



MEETING DATE: 04-7-08

AGENDA ITEM: 11

## COUNCIL AGENDA REPORT

DATE: March 5, 2008

TO: MAYOR AND TOWN COUNCIL

FROM: ORRY P. KORB, TOWN ATTORNEY *OK*

SUBJECT: 506 UNIVERSITY AVENUE APN: 529-08-017

- A. CONSIDER ADOPTION OF AN ORDINANCE TO RE-ZONE A PARCEL TO R-1D FROM RM:12-20 (ZONE CHANGE Z-07-001); or
- B. DECIDE WHETHER TO RECONSIDER PRIOR DECISION TO INTRODUCE AN ORDINANCE TO RE-ZONE A PARCEL TO R-1D FROM RM:12-20 AND APPROVE A CORRESPONDING GENERAL PLAN AMENDMENT

PROPERTY OWNER: ARNERICH REVOCABLE TRUST

APPLICANT: DENNIS LOWERY, CAPITAL VENTURES

### RECOMMENDATION:

Adopt an ordinance to re-zone a parcel to R-1D from RM:12-20 or decide whether to reconsider prior decisions to introduce the ordinance and approve the General Plan amendment.

### DISCUSSION:

On March 3, 2008, Council voted to introduce an ordinance amending the zoning effecting a zone change from RM-12:20 to R-1D at 506 University Avenue. Council also adopted a resolution to amend the General Plan to Medium Density Residential (5-12 units per acre) and directed the processing of a parcel map for a two lot subdivision. The lot adjacent to University Avenue would be re-zoned to R-1D while lot adjacent to Towne Terrace would remain RM-12:20. Council elected not to follow the recommendation of the Planning Commission and the applicant's desire to subdivide the parcel into three (3) lots, each being re-zoned to R-1D. The Ordinance introduced by Council is attached. (Attachment 1).

Also attached is a letter from the applicant requesting reconsideration for reasons explained

PREPARED BY: ORRY P. KORB, TOWN ATTORNEY

OPK:LMB/wp [N:\ATY\Reports\Report 506 University Ave.wpd]

Reviewed by:	<i>OK</i> Town Manager	<i>PSS</i> Assistant Town Manager	_____ Clerk
	_____ Finance	<i>RNL</i> Community Development	

Rev: 4/2/08 3:27 pm

Reformatted: 7/19/99

File# 301-05

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MAYOR AND TOWN COUNCIL  
SUBJECT: 506 UNIVERSITY AVENUE  
March 5, 2008

therein, and correspondence from members of the Keffer family, also requesting reconsideration. Council may choose to reconsider the decision rather than adopting the ordinance. To do so, a majority of the members of Council present must approve a motion to reconsider the prior decision to introduce the ordinance to re-zone the property and approve a General Plan amendment, both in a manner inconsistent with the application. Should a majority elect to reconsider the prior decision, a public hearing will be noticed for a future meeting of Council.

Attachment:

1. Introduced Ordinance
2. Letter from Dennis Lowery dated March 19, 2008.
3. Letter from Lois Morrison-Keffer, et al., with attachments.

**ORDINANCE 2159**

**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 March 3, 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 March , 2008. This ordinance takes effect 30 days after it is adopted.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

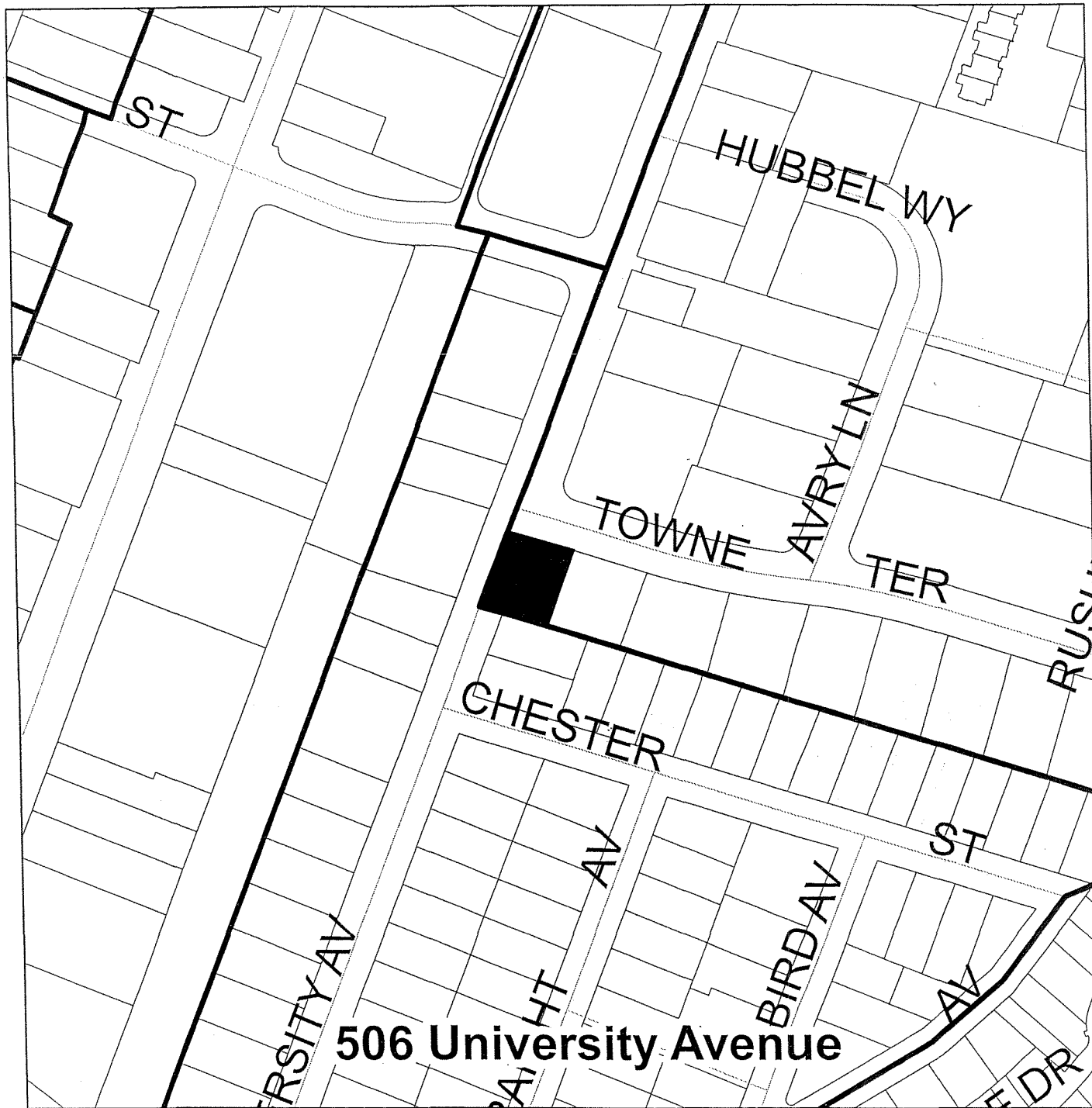
ABSTAIN:

