4 housing. There was no reason to believe that since there was
5 a single-family home. When we found out it was zoned for
6 multiple housing we were very concerned.

7 To make a long story short, we did meet with the
8 architect this summer, Sandra Paim, and she proposed the
9 one-one-two that Commissioner Kane was speaking of, and we
10 like that very much. We would like to see the home
11 preserved. Paul Arnerich and his wife were the original
12 owners of the house. He lived there the entire time until he
13 died. He was a police officer for the Town of Los Gatos and
14 he gave a lot to the community. We'd like to see his home
15 preserved. We think that's a nice tribute to him and to his
16 family.

17 Rotating it and then putting another single-story
18 house next to it and then putting a two-story house next to
19 that I think gives us more privacy than if we followed the
20 plan that the other folks over there are presenting. My
21 understanding is there would be detached garages up against
22 our fence, so there would be a barrier. Where we now have
23 one home next-door to us, we're going to have three houses
24 next door to us. That's going to increase the traffic, it's
25 going to increase the noise, and privacy issues are going to
be more important.

1 Having the three single-story homes really does
2 make the neighborhood more consistent with what it is now,
3 what it has been for many years. Putting multiple houses in
4 there for renting doesn't make a lot of sense to us. If you
5 look at the apartments that were built on the corner of
6 University and Route Nine, they're beautiful, they're on top
7 of offices, and I have never seen the for-rent sign come
8 down on those apartments. Behind us on Towne Terrace and
9 further down on University we have many, many apartment
10 buildings, and often there are vacancy signs up.

11 We would rather see single-family homes for sale
12 as Mr. Lowery is proposing so that people who want to stay,
13 who want to have a stable home situation for the
14 neighborhood, it would be more stable.

15 CHAIR TALESFORE: Okay, thank you very much. Do we
16 have questions of this speaker? I was by the house in
17 question today and you live next-door to it. There's a two-
18 story house. Is that the house you live in?

19 LOIS MORRISON-KEFFER: Yes.

20 CHAIR TALESFORE: You live in the two-story house,
21 and then there's the driveway next-door to that. Or is that
22 another house?

23 LOIS MORRISON-KEFFER: The driveway belongs to the
24 Arnerich family.

25 CHAIR TALESFORE: All right. Thank you. My next
speaker card is Bill Boltz.

1 BILL BOLTZ: My name is Mr. Boltz. I don't live
2 there, but I own 511 University, which is directly across
3 from the house that you're referring to.

4 I'd like to say that University has become very
5 pretty with all the houses that are being redone on that
6 street, and I think the presentation of that house, I see it
7 quite often during the day, is really well adjusted to
8 facing the front of University as opposed to being rotated.
9 I think that my view is I'd like to see University maintain
10 the quality of that street, and I think from my view looking
11 at the side of the house probably would not be as aesthetic
12 to me as looking at the front of the house. So that was
13 really what I'd like to say.

14 CHAIR TALESFORE: Okay, thank you very much. Do we
15 have any questions of this speaker? Seeing none, thank you.
16 I was just going to look out there and say do I have any
17 other speaker cards, and I do. I have two more. Would you
18 please hand them to the clerk on the left of the podium?
19 Citizen Ray, I'll call you now.

20 RAY DAVIS: Yes, speaking in the public interest.
21 Excuse me, I have nothing to say to our Town shyster.

22 The thing that really concerns me about the
23 process here is the fact that the Staff has seen fit to make
24 a recommendation on this matter when I know, and I assume
25 you know, that that is an abuse of their power under the
Municipal Code and state law. I have researched 100% the

1 duties of Lortz and his group. The Town Code gives Lortz no
2 charge to recommend, period, end of story. His duty in these
3 public hearings is to investigate, investigate only, and
4 report, and they have exceeded that and they make these
5 fallacious recommendations to you, which is an abuse by
6 these employees, and it is ugly. Ugly. So the duty under the
7 code and the state law is for you folks to adjudicate, take
8 the facts presented, make up your mind on what's right and
9 what's wrong. That's how the process works. No matter who
10 says differently, that's how it works. Excuse me.

11 CHAIR TALESFORE: Okay, thank you very much. Do we
12 have any questions of the speaker? Yes, Commissioner
13 O'Donnell.

14 COMMISSIONER O'DONNELL: Can we have the Town
15 Attorney respond to that? We're getting legal advice; I'd
16 like to know if it's correct.

17 DAN SIEGEL: I think the best way to answer that
18 question is to reiterate that the Planning Commission sits
19 as the body that makes the decision hearing information from
20 Staff, from the applicant, from the public, and answers to
21 questions that they may ask to any of those people. Staff
22 has no authority to make a decision on this, the
23 Commissioner does. Staff tries to bring the best information
24 to the Commission possible so that if the Commission makes a
25 decision, that decision can be supported at law and cannot
be overthrown if someone challenges it.

1 CHAIR TALESFORD: Commissioner O'Donnell.

2 COMMISSIONER O'DONNELL: I understand you to say
3 then that the Staff's comments here are within the ambit of
4 what they're allowed to do?

5 Certainly. To be clear, it's my belief from my
6 practice in this town and many other local municipalities
7 that Staff was doing exactly what it's charged to do, which
8 is to bring the best information possible to the Commission
9 and explain the bounds of the law and where the Commission's
10 discretion is and how expansive that may be on some issues
11 and how it's controlled on others. So there's certainly
12 nothing that I'm aware of or that's been brought to my
13 attention that Staff, on this issue this evening or any of
14 the others on the agenda, has overstepped their bounds.

15 COMMISSIONER O'DONNELL: Okay.

16 CHAIR TALESFORD: Okay, thank you. Commissioner
17 Micciche.

18 COMMISSIONER MICCICHE: Yeah, I'll ask the board
19 simply...

20 RAY DAVIS: (Inaudible).

21 CHAIR TALESFORD: Excuse me, that's a warning.

22 COMMISSIONER MICCICHE: (Inaudible).

23 CHAIR TALESFORD: I'm sorry.

24 COMMISSIONER MICCICHE: So then the Staff can
25 recommend, because it could not influence our decision

1 anyway, we could make a decision independent of their
2 recommendation, is that correct?

3 DAN SIEGEL: Certainly. Not to be too flip about
4 this, there are plenty of times where commissions and
5 councils in this town and many others go 180-degrees
6 different from what Staff proposes. Staff is here to cull
7 and present the information. As the applicant stated, there
8 have been many meetings over almost a year with the
9 applicant. The Commission doesn't have the time or ability
10 to do that. Staff serves as the Commission's proxy, but the
11 Commission remains the body that makes the decision.

12 COMMISSIONER MICCICHE: Thank you.

13 CHAIR TALESFORD: Thank you very much. I have
14 another speaker. Ann-Marie Grigsby.

15 ANN-MARIE GRIGSBY: My name is Ann-Marie Grigsby.
16 I'd like to talk about the 506 University that we're talking
17 about tonight. I am actually a new owner of property that is
18 situated at the corner of Chester and University Avenue.
19 This is one of those renovated homes, and we moved recently
20 with my family from the east side of San Jose to Los Gatos.
21 Needless to say, and you probably hear it from my accent, I
22 came from a very tight community when I was living in
23 France, and for me it has been a dream all along to live in
24 Los Gatos. That dream came true eight months ago when we
25 actually purchased our home.

1 As I'm hearing the Staff and everybody talking
2 about this issue, for me it is very important that we start
3 considering what people have to say about the choice they
4 make when they choose to live in a place, and what I mean by
5 that, substantially speaking, is in reality the choice we
6 made in purchasing this house at the corner of Chester and
7 University is precisely because of the feel of the
8 community, the proximity of the downtown of Los Gatos, this
9 incredible possibility of developing a neighborhood, and a
10 feel for single-family homes, and a really safe neighborhood
11 for my two teenagers was definitely the reasons why we moved
12 here.

13 When I heard about high-density buildings being
14 part of University Avenue I was flabbergasted. I thought all
15 along, perhaps like my neighbor, that University Avenue, at
16 least until Town Terrace, was for small family homes. So it
17 was (inaudible) made and the house that remains there, the
18 1941 revival home that is there, needs to be protected in my
19 view and I really like the plan that talks about the one-
20 one-two that I've never heard about before, which is let's
21 conserve and let's look at the transition throughout the
22 street and let's look at a continuation of a single-family
23 home and a two-story home that would go eventually to
24 higher-density homes. I think this is the right plan and I'm
25 asking this commission to actually accept it and approve it.
Thank you.

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1 CHAIR TALESFORE: Thank you very much. Do we have
2 a question of the speaker? We do. Commissioner Kane.

3 COMMISSIONER KANE: Thank you for talking to us
4 tonight. I understood what you said and depending upon what
5 I hear from my fellow commissioners, I tend to support what
6 you said. I wanted to clarify one thing you said. Did you
7 say that even in France all of the people want to live in
8 Los Gatos?

9 ANN-MARIE GRIGSBY: Yes.

10 COMMISSIONER KANE: Thank you so much. That's so
11 French.

12 CHAIR TALESFORE: That's wonderful to hear. Thank
13 you. Do we have any other questions of the speaker? I don't
14 think so. Thank you very much for sharing tonight. Now with
15 that, I don't have any more speaker cards from the public,
16 so I will call up the applicant for any clarifications,
17 rebuttals, and any questions.

18 DENNIS LOWERY: Just a few brief items. I do ask
19 that you would see this as a classic opportunity to support
20 the preservation of a historic structure, and furthermore, I
21 do think that it is appropriate to make sure that we
22 preserve the density everywhere we can, and I think that can
23 be done by you approving this project.

24 It's true, we might be one unit less than if we
25 abandoned single-family and pursued a multi-family
discipline. But in the end I think a single-family product,

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1 with the discussions that we've had tonight, and the
2 application that is before you, and the preservation of a
3 historic building, is appropriate grounds or finding to
4 allow a variance to keep these three units as a density.

5 I ask that consider the fact also that there are
6 other lots in the neighborhood that are less than 5,000
7 square feet. We're not creating something that's unusual; it
8 does exist.

