



MEETING DATE: 12/15/08

ITEM NO: 17

## COUNCIL AGENDA REPORT

DATE: December 5, 2008

TO: MAYOR AND TOWN COUNCIL

FROM: GREG LARSON, TOWN MANAGER  
ORRY P. KORB, TOWN ATTORNEY

SUBJECT: ADOPT PLANNED DEVELOPMENT ORDINANCE MAKING A ZONE CHANGE FROM RM:5-12 TO RM:12-20:PD FOR A FIFTY-SIX LOT RESIDENTIAL SUBDIVISION TO CONVERT THE EXISTING APARTMENTS TO CONDOMINIUMS AT 347 MASSOL AVENUE (APN 510-14-004) (BAY TREE APARTMENTS)

### RECOMMENDATION:

1. Adopt the ordinance introduced by Council on June 16, 2008; or
2. Continue action on adoption; or
3. Direct the Town Attorney to re-introduce a revised ordinance.

### BACKGROUND:

On June 16, 2008, Council approved the General Plan amendment and introduced the Planned Development Ordinance (Attachment 1) approving a zone change to convert the existing Bay Tree Apartments to condominiums. Council had also requested that the applicant, Lyon Realty Advisors, present revised parking and relocation assistance plans prior to Council taking final action to adopt the approved Planned Development Ordinance.

On August 18, 2008, Council reviewed the revised parking and relocation assistance plans. At the public hearing for the second reading to adopt the approved Planned Development Ordinance questions were raised regarding these plans and Council requested that the applicant provide additional information.

Continued on page 2

PREPARED BY: BUD N. LORTZ  
COMMUNITY DEVELOPMENT DIRECTOR

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Reviewed by: \_\_\_\_\_ Town Manager *BSJ* *OK*  
\_\_\_\_\_ Clerk Administrator \_\_\_\_\_ Finance *JP* \_\_\_\_\_ Community Development

This report from the Town Manager and Town Attorney has been prepared for the second reading of the Planned Development Ordinance approving a zone change to convert the existing Bay Tree Apartments to condominiums. The Council approved the zone change because it would provide a unique opportunity for first time homebuyers, seniors and empty nesters to purchase multi-family housing in the downtown area. The Council was also concerned that the approval could be interpreted as setting precedent. All Planned Development projects are reviewed on their merits on a case by case basis so the approval does not set precedent. Nonetheless, the Council directed staff to include analysis and discussion on condominium conversion during the Housing Element update to determine the appropriate course of action and whether a condominium conversion ordinance should be developed. A condominium conversion ordinance has not been previously considered since the existing development standards and market conditions had not resulted in viable conversion applications prior to this one.

If the majority of the Council determines that the Planned Development Ordinance should not be adopted then the Ordinance would not move forward, the conversion would not be permitted, and no further action would be necessary. However, if the majority of the Council determines that the Planned Development Ordinance should be adopted then the conversion would be permitted.

#### DISCUSSION:

##### **Parking:**

The applicant has submitted a revised parking plan that includes 98 parking spaces (Attachment 6). This would allow the two bedroom units to be assigned two parking spaces and the one bedroom units to be assigned one parking space. The spaces are functional but some of them deviate from provisions of the Code in terms of depth, back-up distance, and tandem configuration. The applicant has provided a parking maneuverability study (Attachment 7) that illustrates parking space functionality using currently accepted industry standards for vehicle size and parking maneuverability.

Staff provided the latest parking plan to the Santa Clara County Fire Department. The Fire Department reviewed the parking plan and determined that proposed parking plan is acceptable (Attachment 12).

The applicant has also provided information regarding the number of vehicles that are owned by the current tenants (Attachment 9). At the time of the survey they were unable to obtain information for nine units. The total number of vehicles for the forty-seven units they were able to obtain information about is seventy vehicles. Therefore, given the proposed ninety-eight parking spaces there would be twenty-eight spaces available for the remaining nine units. Additionally, in an attempt to promote alternative means of transportation the applicant will provide two secured indoor bike rack areas, has contacted Zip Car to get information and will consider utilizing their service, and will consider installing charging capabilities for electric vehicles.

Additionally, the applicant provided information from other jurisdictions showing parking requirements for multi-family developments (Attachment 8).