SIGNED:

\_\_\_\_\_  
MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

ATTEST:

\_\_\_\_\_  
CLERK ADMINISTRATOR  
TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA



## TOWN OF LOS GATOS

Application No. Z-07-001

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

Change of zoning map amending the Town Zoning Ordinance.

☒ Zone Change

☐ Prezoning

From: R-M:12-20 To: R-1D



Forwarded by Planning Commission

Date:

Approved by Town Council

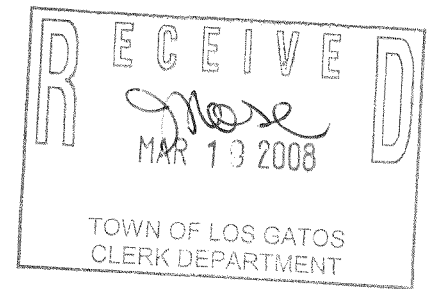
Date:

Ord:

Clerk Administrator

Mayor

DENNIS LOWERY  
18122 Via Encantada  
Monte Sereno, CA 95030  
(408) 202-3020



March 19, 2008

Mr. Orry Korb, Town Attorney  
Town of Los Gatos  
P. O. Box 949  
Los Gatos, CA 95031

**Re: Request for Reconsideration Concerning 506 University Avenue**

Dear Mr. Korb:

I am writing to formally request that the Town Council reconsider the denials as it relates to the general plan and zone changes for the remainder portion of the parcel at 506 University Avenue. I am requesting this reconsideration because, after the hearing was closed, there was inaccurate information provided to the Town Council that I believe was relied upon by some of the members in voting to deny the request. Since the hearing was closed and I did not have an opportunity to make corrections or comments to address the inaccurate information, I believe a reconsideration is proper and warranted.

Attached is a narrative discussing the history of this project, as well as all of the different entities of the Town of Los Gatos that had input prior to the application coming before the Town Council. Immediately following the history is a discussion of the information that addresses issues raised by the Council but not fully addressed at the hearing. The Council's stated rationale for denying the requests was to provide affordable rental units. I believe this document provides solid evidence that the constraints on the site preclude the construction of any rental units, much less any affordable rental units. The requirement that the existing house be preserved adds substantially to the cost of the project. Moreover, the small lot size for this project does not make it feasible to spread out those costs over many units. Ironically, despite the Council's stated intent, the analysis provided shows that even if a multi-family project is built, it will be far from affordable. More importantly, it is economically infeasible. The development cost would be so high that the rent required to make the project feasible would be far in excess of the highest rates currently being charged in the Town of Los Gatos. Thus, the Council's motivation for retaining the existing multi-family zoning and general plan designation of the property to allow for affordable, multi-family rental is factually and financially impossible. Provided with this analysis, it is my hope the Council will reconsider its

ATTACHMENT 2

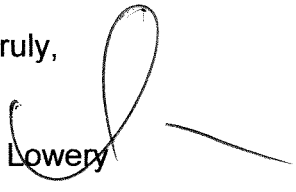
Mr. Orry Korb, Town Attorney  
Town of Los Gatos

March 19, 2008  
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decision since there is no way of developing the site into an affordable multi-family residential and retaining the existing house.

Please distribute this letter and the attached history and analysis to the Mayor and Town Council members. It is my understanding that this request for reconsideration will be placed on the April 7 meeting. I would request that this item be pulled from the consent calendar and set as a separate item on the Agenda so that I may ask the Council for a reconsideration.