9 If you do not support the project before you
10 tonight, then the problem that I think that we'll be faced
11 with is that we will go away and we will work up a multi-
12 family product, and when we come back, and if we're able to
13 eke out all the little components that are necessary to
14 conform to the standards, we're going to hear from the
15 neighbors, the people who live closest, the ones that are
16 contiguous and across the street, and we're going to hear
17 that that's not what they want. And so in some ways it's a
18 little bit of a conversation of semantics in that we can
19 supply three units, single-family residences, that continue
20 to support the urban pattern.

21 To respond to their earlier comment about rotating
22 the house, there was some very appropriate feedback from the
23 Historic Preservation Committee that approved some
24 amendments to the plans that allow the side of the house to
25 have a new element that emulates the existing frontage
elements, in other words, sort of a side porch. And so it

1 will in many, many ways look the same, although not exactly
2 the same, but have a frontage element to the side, and we
3 would love to make sure that that was satisfactory.

4 So I ask that you would find tonight to approve
5 the variance and you would approve the project, and in doing
6 so allow us to preserve the house and to allow the neighbors
7 to know that they can be heard and their voice counts in
8 communicating what they want to live next to.

9 CHAIR TALESFORE: I have a question for you. You
10 mentioned that you did meet with neighbors, and we heard
11 from four neighbors tonight, and you also met with neighbors
12 and how many and just generally their feeling if you could
13 spend 30 seconds on that, and thank you for doing that.

14 DENNIS LOWERY: Yes. I used the previous week,
15 mostly when it wasn't raining, and went door-to-door and
16 handed out some of the Staff Reports and some reduced copies
17 of the restoration plans that were the result of the HPC
18 meeting and the CDAC meetings, and the site plan, and anyone
19 who was home I was allowed as they had time to have
20 discussion. I spoke to about 13 different residences, and
21 not one of them said that they wanted multi-family. In fact,
22 they were consistent in saying that they didn't want single-
23 family, they felt it was appropriate, and that they actually
24 had strong feelings about it being anything but single-
25 family. Up to that point we were really open to hearing
whatever Staff wanted us to do and even your directions, and

1 my problem will be this if you direct me to go back to
2 multi-family, I think that we create a little bit of a
3 disconnect, because I know what it will look like in that
4 next meeting when I come back.

5 CHAIR TALESFORE: You know what it will look like
6 as far as what the houses are going to look like or the
7 room?

8 DENNIS LOWERY: Actually I do know what they'll
9 look like. We've spent four months working up every
10 conceivable option. But what I meant by that, and forgive me
11 for not being more concise, is that I know that I'll be
12 contending with the neighbors not wanting to see that
13 approved and with them appealing to you not to approve a
14 multi-family product, and so my concern is that if we go
15 back to the drawing board for the possibility of one more
16 unit, have we really served our own community over creating
17 single-families, which I think do provide a lot in this
18 neighborhood as a gateway.

19 CHAIR TALESFORE: All right, well thank you. I see
20 two hands. The first one was Commissioner Bourgeois followed
21 by Commissioner Sayoc.

22 COMMISSIONER BOURGEOIS: I just wanted to follow-
23 up on that. When you say you spoke to neighbors, did you
24 speak to the neighbors in the single-family homes or also in
25 the adjacent apartment complexes, and if you did, did you
speak to occupants or owners or both?

1 DENNIS LOWERY: Well I tried to be unbiased. I
2 went in both directions and as it got late I would always
3 stop, and so I would knock on doors. I did talk to single-
4 families. I sort of went both directions down University,
5 but I did not go very far into the multi-family, because the
6 tenants consistently began to say, "I'm just a tenant. I
7 don't own." I said, "That's okay. You live in Los Gatos.
8 Your opinion is still acceptable." But they thought single-
9 family made sense in some of the renters I spoke to, but for
10 that reason, it's true, I did not go down Towne Terrace into
11 that area.

12 CHAIR TALESFORE: Thank you very much for doing
13 the ones you did do. Commissioner Sayoc.

14 COMMISSIONER SAYOC: As you're designing your
15 multi-family unit, are you making any distinctions between
16 for-sale or for-rent or are you designing it with both in
17 mind?

18 DENNIS LOWERY: We have, just for your
19 information, designed multi-family. We spent a few months on
20 that. We've designed single-family. We've tried duplexes.
21 We've really designed almost any conceivable product on
22 here.

23 My focus has been for-sale units, simply because
24 when you get into a rental unit, it's very hard in the land
25 values in this valley, especially in Los Gatos, and the
construction costs, in the end to be able to rent something

1 that gives you more money than what you spent, and so for
2 that reason a for-sale product is most realistic, and
3 furthermore it allows people to sink roots into the
4 community, just like some of the comments we've heard
5 earlier.

6 So the single-families themselves, the designs are
7 not complete. What is before you tonight is the density and
8 the variance and the General Plan. We have to come back
9 before you, if you were to approve us, to get your approval
10 for the single-family designs. The existing residents, we
11 want to remain true to the architectural pedigree of the
12 house. That is more or less fixed. It has already been
13 reviewed by the Historical Preservation Committee and you
14 will not see much change to that unless somehow we're
15 directed to. Does that answer your question?

16 COMMISSIONER SAYOC: Yes. And final question, when
17 talking with neighbors, I heard concerns about noise and
18 parking and traffic when it comes to multi-family
19 residences. Any other concerns that you heard that were
20 specific why they wanted single-family versus those?
21 Anything you could add to that list?

22 DENNIS LOWERY: I don't have too much recollection
23 that they had a passionate perspective of why multi-family
24 is so different than single-family. I think it was in
25 general a basic statement that the University area is
single-family. You sort of expect these single-family

1 looking residences to continue the pattern. A multi-family,
2 without discussing it, obviously involves probably a single
3 structure, and in fact I can tell you all the ones we
4 designed that got close to the density were single
5 structure, and the mass of a single structure, as you try to
6 compartmentalize it to multiple units is simply different
7 than the smaller massing and the spacing and the open space
8 that is derived from single-family residences. And that's
9 why early on we figured out that the single-family product
10 we thought was the right product. Without the knowledge of
11 talking to the neighbors and without the advantage of that
12 we felt that this conclusion would be arrived at, and so
13 that's why we ask tonight that you see the wisdom in
14 considering a single-family product over a single structure
15 multi-family product.

16 CHAIR TALESFORE: Do we have any other questions
17 of this speaker? I don't see any, and we thank you for your
18 time. Okay, Commissioners, I'm going to close the public
19 hearing and open it to you for discussion and more questions
20 of Staff if you have them, and then hopefully for a motion.
21 Commissioner Bourgeois.

22 COMMISSIONER BOURGEOIS: I have some pretty strong
23 feelings on this so I'm going to go ahead and open up with
24 that. When I look at this property the two things that seem
25 most important to me are one, protecting an historic home
and protecting that continuity along University Avenue; and

1 the second thing that is really important is protecting the
2 zoning, protecting high density.

3 We have very few areas in town that are high
4 density, and if we look at our General Plan, we look at our
5 housing element, the first goal of our housing element says
6 to expand the housing opportunities for all economic
7 segments of the community to a variety of housing types and
8 sizes, including a mixture of ownership and rental
9 opportunities. I think if we switch this opportunity in
10 front of us to single-family homes, we are violating the
11 first goal of our housing element. So for those reasons I
12 think the Staff recommendation of accepting the zone and
13 General Plan change on Lot #1, and sending it back for the
14 rest of the lot, I think it hits the mark right on.

15 And one thing that hasn't been brought up is the
16 density. We may only be gaining the two units, but the
17 economic segment of our community that those units are
18 serving is vastly different, and I think that's very
19 important and I don't think that should be overlooked.

20 I'm going to go ahead and make a motion. I'm going
21 to move that the variance request be denied, because I think
22 whether you agree with me or not, I don't think we have the
23 grounds to grant the variance. To have three 5,000 square
24 foot lots you have to have 15,000 square feet and they don't
25 have it, so I don't see where we can make that variance. So
I recommend that we deny the variance request and that the

1 General Plan amendment and zone change be continued, and
2 that we direct the applicant to revise the proposal to
3 consist of a two-lot subdivision instead of a three-lot
4 subdivision, and that the General Plan amendment and zone
5 change would only apply to Lot #1. That's my motion.

6 CHAIR TALESFORE: We have a motion in front of us,
7 Commissioners, from Commissioner Bourgeois. Do we have a
8 second on this?

9 COMMISSIONER SAYOC: Actually I will be seconding
10 the motion, and I'd also like to share my thoughts on it.

11 I strongly, strongly believe in preserving the
12 home. I was on the Historic Preservation Committee last year
13 with the group that met with you, and we looked into the
14 home and its preservation and we also looked at its
15 reorientation. And to the speaker that talked about
16 maintaining that continuity along University Avenue, that
17 was extremely important to us, but what we had in front of
18 us was an excellent design that the applicant has provided
19 that showed a side elevation that was able emulate the front
20 elevation so that as you're going down University Avenue it
21 does not break up that façade, and so for that reason the
22 Historic Preservation Committee felt that a reorientation
23 was acceptable.

24 I do not believe that we have the findings for a
25 variance; for that reason I'm seconding this motion. I do
like the alternative that Staff has provided in preserving

1 the house, retaining Lot #1, doing the General Plan and
2 zoning amendment on that, and then retaining the General
3 Plan designation as it currently is to provide I guess a
4 multi-family residential.

5 I understand there's a lot of discussion about
6 single-family versus multi-family, and there's a lot of
7 strong feelings about that. People have feelings one way or
8 the other, but given our housing allocations, which I take
9 very seriously, I feel that this is the best alternative
10 before us tonight.

11 CHAIR TALESFORE: Commissioners, we do have a
12 motion and a second for that motion, and I see two hands up.
13 Commissioner O'Donnell and then Commissioner Kane.

14 COMMISSIONER O'DONNELL: I'm not going to be
15 supporting the motion. I believe we can make the finding. I
16 will grant you it is a close question, but the language is
17 because of special circumstances applicable to the property,
18 including size, shape, topography, location, and
19 surroundings, and I think this particular lot fits into its
20 size, its shape. It's a difficult lot to satisfy the zoning
21 or what we're proposing to do. I do believe that it is so
22 close to the correct footage that in interpreting this
23 language one can perhaps be a little more liberal than one
24 otherwise would be you were it not that close. So putting
25 those two things together, I think you can at least find the
variance.