Yours truly,

  
Dennis Lowery

Dennis Lowery

18122 Via Encantada, Monte Sereno, California 95030 T:408-202-3020 F:408-395-5382

Date: March 19, 2008

From: Dennis Lowery  
18122 Via Encantada  
Monte Sereno, CA 95030  
(408) 202-3020

To: Mayor Barbara Spector  
and Town Council Members  
Town of Los Gatos  
110 East Main Street  
Los Gatos, CA 95030

### **Request for Reconsideration**

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Dear Mayor Spector and Town Council Members:

I am requesting that the Los Gatos Town Council approve to reconsider its decision made at the March 3, 2008 public hearing regarding 506 University Avenue. That application for consideration was for a General Plan change (GP) #GP-07-002 and Zone Change (Z) #Z-07-001 and its affected impact to the related Planning Commission approval of Variance (#V-07-145) and Subdivision Map (#M-07-186) and its Architectural and Site applications (#S-07-186). I believe that there was some inaccurate information considered at the previous meeting which influenced some members' decision. The purpose of this letter is to request reconsideration and clarify and correct some of the information that was provided at the last meeting.

#### **Procedural History Before This Town Council**

##### **Original Application Request:**

The application as originally submitted had proposed changes to the entire parcel. The application had proposed the Town Council to approve a change to the General Plan and Zoning from current GP high density residential (12-20 units per acre) to proposed GP medium density residential (5-12 units per acre) and from current zoning RM: 12-20 (Multiple-family Residential zone) to proposed R-1 D (Single-family zone) over the entire land. This change would result in the legal and conforming land designations which would support the Planning Commissions Hearing approval decision of January 23, 2008 and previous approvals from three different committees (CDAC, HPC, and GPC). The Planning Commission

approved by a vote of 5:2 resulted in the approval of a three single-family residential parcel map and its required variances. Under this approval the pre-1941 home would be relocated to the new corner lot. The Town Council approval was necessary to complete the approval process and the Planning Commission voted to approve the recommendation and request that the Town Council approve the GP and Zoning changes as submitted.

**Staff Recommendation and Council Action:**

The Town Council had voted to approve the Staff's recommendation by a vote of 3:2; that is, the three votes to approve by Glickman, Wasserman and Mayor Spector and two votes to deny by McNutt and Pirzynski. The approval of Staff's recommendation resulted in the approval for high-density multi-family residential housing for the site to remain, by their opposing the application that had been submitted for the approval to yield three single-family residential home lots.

The Staff's proposal was effectively communicated in two parts. First, Staff proposed the Town Council **approve** a General Plan and Zone change for a portion of land (identified to be the portion of land at the corner of University and Town Terrace) in order to allow the existing pre-1941 single-family residential home to be moved and restored on that new lot. This GP and Zone change would in turn result in a legal and conforming structure and use for the proposed relocated and restored residence. Secondly, their motion recommended the **denial** of any changes to the GP or Zone to the remaining land. The remaining land would, as a result, be required to be developed as multi-family residential in lieu of single-family as proposed.

**Comments:**

It is with great respect that I request that the Los Gatos Town Council reconsider its decision. I believe that the information and comments below will allow the Council to understand information that was not discussed in the public hearing and some information that was relied upon inaccurately. The reason for this omitted or incorrect information may be due to the fact that the hearing was formally closed before some of the questions were asked or discussed. Unfortunately, some of the responses were inaccurate and the opportunity to make corrections or comments was not afforded. I will discuss information that was not provided and correct information that was unreliable. I hope that this information will result in the Town Council wanting to change their decision from approving the Staff's recommendations (to see the greater portion of land be developed as multi-family residential) to approving the application as submitted and as recommend for your approval by the Planning Commission.



### **Background and Project History**

I should first start with the historical process that has already been completed. This project began with trying to answer its biggest question – that question was to seek to understand how the site should be developed, single-family homes or multi-family residential.

#### **CDAC Meeting:**

This question of whether the site should be single-family or multi-family or some variation of both was the main goal of submitting to the Conceptual Development Advisory Committee (CDAC). In that meeting on **Wednesday May 9, 2007** many items were discussed. **The committee members were as follows; Pirzynski, Spector, Talesfore, Kane and Rice.** The Staff Report for that meeting was distributed to all. One of the first concerns and topics was the fact that this site was the transitioning parcel between the existing single-family homes along and around University Avenue and the existing multi-family residences down and along Town Terrace. Additionally, the point was discussed regarding the fact that there was the clear desire to keep and restore the existing pre-1941 residence. We also discussed the unanswered question of that time of whether the urban pattern of single-family homes, which is prevalent along the University corridor and the surrounding neighborhoods, should be promoted and how that might be accomplished.

The Staff Report for that meeting was well itemized and was clear on these topics for CDAC consideration. The Staff Report to the Los Gatos Town Council references the CDAC Potential Issues presented (page 2), its first concern of **“Land Use”**. The report states **“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...”** and, **“Given the desire to retain the home, development of the site requires creativity...”** and the Staff proposed option was included which recommended that 2-4 new units in addition to the restored single-family residence was considered (this is, of course, what was approved by your decision on March 3, 2008). All of these topics were raised and effectively discussed at the CDAC meeting. My question at that meeting was not for the CDAC to approve the single-family proposal but to provide direction as to how I should proceed. They provided their direction to proceed with a single-family

project. The result of that meeting is reported in the Town of Los Gatos Staff Report dated March 3, 2008 (page 2) which states, **“the Concept 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 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).”** This direction was accepted as the way to proceed with the project: Three single-family homes, with the pre-1941 home to be reoriented and restored as one of the three homes.