1 Now speaking to Commissioner Bourgeois' position
2 and Commissioner Sayoc's position, I certainly agree with it
3 in principle. However I do think we're talking about
4 essentially one house here, and people can say well one
5 house is one house, and you can also say, as Commissioner
6 Bourgeois said, we're talking about a different market. The
7 difficulty I have is I think we should pay some attention to
8 the neighbors, and I do think a single multiple-dwelling
9 unit and somewhat of a box is not a good addition to this
10 neighborhood. I do think ABAG presents some real problems
11 for us. We're not going to solve it tonight by one extra
12 unit, or two extra units. And therefore if we can make the
13 variance, and I personally think we can, then I think if we
14 do pay some attention to the people who live there, that to
15 me in light of one, the 50' difference, two, the numbering
16 as we were talking about, if we were talking about five or
17 ten units, or some number, I don't know what it is, but this
18 is very, very close.

19 I think we have at least the latitude to do this.
20 I'm not saying it's right and I'm not saying that my
21 position on that would prevail, but I have a clear
22 conscience in saying that I oppose the motion for those
23 reasons and I do think we could go to the other side. So
24 that's what I wanted to say.

25 CHAIR TALESFORE: Okay, and then Commissioner Kane
followed by Commissioner Micciche.

1 COMMISSIONER KANE: I'm going to echo most of
2 Commissioner O'Donnell's sentiments. We can do it, and if we
3 did do it the consequence comes down to like perhaps one
4 unit. The special circumstances allowing us to do it, the
5 first I see is a the fact that we're off by 50', that's
6 0.33% of what's needed that's missing. What's missing is
7 0.33%. That to me is almost a foolish consistency given all
8 the other corners that we cut from time to time for less
9 special circumstances.

10 Preserving that old house, I have an attachment to
11 the argument because I remember in August these parties
12 weren't there. The architect was, but there were other
13 people in there, and they had jackhammers and shovels, they
14 were ready to go, that house was gone, and we saved it. And
15 we're not just saving it; we're also restoring it. It's
16 going to look better than ever when it's done. I'm sorry we
17 have to turn it, but I am convinced we have to turn it to
18 make the rest of the project work, otherwise I never would
19 have agreed to turn it.

20 Special circumstances, it's a transition project.
21 We go into the apartments in Town Terrace, they don't
22 exactly look like Bay View, but we transition into it by
23 having that old gem on the corner, presumably a fine house
24 next to it, and then another fine family house next to it,
25 and it slopes up, and then it blends with the apartments. I
don't think either we can ignore the neighborhood concerns.

1 This is certainly a variance we can make and I don't think
2 we're saving a great deal with respect to the housing
3 requirements if we go in a different direction.

4 In other words, if we go in this direction we end
5 up with three single-family homes. They look fine, they're
6 restored, they're preserved, there's the transition. Whereas
7 if we go the other way we end up with a box to preserve a
8 housing number. I think the payoff is with the first
9 solution, not with the second. I can't help but hope that
10 that that's somehow persuasive. I don't know that it's going
11 to be, but I won't be supporting the motion as stated.

12 CHAIR TALESFORE: Commissioner Micciche.

13 COMMISSIONER MICCICHE: I would have given odds
14 that I was going to go with the Planning recommendations
15 before I heard the evidence tonight and before it became
16 clear that the special circumstances here are starting to
17 become overwhelming to me, so I'm not going to support the
18 motion as I've heard it, and part of the reason is is that
19 A&S isn't part of this, but I'm envisioning as issue is mass
20 and scale, neighborhood compatibility, all the things we
21 always look at once the A&S hits us, and just looking ahead
22 I see that as an issue coming forth. I think, like
23 Commissioner O'Donnell, that we can find special
24 circumstances here to support the fact of going this way, so
25 I can't support the motion as stated.

CHAIR TALESFORE: Commissioner Bourgeois.

1 COMMISSIONER BOURGEOIS: I'd like to make one
2 comment. First of all, you keep calling the multi-family
3 unit a box. Well we don't have design. I mean you can do a
4 transition with a good design, so I think by saying we're
5 going to have this nice one-one-two transition, it's going
6 to be beautiful, or we get a box, I think it's a fallacy and
7 I think that's a misrepresentation of what could happen in a
8 design phase at A&S.

9 Second, I would like to hear what you guys think
10 the overwhelming evidence for making the variance is. I mean
11 it's a rectangle, and it's flat, and it's not 15,000 square
12 feet, so I'm having trouble understanding what it is that
13 allows you to feel like you can make that variance. So if
14 any one of you could just explain that a little bit more to
15 me, I'd appreciate that.

16 CHAIR TALESFORE: Who would like to jump in here?
17 And I would also like to hear if, Commissioner O'Donnell,
18 you had a special circumstance that you're thinking of, if
19 we could hear that.

20 COMMISSIONER O'DONNELL: I find it often a waste
21 of time to persuade the maker of the motion why his motion
22 is not correct, and nevertheless I have great respect for
23 the maker of the motion and I certainly don't say you're
24 wrong in your feeling here.

25 What I'm thinking off when I say the special
circumstance, and I'm not thinking of the special

1 circumstance being the saving of the house, because I don't
2 think under the statute that's what we have a right to look
3 at. I'm looking at simply the physical environment of the
4 lot, and to lay something out here, any way you look at this
5 particular lot you come up short, and you come up 50' short,
6 and I think it is because of the particular size and shape
7 of the lot, and when you look at that together with its
8 surroundings, which I tend to think are single-family, if
9 you weigh the size and shape of that lot and you balance it
10 against its surroundings, and again keeping 50' in mind, not
11 1,000', I think the strict application of the ordinance
12 would deprive this property of the privileges that are in
13 that neighborhood, i.e. there are lots less than 5,000
14 square feet.

15 So without trying to convince you that that is
16 mathematically a correct position, I think we don't have to
17 do that. I think it is a defensible position; it is one that
18 I personally, just as you find your language persuasive, I
19 find that persuasive.

20 COMMISSIONER BOURGEOIS: Thank you. That actually
21 clarifies things for me.

22 CHAIR TALESFORE: Does it? Thank you. I think I
23 will weigh in here right now. I honestly thought the
24 alternative that Staff was recommending, after reading this,
25 was well thought out, and I still do. However, listening to
the voice of the people today, and the 50', and realizing

1 that we could come up with a special circumstance has turned
2 me, and I think when I say the voice of the people I'm
3 talking about the voice of University, because first of all,
4 thank you to the applicant for really going door-to-door and
5 serving the neighborhood; that information was valuable. But
6 to hear the people who live there say, "I live there. I want
7 to be surrounded by more people like me," it says to me
8 community, and that is something that we're trying to
9 preserve and enhance in our town is community.

10 I thought the multi-unit sounded like a wonderful
11 idea, but in the end I'm probably going to not support the
12 motion, because it is one unit, and when we can have a
13 bigger voice for a community and maybe search for another
14 place for multi-unit and be creative with that, I will not
15 be supporting the motion. I liked the idea though in the
16 beginning. Commissioner Bourgeois.

17 COMMISSIONER BOURGEOIS: Before you call the
18 question, just keep in mind, going from multi-unit to
19 single-family, you're always going to have these arguments.
20 Going from something else to multi-high-density, it's not
21 going to happen in this Town. So as we chip away at this,
22 it's gone. I challenge anyone to find a place where we're
23 going to gain back high-density, so I'm just throwing that
24 out there as well, so just keep that in mind.

25 CHAIR TALESFORE: I appreciate that. Thank you. I
appreciate your passion for it. That being said, for us

1 then, we have a motion on the floor. All in favor, say aye.
2 And opposed, nay. And motion dies two in favor and four
3 against. So Commissioners, we'll need another motion.
4 Commissioner Kane.

5 COMMISSIONER KANE: I want to make this a proper
6 motion, so maybe the Town Attorney can guide me through what
7 is essentially a new motion that's not in front of us in the
8 papers that one...

9 DAN SIEGEL: It is in the papers if you turn to
10 page...

11 COMMISSIONER KANE: Oh, that's going to make it
12 easier.

13 RANDY TSUDA: Page seven, if you look at the
14 second paragraph, we gave you the alternative.

15 COMMISSIONER KANE: Thank you. That we approve the
16 variance and the subdivision applications subject to the
17 attached conditions in Exhibit #4. We make the required
18 findings and recommend that the Town Council approve the
19 General Plan amendment, determine that the zone change is
20 consistent with the General Plan, and recommend that the
21 Town Council approve the zone change, and back to point
22 number two, to approve the variance, because of the special
23 circumstances as stated by Commissioner O'Donnell and
24 myself.

25 I have one other piece that I'd like to offer to
this motion that I hope is acceptable. I'd also like to

1 retain the A&S. I want to look at our finished product on
2 this one. When the house is turned and the other two houses
3 are designed I'd like that to come back to us, even if it's
4 on a consent calendar, Mr. Tsuda, to move it along, that we
5 look at it, we say it's okay, boom, it's gone. But I'd like
6 to finish our work and tie the loop and seal the box, so I'd
7 like the A&S to come back here and have that be part of the
8 motion. Did I leave anything out? That's my motion.

9 COMMISSIONER MICCICHE: I'll second.

10 CHAIR TALESFORE: We have a motion to approve and
11 a second as well. Do we need to have that repeated,
12 Commissioners? Mr. Tsuda, would you like to?

13 RANDY TSUDA: Would you like it repeated?

14 CHAIR TALESFORE: I don't know. Commissioners, do
15 you? No, they don't need it repeated. Okay. Yes, Mr. Siegel.

16 DAN SIEGEL: Madam Chair, if I may? Just to make
17 it clear since this is a somewhere different situation than
18 usual. If you look at Exhibit #4, which are the conditions,
19 and you look specifically at Condition #5, just so there are
20 no surprises, that condition is that the variance approval
21 and subdivision approval shall be deemed null and void
22 without approval of the General Plan amendment and zone
23 change, and the reason that language is there is because the
24 City Council, not this commission, has the power to do that,
25 and as such, if the City Council were to choose not to
approve the General Plan amendment or the zone change, then

1 the subdivision and the variance that you may approve
2 tonight would be null and void, and I just want to make that
3 is explicit, because in the motion that's not explicit, but
4 it is a condition that is not always in a set of conditions
5 that you approve.