**Historical Preservation Committee:**

With the recommendation from the CDAC to go forward with three single-family homes, the project was then reviewed by the HCP on **August 15, 2007**. The result of that meeting is reported in the Staff Report to the Los Gatos Town Council dated March 3, 2008 (page 2) which states **“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.”**

With the CDAC and the HPC both directing the project to move forward with the three single-family homes and the reorientation and restoration of the pre-1941 home as receiving their recommendations for approval, the application then proceeded to the General Plan Committee.

**General Plan Committee (GPC):**

The GPC reviewed the project on **September 26, 2007**. The result of that meeting is reported in the Staff Report to the Los Gatos Town Council dated March 3, 2008 (page 2) which states **“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.”**

In this meeting two separate but very applicable comments were made. One by Committee member Bourgeois who did not want to support the reducing of the General Plan and Zoning densities on this site because of his concern over the lack of owner occupied affordable housing in Los Gatos. A second comment was

made by Committee member O'Donnell whose comment was more or less to the same point as the one made by Committee member Bourgeois with the exception that O' Donnell stated that he was reluctant to recommend a different approach since the applicant has proceeded with conformance to the CDAC recommendations. It was stated and noted after both these members' comments, that this project would not be required by any ordinance to provide affordable housing in any circumstance. This was due to the fact that the total number of housing units that the site could possibly yield would not require it (a high density four-plex unit development along with the existing reoriented and restored single-family home would result in a total of five (5) units or with the three single-family home development its total is of course three (3) units). The General Plan Committee then voted to recommend approval of the General Plan and Zone change, as quoted in the same Staff Report, **"The Committee voted 5:1 (Bourgeois opposed) to recommend approval of the General Plan and Zone Change (Exhibit 9)."**

**Applicant Project Design Reconsideration:**

Because of the comments from the GPC committee members, as the applicant, I decided that the project would be placed on hold to consider a redesign to the three single-family residential home directions that I had received. The project architect, Staff and I, as the applicant, meet to consider if a multi-family project could indeed be constructed to allow a multi-family unit project. These meetings were held from September 2007 to a conclusion in early January 2008. I, Mr. Randy Tsuda of Community Development and Mr. Curtis Banks, Project Planner, attended all of the meetings. In the initial meeting it was communicated by me that this project was committed to reorienting and restoring the pre-1941 home, especially with all of the supporting comments, approvals and recommendations for approval from both the CDAC and HPC. Staff agreed that this was an important component to be maintained. This requirement of restoring the existing home and the benefit to the site by the homes reorientation would result in a financial burden that would need to be absorbed into the project as an expense. This financial burden reality resulted in the fact that a typical 2-unit multi-family project (or duplex) would be very difficult, if not impossible, to build and keep the project from losing money. This was discussed in those meetings. The added expense to restore and move the home to allow the development of a multi-family project would result in an additional \$200,000+ of project costs (or \$100,000 additional cost to each unit).

A tri-plex would be more functional in underwriting that burden, but the increase from two units to three units would result in the project requiring a Podium parking structure (or underground parking structure) and again this would add even more costs to the project and subsequently making a tri-plex project more expensive than a duplex project (again the major concern is that the project would result in losses).

The final possibility of a four-unit multi-family project would allow the increased costs from the podium parking structure and the home relocation and restoration and other costs to be spread out over the four units, which could result in a viable and profitable project. (Although the requirement for major tree removal from the site and unresolved parking issues would now be a concern). The preliminary four-unit designs in our meetings, although still problematic, confirmed that a four-plex could be viable.

As a result, Staff suggested that a Tree Report be completed in order to confirm if more trees could be removed in order to fit the four-unit multi-family project. We complied with this direction and a Tree Report was completed. The Tree Report findings are loosely referenced in the March 3, 2008 Staff Report to Town Council (page 4, first paragraph after item # 4) which states "...**Staff did note in the Planning Commission report that this approach** (referring to the multi-family approach) **does require the removal of more trees than would be necessary for the development of two new homes.**" At this point in my meeting with Staff, Staff communicated that the project should be a three or four-unit multi-family project. The (1) additional trees that will be required to be removed, the (2) podium parking structure and (3) an inability to resolve the required parking necessary for compliance to the ordinance by two spaces, would have to be *accepted*. With the support of Staff to overcome these concerns, I then felt that I was again at a crossroads as to how to proceed. All of the formal meetings (CDAC, HPC and GPC) recommended and guided that the project should be three single-family residences, which would include the existing restored home as one of the three.

#### **Neighborhood meetings and interaction:**

With the concern of whether to proceed with a multi-family development at the direction of Staff and against all of the directions provided to me by the formal meetings with the committees, or whether to proceed with the single-family residential project in opposition to the Staff, I determined to interact with the neighbors to identify if they had an identifiable preference. I went door to door and discussed both alternatives. I was able to speak to 17 different homeowners and renters. I held an open house on Saturday, January 20, 2008 from 1:00 pm to

3:00 pm. Six individuals from the neighborhood attended. In all of my door-to-door interaction and in the open house all of the individuals (except one person who stated that they did not have a preference) expressed that they wanted or would expect that the three single-family homes would be the correct and preferred development for that site.

**Confirmed Direction:**

With this understanding I decided to follow the directions of the CDAC, HPC and GPC meetings and the neighbors and as a result, I informed Curtis Banks, Town of Los Gatos Project Planner, that I felt that I was required by the consistent feedback from the committees and the recent discussions with the neighbors to proceed against the Staff's recommendations and seek the Planning Commission's approval for the subdivision map for three single-family homes.

**Planning Commission Hearing:**

The Staff Report to the Town Council of March 3, 2008 states, **"the Planning Commission reviewed the proposal at its meeting of January 23, 2008. Several residences 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."**

At the completion of the Planning Commission hearing the project had followed and incorporated all of the Committees and Planning Commission recommendations, directions, and approvals that were asked. The neighbors had stated their input in wanting to see a single-family project and not a multi-family project and were in agreement with all of the Committees and the Planning Commission approvals as well. With all of this consistency it is difficult to understand why the Town Council would see things so differently, except that possibly the information that would persuade the Town Council to recognize the benefit in approving the application before them, was not clear.

### **Reasons Supporting a Reconsideration**

I have reviewed the many statements, questions, and comments from the Town Council at the March 3, 2008 meeting. It should be said that I am confident that the Mayor and all of the Council Persons are, of course, deeply committed to the welfare and betterment of the whole Town of Los Gatos. I can see your devout commitment to serve the citizens of Los Gatos. I must also state my great respect for Bud Lortz, Randy Tsuda and Curtis Banks. It was by their hard work and consistent efforts to progress this project that it has the level of progress and information that it has received. Even though I am asking for the Town Council's reconsideration, my request is not founded so much in the form of disagreement but the belief that information and clarification will allow the Town Council to be more informed and approve the project as submitted or to establish that the project as directed by Staff, will otherwise be brought back before the Town Council for their approval as a four-unit podium project with a parking variance and with the required tree removal approvals. The information that was not communicated in the Town Council meeting or unknowingly had been incorrectly communicated or relied upon should be corrected so that your direction can be based on complete information.

I submit the following for your reconsideration:

**(1) Duplex Rental.** Councilperson discussions had stated a wish to see "rental" or "low income rental" be preserved. I took these comments to mean that a high density project would or could result in low income rental or rental units. Although this question had never come up in any of the process, Committee or Commission discussions, it is a very appropriate request. In order to foresee an individual property to be utilized as a rental, the cost of such construction, land and other burdens (such as the cost to re-orient and restore an existing home) would be collectively added together to create the development cost. In simple terms this cost would then be the amount that the unit/s would cost. The monthly rental amount required to rent out such a unit would need to be equal to or more than the amount required to pay the bank the monthly payment for that unit's development.

We can further evaluate this by looking at a hypothetical multi-family duplex project. A duplex for example, would have a typical construction cost of \$300/sq ft (this would be for materials, labor, designs, planning process, permits, onsite and offsite improvements, utilities and their connections, taxes and fees.). If we propose a unit rental size of 1,000 sq.ft., then the individual unit cost would be \$300,000. If you then added to that the projected expense of \$100,000 as burden

(as discussed regarding the pre-1941 home restoration in the project before you) and also add an estimated minimum land cost of \$200,000 a unit (in reality land would typically be more but for illustrative purposes we will use this projection) you would find that in almost all scenarios the total unit cost would exceed \$600,000 (in the case of University, more). The bank loan for \$600,000 which is half of the duplex or one unit, based on the expense scenario above, at an 8% loan rate would require a monthly rental payment in excess of \$4,000 dollars a month for its half. Then consider that this amount would also need to include each unit's half portion of property tax, insurances, and typical maintenance and should also include a return on investment. As such the monthly rent would need to be closer to \$4,500. Currently, a 1,000 sq.ft. unit (2 bedroom/2 bath) would not rent for more than \$2,000 - \$3,000 per month. The scenario illustrated above based on the high range rental rate of \$3,000/month for each unit of a duplex would result in the duplex losing money at the rate of \$24,000 a year ( $\$1,500 \text{ monthly loss} \times 2 \text{ units} \times 12 \text{ months} = \$36,000$ ) to \$60,000 a year based on the two units at the lower rental rate of \$2,000/month ( $\$2,500 \text{ monthly loss} \times 2 \text{ units} \times 12 \text{ months} = \$60,000$ ). (see attached Duplex Rental Worksheet)

We can analyze this differently as well and value the duplex by an income basis. Based on the market rental rate of \$2,500 per month the duplex would have a simple value of \$750,000 based on an 8% cap rate (without taking into consideration property taxes, insurances, and typical maintenance which would reduce the value further). With the scenario above showing that such a duplex for rent would cost \$1,200,000 dollars or more to build and have an 8% cap rate value of \$750,000 based on the rental rates, a duplex for rent could not be a realistic proposal. The value of a duplex rental property would only increase as the rent market would go up. This reality would be true for a tri-plex and a four-plex as well. Rentals units will require the project to have the ability to reduce the original development costs. This is achieved typically by higher project densities which spread out costs over the number of units and by utilizing multi-story construction which can reduce construction costs further.

**Conclusion Statement:** This land with its small infill size and financial burden of restoration, whether zoned multi-family or single-family cannot yield rental units.