6 COMMISSIONER KANE: Thank you.

7 CHAIR TALESFORE: Okay, Commissioners, I don't
8 think we have any more discussion on this, do we? Okay, I'll
9 call the motion then. All in favor, say aye. And opposed,
10 nay. So the motion carries four, and two opposed. That's
11 Commissioner Sayoc and Commissioner Bourgeois. Thank you
12 very much and good luck.



TOWN OF LOS GATOS
PLANNING COMMISSION STAFF REPORT
Meeting Date: January 23, 2008

ITEM NO.: 1

PREPARED BY: Curtis Banks, AICP
Project Planner

APPLICATION NO.: General Plan Amendment GP-07-002
Zone Change Z-07-001
Variance Application V-07-144
Subdivision Application M-07-145

LOCATION: 506 University Avenue (southeast corner of University Avenue and Towne Terrace)

APPLICANT: Dennis Lowery, Capital Ventures

PROPERTY OWNER: Arnerich Revocable Trust

CONTACT PERSON: Dennis Lowery, Capital Ventures
(408) 202-3029

APPLICATION SUMMARY: Requesting approval to 1) amend the General Plan to Medium Density Residential (5-12 units per acre) from High Density Residential (12-20 units per acre), 2) rezone a parcel to R-1D from R-M:12-20, 3) a tentative map to create three parcels, 4) a variance to reduce the minimum lot size. APN 529-08-017

DEEMED COMPLETE: January 14, 2008

FINAL DATE TO TAKE ACTION: July 14, 2008 for the variance and subdivision application. The General Plan amendment and zone change applications are legislative acts and are not governed by the Permit Streamlining Act.

RECOMMENDATION: Deny the variance and continue the General Plan amendment, zone change and subdivision applications and modify the proposal as detailed in the staff report.

PROJECT DATA:	General Plan Designation:	High Density Residential
	Zoning Designation:	R-M:12 – 20 units per acre
	Applicable Plans & Standards:	N/A
	Parcel Size: sq. ft.	14,948 square feet

Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Multi-Family	High Density	R-M
East	Multi-Family	High Density	R-M
South	Single Family	Medium Density	R-1D
West	Single Family	Medium Density	R-1D

CEQA: It has been determined that this project could not have a significant effect on the environment, the project is not subject to the California Environmental Quality Act (Section 15601).

FINDINGS: Make the required findings as required by Section 29.20.170 of the Town Code denying the variance

ACTION: The variance and subdivision applications are final unless appealed. The General Plan and zone change are a recommendation to Town Council

EXHIBITS:

1. Location Map
2. Required findings for denial (1 page)
3. Required findings for approval (2 pages)
4. Recommended conditions of approval for M-07-145 (8 pages)
5. Draft Resolution approving the General Plan (2 pages)
6. Draft Ordinance approving the zoning amendment (2 pages)
7. Letter of Justification (1 page)
8. CDAC Minutes and Staff Report (without attachments) (5 pages)
9. GPC Minutes and Staff Report (without attachments) (5 pages)
10. Development Plans (2 pages)

PROJECT DESCRIPTION:

The applicant has submitted a proposal to refurbish the existing home and construct two new single family homes. The project contains the following components:

1. A General Plan amendment from Multi-Family Residential (12 - 20 du/ac) to Medium Density Residential (5 -12 du/ac).
2. A zoning change from Multi-Family Residential (12 - 20 du/ac) to R-1D (Single Family Residential Downtown).
3. A parcel map to create three lots.
4. A variance to allow one of the lots to be less than the 5,000 square feet as required in the proposed R-1D zone.

BACKGROUND:

The project site is located at the southeast corner of University Avenue and Towne Terrace. The site is zoned RM-12:20, which are the same as the properties to the north and east. The properties to the south and west are zoned R-1D. The subject property serves as a transition between the two zoning districts.

The property is developed with a pre-1941 single family home, detached garage and a storage building. The existing structures and site are legal non-conforming with respect to setbacks. In 2006, the Historic Preservation Committee (HPC) reviewed a preliminary request to demolish the home. The HPC felt the house was architecturally significant and appeared repairable. Based on the information provided, the HPC indicated they would not support demolition of the home.

The applicant has submitted a proposal to refurbish the existing home and construct two new single family homes. One of the proposed lots is less than the 5,000 square foot minimum lot size. The applicant is proposing to rotate the historic home to place the front entrance on Towne Terrace. New fencing would be provided along University Avenue. The approvals required to rotate the home can be approved at staff level and are not part of the request before the Planning Commission.

The Conceptual Development Advisory Committee (CDAC) reviewed the proposal on May 9, 2007. The Committee supported the proposal. Committee members felt the change in the General Plan and Zoning created a logical transition between the single family homes on University Avenue and the multi-family development on Town Terrace. They also noted that retaining the pre-1941 home created the necessity for the variance, which they also supported. Several committee members wanted input from the Historic Preservation Committee (HPC) regarding the reorientation of the pre-1941 home (Exhibit 8).

The HPC reviewed the project on August 15, 2007. The Committee supported the applicant's request to reorient the home and their proposal for fencing along University Avenue.

The GPC reviewed the project on September 26, 2007. Committee member Bourgeois commented that there is a lack of owner-occupied affordable housing and did not support reducing the density on this site. Committee member O'Donnell was concerned about the loss of an opportunity for relatively affordable housing. He also noted that the applicant has proceeded in conformance with direction provided by CDAC and was reluctant to recommend a different approach. While the variance for lot size requested by the applicant was not part of the GPC's review, staff noted there were no special circumstances associated with lot configuration or topography that are normally required to grant a variance. The Committee voted 5-1 (Bourgeois opposed) to recommend approval of the General Plan and Zone Change (Exhibit 9).

January 23, 2008

ANALYSIS:

A. General Plan Amendment and Zone Change

The General Plan designation for the site is Multi-Family Residential 12 - 20 du/ac. The zoning designation of the site is Multi-Family Residential 12 - 20 du/ac.

To implement the project as proposed requires a General Plan Amendment and Zone Change. This property is the transition between the single family and multi-family designations. All the properties along Town Terrace are zoned RM 12 – 20 du/ac. However, as discussed in the background section, there is a pre-1941 home on the site that the HPC has denied a previous request to demolish. Given the desire to retain the home, development of the site requires creativity.

This site is one of the few areas in Town zoned for high density residential. The Town is generally hesitant to reduce the density of sites because doing so could hinder the Town's ability to meet its regional housing requirement. The Land Use and Housing Elements contain policies that the Town should maintain its capacity to meet its housing needs as identified in the Housing Element. Typically, that requires identifying a site to replace the housing opportunity being lost due to the reduction in density. In this case, the impact may not be significant, since the project will only result in one less housing unit than could be developed under the existing zoning.

As discussed below, staff does not support the variance application and as such cannot support the General Plan Amendment and Zone Change as proposed. In the alternatives section, staff discusses a proposal that would amend the General Plan and Zoning for the corner lot to preserve the pre-1941 home and would retain the existing General Plan and Zoning on the remainder of the site. However, should the Commission find merit with the applicant's proposal, staff has included the necessary findings and conditions for approval.

B. Parcel Map and Variance

The applicant is proposing to subdivide the lot into three single-family parcels. The proposed zoning for the site is R-1D. Lots in this zone are required to be a minimum of 5,000 square feet. To create three lots a total lot size of 15,000 square feet is necessary. The subject lot is approximately 14,948 square feet.

As shown on the proposal site plan (Exhibit 10), lot one would be 5,182 square feet, lot two is 5,083 square feet and lot three is 4,683 square feet. Lot three requires a variance to be less than 5,000 square-foot minimum as required in the R-1D zoning district. Lot one is larger to provide conforming setbacks for the existing home. The existing lot would need to be approximately 15,200 square feet to allow the lot to be subdivided without variances. Variances from the provisions of the zoning code may be granted upon a finding of fact that, owing to special conditions, enforcement of the provisions of this chapter would result in

January 23, 2008

undue hardship. The Town Code states that the deciding body, on the basis of the 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.

The applicant and CDAC members felt the preservation of the pre-1941 home justifies the variance for the reduced lot size. However, the Town Attorney and planning staff cannot recommend making the necessary variance findings based on preservation of the existing home. The findings, which are mandated by the State, require special circumstances related to the size, shape or topography of the site. This lot does not have the required 15,000 square feet necessary to create three conforming lots. If the home was demolished, there would still not be sufficient lot area to create three conforming lots.

The next section describes a development alternative that retains the pre-1941 home.

C. Alternative

Staff recommends the following alternative to the applicant's proposal:

1. Retain lot one at the corner of University Avenue and Town Terrace as proposed by the applicant. The parcel would be approximately 5,182 square feet and would include the existing historic home.
2. Amend the General Plan designation for lot one from Multi-Family Residential 12 - 20 du/ac to Medium Density Residential 5 -12 du/ac.
3. Change the Zoning designation from Multi-Family Residential 12 - 20 du/ac to R-1D (Single Family Residential Downtown). This matches the General Plan and Zoning for the parcels to the south and west of the project site.
4. Retain the existing multi-family General Plan and Zoning designations on the remaining 9,766 square foot lot, which would allow a development of two to four units.

The combined total number of units under this scenario is three to five units. Although this could result in slightly less units than the existing zoning, it does retain the historic home. This proposal more closely follows the existing General Plan and Zoning of parcels in the immediate area. One impact of this proposal is it potentially requires the removal of more trees than would be necessary for the development of two new homes. The consulting arborist has reviewed a conceptual plan prepared by the applicant that retains the pre-1941 home and constructs four townhouse units along Towne Terrace.

There are 24 trees that are of regulated status and exposed to potential impacts by developing the subject site with multi-family project. The consulting architect concluded that four trees are worthy of retention; they include a coast redwood and cedar tree along the front of the site, a cedar tree in the middle of the site and a moderately-sized hackberry along the eastern edge of the site. All other trees appear insignificant and/or have weakened conditions that qualify them as suitable candidates for removal. Of those trees it appears that the cedar and in the front and the hackberry along the eastern edge could be preserved under this scenario. It is likely that the redwood in the front of the site and cedar in the middle of the property would need to be removed. Replacement trees would need to be provided to mitigate the loss of trees and also provide privacy screening for the properties to the rear of the site.

Should the Commission prefer this concept, staff recommends that the variance be denied and the application be continued and direct the applicant to revise the application to be consistent with the recommended development alternative.