**(2) Preserving the Town's High Density Districts/Affordability.** Council member Glickman was the maker of the motion that was ultimately approved. Prior to the vote that approved that motion, Council member Glickman explained his motivation for his motion **"Retaining the rear most portion of that property zoned as multi-family, if I may editorialize a little bit, ... for the maker of the motions reason, and reason expressed by the Mayor, which are to preserve the affordability of that part of our housing stock in that area. That was the motivation for the motion."** This project can be a higher density development by building a tri-plex or four-plex in a multi-family zone but as noted this will require (1) a podium parking structure, (2) increased tree removal and the resulting cost of replacement (3) a variance and design alternatives to the required parking deficiency (4) the expense of moving and restoring the existing home, (5) additional cost of special insurance, and (6) increased cost for condominium construction over a podium. All of these elements result in the increased expense to the units and are not components that will result in providing affordability. A multi unit project is not sustainable as a rental and will need to be a for-sale product. The additional costs of restoration could be more effectively spread over the four units, but the added costs of "wrap" insurance (typical for condominium residential units) and podium parking, tree replacement mitigation, etc. will bring the sale price closer to or the same as a single-family home, but with less amenities (like private front and back yards and private garages). Realistically a for-sale duplex, tri-plex or four-plex would result in a living unit much less desirable than a single-family residence but costs will be very close to the same. Additionally, with the design concerns stated above, as well as the neighbor's preference, I did not see that the Town Council would really want to approve such a project. Affordability is not preserved or promoted by the maintained Multi-family zone on this project. A duplex could be proposed as a variation to two single-families, however unlike the single-families the duplex will require special construction and insurances as well. Again this would not be promoting affordability. A three unit single-family project, as approved by the Planning Commission would have only the costs to move and restore the existing home and the flexibility of three separate units to allow typical construction and flexibility in each units location for the preservation of the larger trees. Therefore, I submit that the three single-family unit project will provide the most modest opportunity for entry level home buyers and preserve the existing pre-1941 home along with the larger trees.

**Conclusion Statement: The retaining of the multi-family zoning will not provide for affordability. The opposite would actually be true. This is the case regardless of whether a duplex, tri-plex or four-plex is constructed.**



**In Closing**

**Process:** This project has submitted to every process provided by the Town of Los Gatos.

**Complied to Recommendations:** This project has complied with the recommendations of the CDAC, HPC, and GPC and received their approvals as well as the approval of the Planning Commission for three single-family homes.

**Preserve:** The three single-family home plan submitted will preserve and restore the pre-1941 home and minimize the removal of trees.

**Non-complying units:** When comments were made to question whether high-density should be preserved, all the time and money necessary was appropriately spent to try and secure such a plan. That plan, in spite of Staff's full attention, could not achieve a complying three or four unit multi-family project.

**Affordability:** Rentals, although necessary and appropriate, cannot be delivered. Affordable multi-family units cannot be achieved given the circumstances and needs of this site.

**Neighbors:** The surrounding neighbors have voiced their desire to see single-family homes built, not a podium single structure multi-family condominium project.

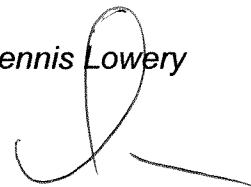
**Time and Money – Same Question:** I am at the end of this process and after a year of work and a large investment, I will close with the same question that I had started with, what do you want to see constructed on this site?

If you uphold your decision to find for a multi-family project then I will receive your direction and believe as stated by Bud Lortz - you can build a four-plex on this site. I will complete such a design and submit it for your approval.

But, if you want the **most affordable and livable residential** units that I believe are the best compliment to the neighborhood, I request that you reconsider your decision based on the information provided and approve the original application as recommended by your Planning Commission and as submitted.

*Thank you for your time and consideration.*

*Dennis Lowery*



Duplex Rental Worksheet

1,000 square foot Duplex Unit

Construction	1000 square feet x \$300/sq ft	= \$300,000
Burden	Restore pre-1941 house	= \$100,000
Land	Low estimate for LG	= \$200,000
Hard Cost		= \$600,000
Loan	on \$600,000 at 8%	= \$ 48,000
Interest only	\$48,000 divided by 12 months	= \$ 4,000*
Add Property tax, insurances, maintenance, and return on investment, etc.		= \$ 500
MONTHLY RENT REQUIRED		= \$ 4,500

\* Rental Cost for a 1,000 square foot (2bedroom/2bath) duplex would require a \$4,000/month payment. This **does not** include the return on investment, property tax, insurances, maintenance, etc. So, realistically the rent would be at least \$4,500.

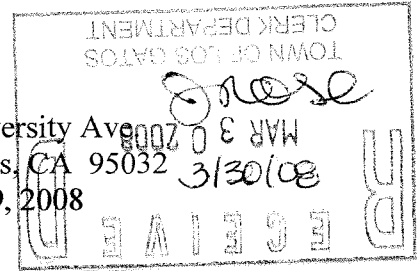
A 2bedroom/2 bath duplex rental ranges from \$2,000 - \$3,000 on the very high end.

Using the high rental rate of \$3,000/month versus the Required Rent of \$4,500/month, there is a \$1,500/month loss per unit.

\$1,500 unit loss x 2 units = \$3,000 monthly loss  
\$3,000 monthly unit loss x 12 months = \$36,000 annual loss

And this is the best-case scenario. As the actual rental rate of the unit is more in line with the market today, the losses increase significantly.

504 University Ave  
Los Gatos, CA 95032  
March 29, 2008



To: Mayor Spector and Town Council Members  
Re: 506 University Ave., Los Gatos

Dear Mayor Spector and Town Council Members:

My understanding is that the 506 University property might be discussed at the April 7<sup>th</sup> Town Council meeting. Unfortunately, I won't be able to attend due to a conflict. My husband, Tom Keffer, will be representing the family this time.