GENERAL PLAN CONFORMANCE

A. Land Use Element:

1. L.P.1.8: In-fill projects shall be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures, and should blend rather than compete with the established character of the area.
2. L.P.1.9: Preserve and protect historic structures including those that have been designated or are contributors in existing historic districts. Use special care in reviewing new buildings or remodels in the vicinity to address compatibility issues and potential impacts.
3. L.P.3.5: Assure that the type and intensity of land use shall be consistent with that of the immediate neighborhood.
4. L.P.4.2: New development should be a positive addition to the Town's environment and does not detract from the nature and character of appropriate nearby established development.
5. L.P.4.3: Maintain the character and identity of existing neighbourhoods. New construction remodels, and additions shall be compatible and blend with the existing neighbourhood.
6. L.P.4.5: The Town's should maintain its capacity to meet its housing needs as identified in the Housing Element.
7. L.P.4.6: The Town should preserve and protect historic structures and use special care in reviewing new buildings or remodels in their vicinity to address compatibility issues and potential impacts.
8. Policy L.I.4.11: Identify Alternative Sites to Meet Housing Needs: The Housing Element assumes that sites designated medium and high density residential will be developed at the upper end of the density range. Whenever the Town approves a development at a lower density on one of these sites, one or more other sites should be

January 23, 2008

identified to maintain the Town's capacity to meet its housing needs as identified in the Housing Element, subject to neighborhood compatibility and mitigation of traffic impacts.

9. CD.P.1.5: Avoid abrupt changes in scale and density.
10. CD.P.1.7: New structures, remodels, landscapes and hardscapes shall be designed to harmonize and blend with the scale and rhythm of the neighborhood and natural features in the area.
11. CD.P.1.8 states building elements shall be in proportion with those traditionally in the neighborhood.
12. CD.P.3.4: Encourage the preservation and restoration of historic sites, and structures and architecturally valuable structures.
13. CD.P.3.6: Renovations or remodels of historic structures shall be architecturally consistent and compatible with the original structure.

B. Housing Element:

1. Policy H.P.1.1: Continue to designate sufficient residentially zoned land at appropriate densities to provide adequate sites to meet Los Gatos' new construction need for 2002-2007.

ENVIRONMENTAL REVIEW:

It has been determined that this project could not possible have a significant effect on the environment, the project is not subject to the California Environmental Quality Act (Section 15601).


RECOMMENDATION:

Staff recommends that the variance request be denied and the General Plan Amendment and Zone Change be continued and direct the applicant to revise the proposal to consist of a two lot subdivision. The General Amendment and Zone Change would only apply to the corner parcel.

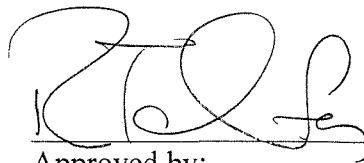
If the Planning Commission finds merit in recommending approval of the project as proposed, it should:

1. Make the required findings as required by Section 29.20.170 of the Town Code for granting variance (Exhibit 3); and
2. Approve the variance and subdivision applications subject to the attached condition (Exhibit 4); and
3. Make the required findings and recommend that the Town Council approve the General Plan Amendment (Exhibit 5); and
4. Determine that the Zone Change is consistent with the General Plan and recommend that the Town Council approve the Zone Change (Exhibit 6).

January 23, 2008



Prepared by:
Curtis Banks, AICP
Project Planner



Approved by:
Bud N. Lortz, AICP
Director of Community Development

RESOLUTION NO. _____

**RESOLUTION OF THE TOWN OF LOS GATOS
AMENDING THE GENERAL PLAN TO CHANGE THE
DESIGNATION TO MEDIUM DENSITY RESIDENTIAL (5-12 UNITS PER ACRE)
FROM HIGH DENSITY RESIDENTIAL (12-20 UNITS PER ACRE) FOR
PROPERTY AT 506 UNIVERSITY AVENUE**

WHEREAS, pursuant to Government Code Section 65353, the Town Council conducted a public hearing for consideration of amendments to the General Plan on _____, 2008.

WHEREAS, during this hearing, the Town Council considered the General Plan Amendment to change the land use designation to Medium Density Residential (5-12 units per acre) from High Density Residential (12-20 units per acre).

RESOLVED, the Town Council finds that (a) the proposed General Plan amendment is internally consistent with the existing goals and policies of the General Plan and its corresponding elements and (b) that all proceedings have been conducted in compliance with the provisions of Government Code Section 65350 et seq.

RESOLVED, the Town Council hereby changes the land use designation of the General Plan as shown on Exhibit A to Medium Density Residential (5-12 units per acre) from High Density Residential (12-20 units per acre).

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the _____ day of _____, 2008 by the following vote:

COUNCIL MEMBERS

AYES:

NAYES:

ABSTAIN:

ABSENT:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR
TOWN OF LOS GATOS LOS GATOS, CALIFORNIA
N:\DEV\RESOS\506 University.GPAmendment.doc



506 University Avenue

TOWN OF LOS GATOS

Application No. GP-07-002

A.P.N. # 529-07-017

Change of the general plan map amending the Town General Plan.

From: High Density Residential (12-20 units per acre)

To: Medium Density Residential (5-12 units per acre)

Recommended by Planning Commission

Date:

Approved by Town Council

Date:

Reso:

Town Clerk

Mayor

ORDINANCE

AN ORDINANCE OF THE TOWN OF LOS GATOS
AMENDING THE ZONING MAP FROM R-M 12 -20 TO R-1D
FOR PROPERTY LOCATED AT 506 UNIVERSITY AVENUE

THE TOWN COUNCIL OF THE TOWN OF LOS GATOS ORDAINS:

SECTION I

The Zoning Map of the Town is hereby amended as shown on Exhibit A.

SECTION II

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on , 2008, and adopted by the following vote as an ordinance of the Town of Los Gatos at a meeting of the Town Council of the Town of Los Gatos on , 2008. This ordinance takes effect 30 days after it is adopted.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR
TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

NADEV\ORDS\506 UNIVERSITY ZONECHANGEORD.DOC



506 University Avenue

TOWN OF LOS GATOS

Application No. Z-07-001

A.P.N. # 529-07-017

Change of the zoning map amending the Town Zoning Ordinance.

 x Zone Change

 Prezoning

From: R-M: 12-20

To: R-1D

Recommended by Planning Commission

Approved by Town Council

Town Clerk

Date:

Mayor

Date:

Ord:

ATTACHMENT
CDAC APPLICATION

April 18, 2007

The project before you is proposed as a rezoning of the existing parcel.

The Parcel is currently zoned R-M (Multi-family residential zone) and is contiguous to R-1D zoning (single family residential zone) and therefore we propose to rezone the parcel to the R-1D zoning for the purpose of mapping the parcel to yield a total of three residential units.

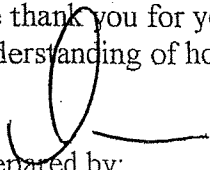
The site currently supports one (1) single family residence, which was constructed between 1930-1940 and is identified as a Mediterranean Revival. The project proposes the restoration of the existing residence as well as the construction of two (2) new single family residences. We propose that the development reorient the exiting residence to a new frontage on Town Terrace. In doing so, this will correct the side yard legal non-conforming status and support the mapping of the two additional lots which would also frontage Town Terrace. The proposed layout submitted shows the above concept.

The concept plan is capable of conforming to the R-1D zoning with the exception that one of the proposed lots (Lot 3) would require a variance, since its site area would be less than 5000 sf.

We believe the reorienting and restoration of the existing single-family residence and construction of two new single family residences, in lieu of a multifamily development (duplex), will be a beneficial transition and a complement to carry the urban pattern along University and around the corner to Town Terrace.

The new residences are proposed to be for-sale units.

We thank you for your time and consideration. Your comments will assist our best understanding of how we should proceed.


Prepared by:
Dennis Lowery
Capital Ventures

504 University Ave.
Los Gatos, CA 95032
January 21, 2008

To: ~~The General Planning Commission~~ The Planning Commission *JM* RECEIVED

Re: 506 University Ave., Los Gatos

JAN 22 2007

TOWN OF LOS GATOS
PLANNING DIVISION

We, the Keffer family, have lived at 504 University Ave., next door to 506, for the past 9 years (as of February, 2008). When we bought the house in 1999, we were not made aware that 506 was zoned for multiple housing. When we found this out later, we were very concerned. We bought a single family house, surrounded by other single family houses on all sides and across the street. We had no reason to suspect that the lots were anything but zoned for single family homes. We really desire to keep the neighborhood feel of single family homes on our block.

Shortly after finding out from the neighbors' daughter that 506 is zoned for multiple housing, I called Budd Lortz at the Planning Commission and discussed my concerns. This was probably in 1999 or 2000. I kept notes from that telephone call. Mr. Lortz assured me at that time that the maximum number of units that the town of Los Gatos would allow would be 2 or 3 units. He said because the 506 lot is a corner lot, the town prefers low density, and that it would be desirable to move the entrance from University to Town Terrace, for parking purposes. Needless to say, we are concerned about the impact of quality of life imposed by having more than one house next door, as is the current situation.

For these reasons, we strongly support Mr. Dennis Lowery's proposal to put 3 single family homes on the lot, as opposed to higher density condos, duplexes, or apartments. Higher density would increase traffic even more, would increase noise, and impact the quality of life, as well as property values. Since there are already many apartments down on Towne Terrace, and further down on University, and there are often vacancy signs, it doesn't really appear that there is a need for more apartments, of duplexes, or condos. We like that Mr. Lowery is building single family houses to sell, as that will attract the types of families that desire long term stability and will make the neighborhood more desirable to stay in.

We also like that the current plans include preserving Paul and Bernice Atnerich's historical home. Paul was the original owner of the house, and he loved his home. He was a police officer for the town of Los Gatos and contributed a great deal to the community. It is fitting that his home be preserved as a tribute to him.

As this development is further planned, we do have concerns for our privacy, and hope that the Planning Commission will take privacy needs for both lots into account as they proceed.

Thank you for,your time and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Lois Morrison-Keffer".

Lois Morrison-Keffer, Ph.D.

A handwritten signature in cursive script that reads "Thomas A. Keffer".

Thomas A. Keffer

A handwritten signature in cursive script that reads "Jared Keffer".

Jared Keffer
(Fisher 7th grader)

Town of Los Gatos Planning Commission
110 East Main Street
Los Gatos, CA 95032

RECEIVED
at PC mtg
JAN 23 2007

TOWN OF LOS GATOS
PLANNING DIVISION

Re: General Plan Amendment GP-07-002

We live on University Avenue, one home away from the proposed development at 506 University Avenue.

We favor the development of the proposed single family homes, preservation of the existing home and the granting of the proposed variance on this parcel.

We do not feel that multi-unit development on this property is appropriate or desirable for the character of the neighborhood or the town.

This is why we feel the way we do:

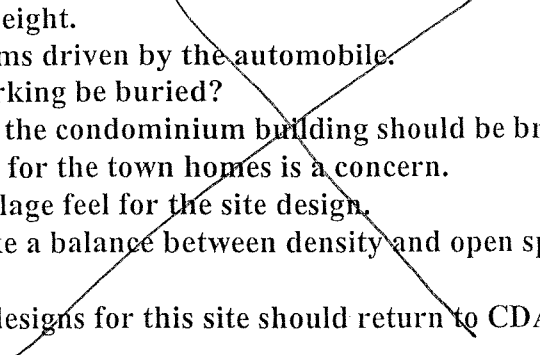
1. The plans for single family homes as submitted to the town appear to be attractive in scale and design and to generally conform with other designs recently approved and built in town.
2. As shown, the plans indicate an aesthetically pleasing visual transition from the other single family homes in the area to the high density buildings further down Town Terrace. These new single family residences would help to mitigate the more massive scale of the multi-unit development found on Town Terrace and would be a positive addition to the character and appearance of the neighborhood and the town.
3. The third single family home on the sub-minimum size lot appears to be scaled and placed on the lot in such a way as to allow for similar setbacks and yard area as the other two homes and, even at two stories, appears to be a complimentary to both the other two homes and to the existing structure to the east.
4. Granting the requested variance for a sub-minimum lot size for the third home seems like a positive move relative to the opportunity to preserve the current home on the parcel and the need to allocate a greater portion of the total lot to that preservation.
5. 506 University Ave. has always been a single family home property as developed and inquiries with the town in the past have elicited indications that this property would remain single family in fact, if not zoning, to preserve the character of the adjacent single family neighborhoods on University Avenue.
6. Multi-unit development on this parcel, if allowed, will have additional negative impact on traffic, parking and quality of life beyond the current negative impact that the existing adjacent multi-unit development has on University Avenue residents.

Given the possible outcomes for this parcel, the proposed group of three single family homes seems a very attractive opportunity for the town to have a positive impact on the stability and character of the town and the neighborhood while promoting the preservation of the current structure on the parcel.

Please also give some consideration to the potential for a pedestrian crossing of University Avenue at Town Terrace as part of this development effort, - if this is part of your purview. Such a crossing would be a positive benefit to the new residents of the development as well as current Town Terrace residents and could have a positive effect on the traffic attributes in this area.

Thank you,

The Iversen Family
500 University Avenue

- 
15. Reduce the height.
 16. Proposal seems driven by the automobile.
 17. Could all parking be buried?
 18. Roof lines of the condominium building should be broken up.
 19. Raised entry for the town homes is a concern.
 20. Provide a village feel for the site design.
 21. Need to strike a balance between density and open space to address quality of life issues.
 22. Any future designs for this site should return to CDAC and be the only item on the agenda.

ITEM 2: **506 University Avenue**
Conceptual Development CD-07-142

Requesting preliminary review to amend the general plan to Medium Density Residential (5-12 units per acre) from High Density Residential (12-20 units per acre), rezone a parcel to R-1D from R-M, and a tentative map to create three parcels. The proposal would retain the existing pre-1941 unit and create two additional units. APN 529-08-017.

PROPERTY OWNER: Anerich Revocable Trust

APPLICANT: Dennis Lowery, Capital Ventures

Comments:

1. Most committee members were supportive of the proposed General Plan and Zone change.
2. Members supported the reorientation of the pre-1941 home to face Towne Terrace. One member felt there was merit to the reorientation but wanted input from HPC.
3. It was suggested the design of the home immediately adjacent to the pre-1941 home locate the second story away from the historic home.
4. It was suggested that the garages for the two new units be detached.
5. Some Committee members expressed concern regarding potential fencing along the University Avenue frontage of the pre-1941 home. It was recommended that any fencing be low and compatible with the design of the home.
6. The design of the new home should be compatible with each other, but not matching.
7. There was support for the variance based on retention of the pre-1941 home.

ADJOURNMENT Meeting adjourned at 5:50 p.m. The next regular meeting of the Conceptual Development Advisory Committee is Wednesday, June 13, 2007.

Prepared by:

Randy Tsuda, Assistant Director of Community Development
cc: Planning Commission Chair
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MEMORANDUM

COMMUNITY DEVELOPMENT DEPARTMENT

To: Conceptual Development Advisory Committee

From: Bud N. Lortz, Director of Community Development *BL/AT*

Subject: 506 University Avenue
CDAC Meeting of May 9, 2007

Date: May 3, 2007

Background

The project site is located at the corner of University Avenue and Towne Terrace. The site is zoned RM-12:20, which is the same as the properties to the north and east. The properties to the south and west are R-1D. The subject property serves as a transition between the two zoning districts.

The property is developed with a pre-1941 single family home, detached garage and a storage building. The existing structures and site are legal non-conforming with respect to setbacks and density. In 2006, the Historic Preservation Committee (HPC) reviewed a preliminary request to demolish the home. The HPC felt the house was architecturally significant and appeared repairable. Based on the information provided, the HPC indicated they would not support demolition of the home.

Project Description

The applicant has submitted a proposal to refurbish the existing home and construct two new single family homes. The project contains the following components:

- Reorient the existing residence toward Town Terrace.
- A parcel map to create two additional lots on Town Terrace
- Amend the General Plan to Medium Density Residential 5 -12 du/ac from Multi-Family Residential 12 - 20 du/ac.
- Amend the Zoning to R-1D (Single Family Residential Downtown) from Multi-Family Residential 12 - 20 du/ac.
- A variance to allow one of the lots to be less than the 5,000 square feet as required in the proposed R-1D zone.

The applicant has submitted a conceptual site plan and elevations for this proposal (Attachment 1).

General Plan and Zoning Designation

The General Plan designation for the site Multi-Family Residential 12 - 20 du/ac. The zoning designation of the site is Multi-Family Residential 12 - 20 du/ac.

Existing Conditions/Use

1. The site contains .34 acres (15,000 square feet).
2. The site is located on the east side of University Avenue at the corner of University Avenue and Towne Terrace.
3. The site contains a single family home and two accessory structures.

Potential Issues

The following is a brief list of issues and topics for consideration by the CDAC to help frame the discussion and to solicit input.

1. Land Use:

To implement the project as proposed by the applicant requires a General Plan amendment and zone change. This site is one of the few areas in Town zoned for high density residential and staff has concerns about reducing areas designated for high density housing. Reducing the density could hinder the Town's ability to meet its regional housing requirement. The Town will receive its new housing allocation later this month.

Amending the General Plan and zoning of the site also raises issues regarding the transition between the R-1D and RM districts. This property is the transition between the single family and multi-family designations. All the properties along Town Terrace are zoned RM. However, as discussed in the background section, there is a pre-1941 home on the site that the HPC has denied a request to demolish. Given the desire to retain the home, development of the site requires creativity. In addition to the applicant's proposal, staff has developed some alternatives for consideration. The alternatives are described below:

1. Maintain the existing zoning and develop a multi-family development that includes the existing home. A condominium map could be filed allowing the units to be sold individually. This option would provide a transition between single-family homes on University Avenue and the multi-family projects on Towne Terrace.
2. Establish a 5,000 square-foot parcel at the corner of University Avenue and Town Terrace, which would contain the existing historic home, and amend the General Plan and zoning on this lot to single-family. The remaining 10,000 square-foot lot would retain the existing multi-family General Plan and zoning designations, which would allow a development of two to four units. The combined total number of units under this scenario are three to five units. Although this could result in slightly less units than the existing zoning, it does retain a historic home while not significantly impacting the Town's ability to meet its housing needs requirement.

2. Building Design/Lot Layout:

Staff has identified several issues for consideration by the CDAC:

- a. The proposed plan would introduce single-family homes onto Town Terrace, which is developed with multi-family projects. Contextually, the scale and design of the project would be significantly different than the existing development pattern in the neighborhood.
 - Does the proposal provide an appropriate transition to the multi-family neighborhood?
- b. The applicant is proposing to rotate the historic home to place the front entrance on Towne Terrace. Any modifications to the home require review and approval by the HPC. The home currently fronts toward University Avenue as do the other homes on the street, including the multi-family projects. Rotating the home changes the relationship of the home to the rest of the street. If the site is rezoned to R-1D, the setback along University Avenue would be reduced to ten feet from 15 feet and would not be consistent with the development pattern in the neighborhood.
 - Is it appropriate to move the front of the home from University Avenue to Towne Terrace?
- c. One of the three lots proposed by the applicant is approximately 4,900 square feet and would require a variance to be less than 5,000 square-foot minimum lot size required in the R-1D zoning district. Special circumstances must exist in order to approve a variance. This is a rectangular lot and staff does not find any unusual circumstances that would justify a variance to reduce the minimum lot size below 5,000 square feet.
 - Is the proposed variance to reduce the minimum lot size of one of the three lots appropriate?

4. Potential Impacts:

- a. The potential loss of a high density housing site.
- b. The scale and design of the project in relation to the existing development pattern in the neighborhood.
- c. Rotating the front of the home away from University Avenue to Towne Terrace.
- d. Modification to a historic home.

5. General Plan Goals/Policies:

Land Use Element:

- a. L.P.1.8: In-fill projects shall be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures, and should blend rather than compete with the established character of the area.
- b. L.P.1.9: Preserve and protect historic structures including those that have been designated or are contributors in existing historic districts. Use special care in reviewing

new buildings or remodels in the vicinity to address compatibility issues and potential impacts.