Thank you again for being willing to discuss this matter. I am attaching my prior letter and a few emails that were sent to members of the council, so you can follow without my repeating everything stated earlier, in this letter.

While I respect your position on maintaining the general plan of the town, since it is being changed to accommodate turning and renovating the original house of 506; to change the rest of the zoning on that lot would not be that much different than just rezoning part of it.

Having three single family homes on the lot maintains continuity with how that land has been used since the 1930's. It also improves the neighborhood to have more single family homes, and allows more middle income families to buy in Los Gatos. There are already too many apartments, and lots of vacancy signs continuously in the nine years we have lived here. There is no shortage of apartments.

Everyone I have spoken to in the neighborhood prefers single family homes on the lot. Several neighbors are elderly, and not everyone wants to get involved in town meetings. No one I have spoken to prefers keeping the lot high density.

We really urge you to reconsider your vote regarding 506 University.

Sincerely,

*Lois Morrison-Keffer*

Lois Morrison-Keffer, Ph.D.

*Thomas A. Keffer*

Thomas A. Keffer

Jared Keffer (7<sup>th</sup> grader)

*Jared Keffer*

attached: 2 pg. email dated 3/12/08  
1 pg. email dated 3/5/08  
1 pg. email dated 3/5/08  
2 pg. letter dated 2/27/08

ATTACHMENT 3

**Lois Morrison-Keffer**

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**From:** "Lois Morrison-Keffer" <l.morrisonkeffer@comcast.net>  
**To:** "Mike Wasserman" <mwasserman@losgatosca.gov>  
**Sent:** Wednesday, March 12, 2008 8:16 PM  
**Subject:** Re: reconsideration of 506 University

Hello Mike. Please feel free to call me Lois.

Thanks for replying in a timely manner.

Just a few comments.....

I believe Dennis Lowery has bid on the property contingent on being able to build the SFR's, and is not under obligation to continue. I could be wrong about that, but that's my understanding.

He may have known about the zoning when he bid on the property, but WE had no idea when we bought our home that 506 wasn't a SFR. We would not have purchased the property had we known. This impacts our quality of life directly, and our property values.

I have yet to talk to anyone who would be happy keeping the zoning high density, with the exception of the Council. No one nearby, in the area, wants it kept that way. Other SFR's on University also do not want it kept at high density, as some of my neighbors said at the hearing. More neighbors are planning to send letters.

People I have spoken to in apartments also do not think it should be kept at high density. There are plenty of apartments, they say, and we can see that with all the vacancy signs.

Sorry to belabor the point, but this is very important to the neighborhood. We want to see the neighborhood improve.

Best regards,  
 Lois

----- Original Message -----

**From:** Mike Wasserman  
**To:** Lois Morrison-Keffer  
**Sent:** Wednesday, March 12, 2008 9:44 AM  
**Subject:** Re: reconsideration of 506 University

Dear Mrs. Morrison-Keffer,

Thank you for the compliments in your prior email and for expressing your thoughts again re the 506 University property. I also appreciated hearing from the half dozen or so others for ~half an hour immediately following Monday's Council meeting (in the parking lot). That gave me more to think about and I've done some more research on the issue since then.

Preserving a mix of housing is important to a community and rarely do municipalities reduce their high density areas to SFR (single family residences). Yet, the Council majority vote showed 506 Univ. to have unique characteristics (historical and fronting University Ave.) and because of that Council did something very rare: converted some land from high density to SFR. I'm sure that greatly pleased all the other SFR's on University Avenue!

I also appreciate the history you provided of the 506 property in your most recent email. It was a single family home on high density property (as Mr.Lowery knew when he purchased it), yet because of our Historical Committee and Council vote, it has been subdivided and re-zoned, so it can remain a SFR and be sold separately if he so wishes.

I understand your desire for it all to become single family homes, and with one-third of our Los Gatos

3/30/2008

residents being renters, I'm sure others would have preferred we had left it all high density, but I think at the end of the day, the results are fair and reasonable and logical -- with a SFR facing University, and high density behind it as zoned in the General Plan.

Thank you again for expressing your thoughts....Mike W

>>> "Lois Morrison-Keffer" <l.morrisonkeffer@comcast.net> 3/11/2008 5:49 PM >>>  
Dear Madam Mayor and Town Council Members,

My name is Lois Morrison-Keffer and my husband, Tom Keffer, and our 13 year old son, Jared, live at 504 University, which is right next door to 506 University. Our north fence borders the 506 property along the entire length of our property.

Thank you for your attention to the zoning issue regarding 506 that was discussed at the last Town Council meeting on 3/3/08. Yesterday I briefly spoke with the developer, Dennis Lowery, and my understanding is that he is going to ask for a reconsideration to the decision that was made on 3/3/08. He explained to me that it is not financially viable to put rental properties on the property on 506, so he is presenting more evidence regarding this. In fact, one other developer, a friend of our neighbor's, already declined getting involved in this property for these reasons.

When we bought 504 University in February, 1999, 506 University was inhabited by the Arnerich family. Paul, the head of the family was the original owner of the house. He lived there until he passed away two years ago at the age of 97. The house on the other side of us, 500 University, at that time was inhabited by an elderly man who moved here from Latvia when he was 50 years old. He lived in the house until he passed away just three weeks shy of age 100. He always said, "Los Gatos is the best place to live in America." Now a family with two small children live at 500. You heard my neighbor, Erik Iverson, who lives at 500, speak at the hearing.