- c. L.P.3.5: Assure that the type and intensity of land use shall be consistent with that of the immediate neighborhood.
- d. L.P.4.2: New development should be a positive addition to the Town's environment and does not detract from the nature and character of appropriate nearby established development.
- e. L.P.4.3: Maintain the character and identity of existing neighborhoods. New construction remodels, and additions shall be compatible and blend with the existing neighborhood.
- f. L.P.4.5: The Town's should maintain its capacity to meet its housing needs as identified in the Housing Element.
- g. L.P.4.6: The Town should preserve and protect historic structures and use special care in reviewing new buildings or remodels in their vicinity to address compatibility issues and potential impacts.
- h. Policy L.I.4.11: Identify Alternative Sites to Meet Housing Needs: The Housing Element assumes that sites designated medium and high density residential will be developed at the upper end of the density range. Whenever the Town approves a development at a lower density on one of these sites, one or more other sites should be identified to maintain the Town's capacity to meet its housing needs as identified in the Housing Element, subject to neighborhood compatibility and mitigation of traffic impacts.
- i. CD.P.1.5: Avoid abrupt changes in scale and density.
- j. CD.P.1.7: New structures, remodels, landscapes and hardscapes shall be designed to harmonize and blend with the scale and rhythm of the neighborhood and natural features in the area.
- k. CD.P.1.8 states building elements shall be in proportion with those traditionally in the neighborhood.
- l. CD.P.3.4: Encourage the preservation and restoration of historic sites, and structures and architecturally valuable structures.
- m. CD.P.3.6: Renovations or remodels of historic structures shall be architecturally consistent and compatible with the original structure.

Housing Element:

- a. Policy H.P.1.1: Continue to designate sufficient residentially zoned land at appropriate densities to provide adequate sites to meet Los Gatos' new construction need for 2002-2007.

Attachments:

- 1. Letter of Justification
- 2. Zoning Map
- 3. Project Plans

cc: Dennis Lowery, Capital Ventures, 18122 Via Encantada, Los Gatos, CA 95030
Arnerich Revocable Trust, 506 University Avenue, Los Gatos, CA 95030

TOWN OF LOS GATOS
110 East Main Street, Los Gatos, CA 95030 (408) 354-6872

SUMMARY MINUTES OF A REGULAR MEETING OF THE GENERAL PLAN COMMITTEE OF THE TOWN OF LOS GATOS **SEPTEMBER 26, 2007** HELD IN THE TOWN COUNCIL CHAMBERS, CIVIC CENTER, 110 EAST MAIN STREET, LOS GATOS, CALIFORNIA.

The meeting was called to order at 5:30 pm by *Chair Jane Ogle*.

ATTENDANCE

Members present: *Joe Pirzynski, John Bourgeois, Tom O'Donnell, Marcia Jensen, Jane Ogle and Joanne Talesfore*

Members absent: *Barbara Cardillo, Barbara Spector and Margaret Smith*

Staff present: *Bud Lortz*, Community Development Director; *Randy Tsuda*, Assistant Community Development Director; *Curtis Banks*, Project Planner and *Sandy Baily*, Associate Planner.

ITEM 1 506 UNIVERSITY AVENUE

The applicant described the proposal. *Talesfore* commented that the proposal had been reviewed by CDAC and HPC. Both groups supported the applicant's concept and were pleased that the pre-1941 home was being saved. Commissioner *Bourgeois* asked if the applicant considered a multi-family project behind the existing home. The applicant discussed the options that had been considered and why three single family lots were proposed.

Lortz commented that while the variance for lot size requested by the applicant is not part of the review to be considered by the Committee, that there are no special circumstances associated with lot configuration or topography and staff cannot recommend the necessary findings to support the variance.

Bourgeois commented that there is a lack of owner occupied low income housing and did not like reducing the density on this site. *O'Donnell* was not concerned about the loss of one unit that could occur if a single family development is approved instead of a higher density project, but is concerned about the loss of the opportunity of a relatively affordable housing opportunity. He also noted that the applicant has proceeded in conformance with direction provided by CDAC and was reluctant to recommend a different approach.

Pirzynski expressed his support of the proposal.

Jenson moved and *Pirzynski* seconded to recommend approval of the General Plan Amendment and Zone Change. Support is based on the project resulting in one less housing unit than allowed by the existing General Plan and Zoning, the applicant retaining the existing pre-1941 home, and

the scale and design of the proposed units providing a logical transition from the single family homes along University Avenue to the multi-family developments along Towne Terrance.

Motion passed 5-1 (Bourgeois opposed).

ITEM 2 RESIDENTIAL DESIGN GUIDELINES

Lortz gave an overview.

- **Applicability**

The Committee accepted the wording prepared by staff for sloping lots outside of the Hillside Area.

Ogle expressed concern that the wording had a legalistic tone and she didn't want this carried over in the rest of the document.

- **Definition of Neighborhood**

The Committee accepted the paragraph insert prepared by staff with the change of the word "improved" to "altered" or "remodeled".

The Committee agreed that consideration should also be given to houses located to the rear.

- **Cellars**

The Committee concurred that the sentence recommended by staff should be inserted in the document. The Committee agreed that the cellar information would be lost in the bullets of the text and should be kept where it is in the document and added to the sidebar.

- **Sustainability**

Lortz stated that this issue will be dealt with further during the General Plan update process.

Pirzynski discussed the pros and cons of governing green building. Stated that the market is taking the lead on green building and sustainability. Was hesitant to impose a regulatory approach. Felt that the Town should promote green building, not mandate it. The product will need to be compatible with the structure, which will force companies to develop better products in the future.

Bourgeois felt this was true for big developers. However, in the interim, the average homeowner will need incentives to build green.



MEMORANDUM

COMMUNITY DEVELOPMENT DEPARTMENT

To: General Plan Committee

From: BNL
Bud N. Lortz, Director of Community Development

Subject: 506 University Avenue
General Plan Amendment GP-07-002
Zone Change Z-07-001
Variance Application V-07-144
Subdivision Application M-07-145
Architecture and Site Application S-07-186

Requesting approval to 1) amend the General Plan to Medium Density Residential (5-12 units per acre) from High Density Residential (12-20 units per acre), 2) rezone a parcel to R-1D from R-M:12-20, 3) a tentative map to create three parcels, 4) a variance to reduce the minimum lot size, and 5) relocate a pre-1941 single family residence on the parcel. APN 529-08-017
PROPERTY OWNER: Arnerich Revocable Trust
APPLICANT: Dennis Lowery, Capital Ventures

Date: September 20, 2007

Purpose

This project is before the GPC because the proposal includes a request to amend the general plan and zoning for the site. The GPC provides a recommendation regarding the proposed General Plan amendment and rezoning. For informational purposes, staff has included a discussion of the variance, site and architectural application and parcel map associated with the project, however, no GPC action on these applications is necessary.

Background

The project site is located at the corner of University Avenue and Towne Terrace. The site is zoned RM-12:20, which is the same as the properties to the north and east. The properties to the south and west are R-1D. The subject property serves as a transition between the two zoning districts.

The property is developed with a pre-1941 single family home, detached garage and a storage building. The existing structures and site are legal non-conforming with respect to setbacks and density. In 2006, the Historic Preservation Committee (HPC) reviewed a preliminary request to demolish the home. The HPC felt the house was architecturally significant and appeared repairable. Based on the information provided, the HPC indicated they would not support demolition of the home.

Project Description

The applicant has submitted a proposal to refurbish the existing home and construct two new single family homes. The project contains the following components:

- Reorient the existing residence toward Town Terrace.
- A parcel map to create two additional lots on Town Terrace
- Amend the General Plan from Multi-Family Residential 12 - 20 du/ac to Medium Density Residential 5 -12 du/ac.
- Amend the Zoning from Multi-Family Residential 12 - 20 du/ac to R-1D (Single Family Residential Downtown).
- A variance to allow one of the lots to be less than the 5,000 square feet as required in the proposed R-1D zone.

General Plan and Zoning Designation

The General Plan designation for the site Multi-Family Residential 12 - 20 du/ac. The zoning designation of the site is Multi-Family Residential 12 - 20 du/ac.

Existing Conditions/Use

1. The site contains .34 acres (15,000 square feet).
2. The site is located on the east side of University Avenue at the corner of University Avenue and Towne Terrace.
3. The site contains a single family home and two accessory structures.

CDAC

The Conceptual Development Advisory Committee (CDAC) reviewed the proposal at their meeting of May 9, 2007. The Committee supported the proposal. Committee members felt the change in the general plan and zoning created a logical transition between the single family homes on University Avenue and the multi-family development on Town Terrace. They also noted that retaining the pre-1941 home created the necessity for the variance, which they also supported. Several committee members wanted input from the Historic Preservation Committee (HPC) regarding the reorientation of the pre-1941 home.

Historic Preservation Committee

The HPC reviewed the project at their meeting of August 15, 2007. The Committee supported the applicant's request to reorient the home and their proposal for fencing along University Avenue.

Potential Issues

The following is a brief list of issues and topics for consideration by the GPC to help frame the discussion and to solicit input.

1. Land Use:

To implement the project as proposed by the applicant requires a General Plan amendment and zone change. This property is the transition between the single family and multi-family designations. All the properties along Town Terrace are zoned RM 12 – 20 du/ac. However, as discussed in the background section, there is a pre-1941 home on the site that the HPC has denied a request to demolish. Given the desire to retain the home, development of the site requires creativity.

This site is one of the few areas in Town zoned for high density residential. The Town is generally hesitant to reduce the density of sites because doing so could hinder the Town's ability to meet its regional housing requirement. The Land Use and Housing Elements contain policies that the Town should maintain its capacity to meet its housing needs as identified in the Housing Element. Typically, that requires identifying a site to replace the housing opportunity being lost due to the reduction in density. In this case, the impact may not be significant, since the project will only result in one less housing unit than could be developed under the existing zoning.

2. Building Design/Lot Layout:

The applicant is proposing to rotate the historic home to place the front entrance on Towne Terrace. The home currently fronts toward University Avenue as do the other homes on the street, including the multi-family projects. Any modifications to the home require review and approval by the HPC. If the site is rezoned to R-1D, the setback along University Avenue would be reduced to ten feet from 15 feet. The HPC has reviewed the proposal and has recommended approval to rotate the home and construction of a wall along the University Avenue frontage.

One of the three lots proposed by the applicant is approximately 4,800 square feet and would require a variance to be less than 5,000 square-foot minimum lot size required in the R-1D zoning district. The reduced lot size is necessary to provide conforming setbacks for the existing home and there is not sufficient lot area to provide three conforming lots. Variances from the provisions of the zoning code may be granted upon a finding of fact that, owing to special conditions, enforcement of the provisions of this chapter would result in undue hardship. The deciding body, on the basis of the evidence submitted at the hearing, may grant a variance if it finds that:

- a. 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
- b. 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.

CDAC members felt the preservation of the pre-1941 home justifies the variance for the reduced lot size.

reduced lot size.

3. Potential Impacts:

- a. The potential loss of a high density housing site.
- b. The scale and design of the project in relation to the existing development pattern in the neighborhood.
- c. Rotating the front of the home away from University Avenue to Towne Terrace.
- d. Modification to a historic home.

4. General Plan Goals/Policies:

Land Use Element:

- a. L.P.1.8: In-fill projects shall be designed in context with the neighborhood and surrounding zoning with respect to the existing scale and character of surrounding structures, and should blend rather than compete with the established character of the area.
- b. L.P.1.9: Preserve and protect historic structures including those that have been designated or are contributors in existing historic districts. Use special care in reviewing new buildings or remodels in the vicinity to address compatibility issues and potential impacts.
- c. L.P.3.5: Assure that the type and intensity of land use shall be consistent with that of the immediate neighborhood.
- d. L.P.4.2: New development should be a positive addition to the Town's environment and does not detract from the nature and character of appropriate nearby established development.
- e. L.P.4.3: Maintain the character and identity of existing neighborhoods. New construction remodels, and additions shall be compatible and blend with the existing neighborhood.
- f. L.P.4.5: The Town's should maintain its capacity to meet its housing needs as identified in the Housing Element.
- g. L.P.4.6: The Town should preserve and protect historic structures and use special care in reviewing new buildings or remodels in their vicinity to address compatibility issues and potential impacts.
- h. Policy L.I.4.11: Identify Alternative Sites to Meet Housing Needs: The Housing Element assumes that sites designated medium and high density residential will be developed at the upper end of the density range. Whenever the Town approves a development at a lower density on one of these sites, one or more other sites should be identified to maintain the Town's capacity to meet its housing needs as identified in the Housing Element, subject to neighborhood compatibility and mitigation of traffic impacts.
- i. CD.P.1.5: Avoid abrupt changes in scale and density.
- j. CD.P.1.7: New structures, remodels, landscapes and hardscapes shall be designed to harmonize and blend with the scale and rhythm of the neighborhood and natural features in the area.
- k. CD.P.1.8 states building elements shall be in proportion with those traditionally in the

neighborhood.

- l. CD.P.3.4: Encourage the preservation and restoration of historic sites, and structures and architecturally valuable structures.
- m. CD.P.3.6: Renovations or remodels of historic structures shall be architecturally consistent and compatible with the original structure.

Housing Element:

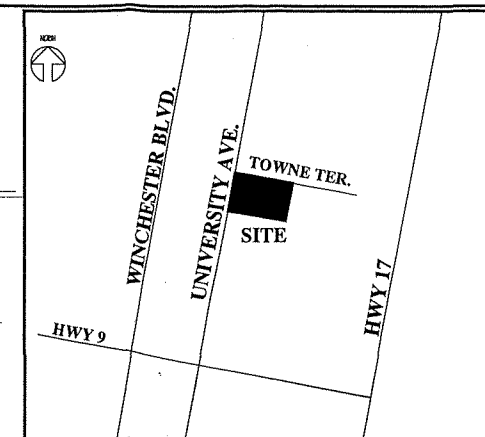
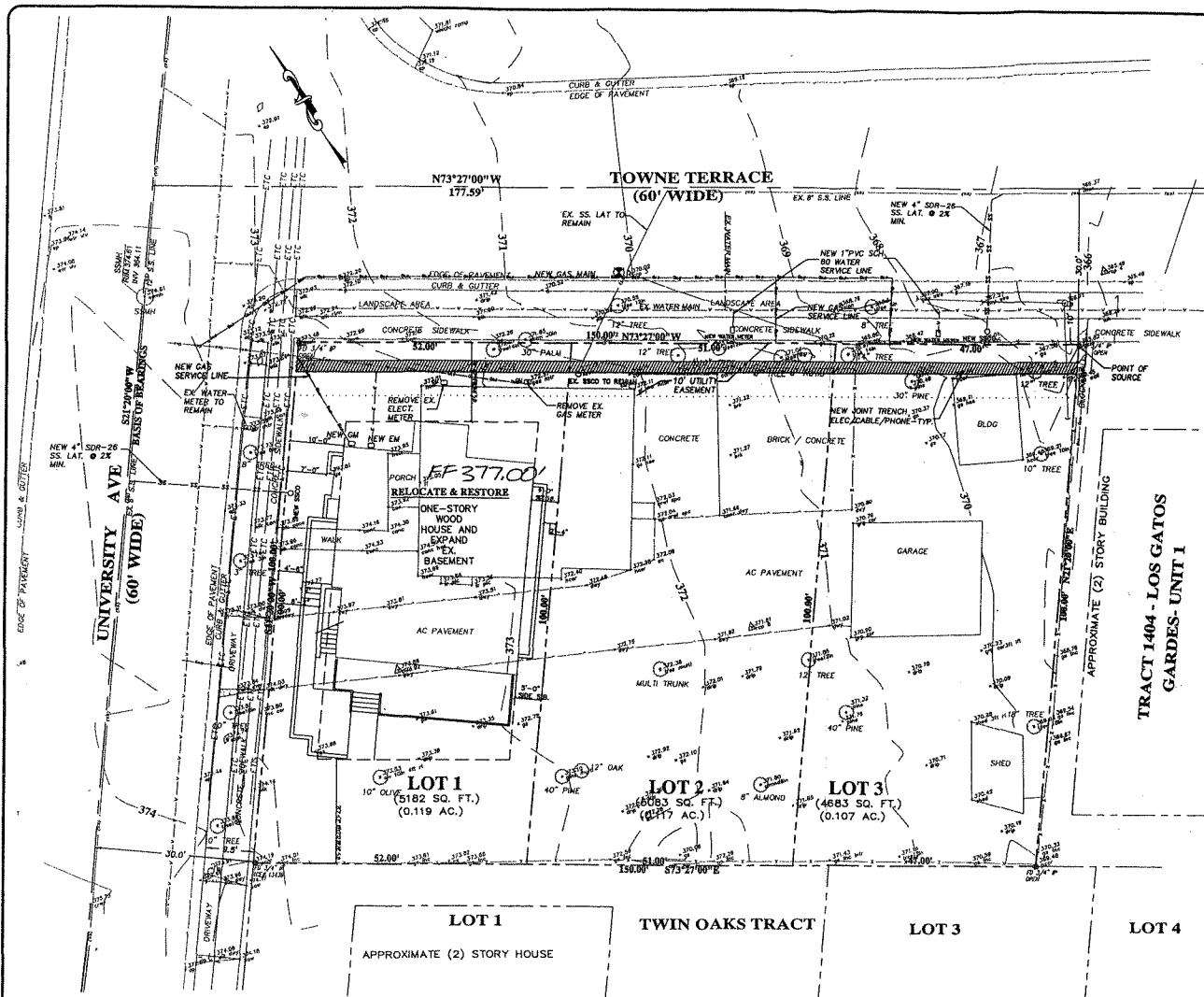
- a. Policy H.P.1.1: Continue to designate sufficient residentially zoned land at appropriate densities to provide adequate sites to meet Los Gatos' new construction need for 2002-2007.

Attachments:

1. Letter of Justification
2. Minutes from the CDAC meeting of May 9, 2007
3. Project Plans

cc: Dennis Lowery, Capital Ventures, 18122 Via Encantada, Los Gatos, CA 95030
Arnerich Revocable Trust, 506 University Avenue, Los Gatos, CA 95030

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VICINITY MAP
NTS

RECEIVED
JAN 14 2008
TOWN OF LOS GATOS
PLANNING DEPARTMENT

LEGEND

- SANITARY SEWER CLEANOUT
- SANITARY SEWER MANHOLE
- PACIFIC BELL MANHOLE
- ET— ELECTRIC AND TELEPHONE OVERHEAD UTILITY LINE
- X— FENCE LINE
- V— WATER VALVE
- M— WATER METER
- B— BOLLARD
- CB— CATCH BASIN
- SD— STORM DRAIN CATCH BASIN
- FH— FIRE HYDRANT
- JP— JOINT POLE
- GA— GUY ANCHOR
- T— TREE, SIZE AND TYPE AS NOTED
- G— GAS LINE
- W— WATER LINE
- C— CONCRETE
- GM— GAS METER
- Δ— SURVEY MONUMENT
- E— ELECTRODER

PRE DEVELOPMENT TECHNICAL INFORMATION

ASSESSOR'S PARCEL NUMBER: 529-08-017
ADDRESS OF PROJECT: 506 UNIVERSITY AVENUE, LOS GATOS, CA 95032
(E) ZONING: RM: 5-20 MULTI FAMILY RESIDENCE
PROPOSED ZONING: R-1
SIZE OF LOT: 14,948 SQ. FT. NET
AVERAGE SITE SLOPE: 4.8%

UTILITY PROVIDERS

COMCAST CABLE
P. G. & E.
SANTA CLARA VALLEY WATER DISTRICT
VERIZON TELEPHONE
WEST VALLEY SANITATION DISTRICT

BENCHMARK

BENCHMARK ID: BM1009
MARK TYPE: BRASS DISC
ORGANIZATION: SCVMD
ELEVATION(29): 367.87
STEEL ROD (1/4" DIA.) AT 500 UNIVERSITY AVENUE, AT INTERSECTION OF UNIVERSITY AVENUE AND HUBBEL WAY, 30 FEET WEST FROM FIRE HYDRANT, 20 FEET SOUTH FROM THE CENTER OF THE WAY, 22 FEET EAST OF THE CENTERLINE OF THE AVENUE, 7 FEET SOUTH FROM UTILITY POLE NUMBER 235. ACCESS TO THIS POINT IS THROUGH A 5 INCH LOGO CAP. CITY OF LOS GATOS.



ATTACHMENT 11

PROPOSED DEVELOPMENT
506 UNIVERSITY AVENUE
LOS GATOS, CA.
A.P.N. 529-08-017

TENTATIVE MAP

REVISIONS	BY
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	

JOB NO: 32807
DATE: 1-13-08
SCALE: 1" = 10'
DRAWN BY: NR
SHEET NO: 1