Behind us lives an elderly woman who is beginning to experience dementia. Across the street also are several residents who have lived for decades in their homes, most of them elderly as well. They do not have the wherewithal to come to Town Council meetings.

The homes that are turning over are being sold to families who want to stay long term and raise children in the neighborhood. Although University is expensive, it is not as expensive as some of the quieter streets in town. It affords a certain segment of the population to put down roots here, as the generation before us did.

This is the kind of stable neighborhood we moved into, and would like to maintain. We really want our home to be adjacent to single family homes. This is what we bought into. This is how we were raised, in stable small town neighborhoods, and this is how we want to raise our child.

Thank you again for your time and consideration.

With best regards,

Lois Morrison-Keffer, Ph.D.

**Lois Morrison-Keffer**

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**From:** "Lois Morrison-Keffer" <l.morrisonkeffer@comcast.net>  
**To:** <Dmccnutt@losgatosca.gov>; <Jpirzynski@losgatosca.gov>  
**Cc:** <Bspector@losgatosca.gov>; <Mwasserman@losgatosca.gov>; <Sglickman@losgatosca.gov>  
**Sent:** Wednesday, March 05, 2008 4:54 PM  
**Subject:** 506 University

Dear Ms. McNutt and Mr. Pirzynski,

Thank you very much for hearing the neighbors on this 506 University rezoning issue on Monday night. We appreciate being heard.

With best regards,

Lois Morrison-Keffer

3/5/2008

**Lois Morrison-Keffer**

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**From:** "Lois Morrison-Keffer" <l.morrisonkeffer@comcast.net>  
**To:** <Mwasserman@losgatosca.gov>  
**Cc:** <Bspector@losgatosca.gov>; <Sglickman@losgatosca.gov>; <Dmcnutt@losgatosca.gov>; <Jpirzynski@losgatosca.gov>; "Tom Keffer" <t.keffer@comcast.net>  
**Sent:** Wednesday, March 05, 2008 10:13 AM  
**Subject:** 506 University Avenue

Dear Mr. Wasserman,

Over the nine years my family has lived in Los Gatos, I have been aware of your contribution to our community by reading about you in the paper, and by seeing you at school functions at Daves Avenue School and at Fisher. I have been impressed with your positions and regard you as someone who supports the best interests of this community.

With all due respect, Monday night at the Town Council Meeting, I was very disappointed in your decision regarding 506 University Avenue. While I understand municipalities are under pressure to produce and sustain high density housing, in this particular situation, I believe there is very little, if anything, to be gained for the citizens of the community by keeping part of the lot high density, and much to be lost for the neighborhood on University Avenue. If, in fact, keeping part of 506 zoned as high density would create affordable housing that would make a significant difference to the community, that would be one thing. In this case, as Diane McNutt pointed out, having two smaller single family homes could provide housing for some families that cannot afford the larger homes in the town. If a duplex, or condominium project, or apartments are built, we are only looking at possibly one or two more units of housing at most. And this is in an area full of many rental vacancies. There are always vacancy signs in the area.

I would also like to point out that there are other high density areas in town, not just the one off of Towne Terrace. There are condos and apartments near Los Gatos Lodge, on Pollard Road, on Knowles, down the rest of the length of University, and interspersed throughout other parts of town.

The plans Dennis Lowery, the developer, and Sandra Paim, the architect have developed are being supported by the neighborhood. Given the fact that this lot will have to change from being the single home it is now, and has been for decades, those of us who are most effected by the change support their plans for single family homes. Those plans are also verbally supported by others in the neighborhood. Isn't it the government's job to represent the greater number of people who are impacted? We believe we are more important than a mandate for high density housing.

Those of us who spoke at the meeting on Monday are right on University, and are all families raising children. We want to have a community feel to the neighborhood with stable neighbors, not a neighborhood that is transient with people that come and go. My husband and I have lived in the Bay Area for 27 1/2 years, and we are finally happy to put down roots in the town of Los Gatos, where our son is getting an excellent education. Los Gatos still has a smaller town feel, like we grew up with in Massachusetts. We would like to see that township quality maintained.

I would ask that, if there is an appeal to this decision (and I understand Dennis Lowery is looking to respectfully make an appeal), that you please consider the people in the University neighborhood into account when you reconsider this decision. We agree with the Planning Commission's decision made on January 23, 2008. Their discussion on this matter highlights many of the pertinent issues.

With best regards,

Lois Morrison-Keffer

3/30/2008

504 University Ave.  
Los Gatos, CA 95032  
February 27, 2008

To: The Los Gatos Town Council  
Re: 506 University Ave., Los Gatos

We, the Keffer family, have lived at 504 University Ave., next door to 506, for the past 9 years. 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 both sides, behind us, and across the street. We had no reason to suspect that the lots near us 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 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, or duplexes, or condos. There is also a new office building with apartments for rent on the second floor, on the corner of University and Rt. 9. The rent sign is always up in front of that new building also.

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 Mr. Lowery's current plans include preserving Paul and Bernice Arnerich'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.

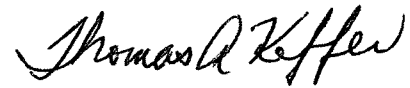


Thank you for your time and consideration.

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 7<sup>th</sup> grader)