Staff has prepared the following options for Council consideration for parking restrictions:

The CCR's shall include language clearly stating that the owner(s) of two bedroom units are permitted a maximum of two vehicles and owner(s) of the one bedroom units are permitted a maximum of one vehicle; and/or

A Deed Restriction shall be required for all units clearly stating that owner(s) of two bedroom units are permitted a maximum of two vehicles and owner(s) of one bedroom units are permitted a maximum of one vehicle; and/or

Refer the concept of including the Bay Tree portion of Massol Avenue in the Almond Grove Parking District to the Parking and Transportation Commission for discussion. Their recommendation would be forwarded to the Council for consideration.

If a Council member does not find the parking plan acceptable with any of the staff options suggested above, they should not vote to adopt the Planned Development Ordinance. Staff will respond to other concepts or conditions suggested by Council if requested.

**Relocation Assistance:**

The applicant has submitted a revised Resident Assistance Program (Attachment 10) which outlines the proposed assistance for existing tenants. The program now offers two levels of assistance which are described in Attachment 10. The most critical components of the plan involve five individuals/families that are Special Circumstance Seniors (SCS) and revisions to move persons who previously qualified for General Relocation Assistance into the Hardship Assistance category.

The applicant's proposal for SCS requires Council to provide direction to staff because amendments to the BMP Guidelines would be necessary. These units will provide the tenants of the five units which fall into the SCS category options to allow them to remain on-site until they voluntarily vacate their units. The Town Attorney has determined that an additional project condition may be required to protect the Town's long-term interest, while making five BMP units temporarily available to the five SCS. The Town Attorney will provide this additional condition language prior to the Council meeting, which may require a re-introduction of the PD ordinance.

Staff has prepared the following option for Council consideration for SCS tenant(s) who qualify for the BMP program and are interested in purchasing their unit:

- Direct staff to prepare amendments to the BMP Guidelines as outlined below that may allow the five units with SCS to continue to live at Bay Tree as owners:

Grant SCS who reside in the project extra ranking points to help them qualify to purchase Bay Tree BMP units (essentially create a first right of refusal opportunity).

Staff has prepared the following option for Council consideration for SCS tenant(s) who are interested in continuing to rent their units:

- Direct staff to prepare amendments to the BMP Guidelines as outlined below that will allow the five units with SCS to continue to live at Bay Tree as renters:

Require the applicant to delay the sale of any of the five units occupied by the SCS until they voluntarily vacate their units. The rent will be fixed at the rate the tenant(s) is currently paying with an annual increase consistent with cost of living (CPI). When the units are voluntarily vacated they will become part of the BMP program and sold in accordance with the BMP Guidelines.

The following outlines the latest revisions to the Resident Assistance Program:

- All residents that lived on the property prior to the Notice of Intent to Convert have been moved into the Hardship Assistance Category;
- Senior Households at 70 years or older regardless of move-in date have been moved into the Hardship Assistance Category;
- All single parents of children younger than eighteen at the time of relocation regardless of move-in date have been moved into the Hardship Assistance Category;
- Lyon will double the state required 180 day Notice of Intent to Convert to 360 days; and
- Residents with children under 18 will only be required to vacate during the summer months.

The applicant has also provided a timeline (Attachment 11) that estimates the earliest time frame for relocation would be January 2011. If a Council member does not find the revised Resident Assistance Program acceptable with any of the staff direction suggested above, they should not vote to adopt the ordinance. Staff will respond to other concepts or conditions suggested by Council if requested.

#### **Title 24:**

Staff also wanted to provide some additional background information regarding Title 24 compliance requirements. Condition #12 of the Planned Development Ordinance requires compliance with Title 24. The following is a list of typical Title 24 improvements:

- Exterior lighting (type and switching)
- Interior lighting (type and switching)
- Insulation upgrades

- Double pane windows
- Water heater upgrades
- HVAC system upgrades

It should be noted that these improvements are only triggered if modifications to or replacement of the proposed items above are proposed. Given the currently proposed modifications to the existing buildings, only the first two improvements listed above may be required to be completed. The applicant is willing to comply with the Title 24 requirements as required by Condition #12 of the Planned Development Ordinance. Additionally, the applicant has stated that they will install double pane windows in all the units. However, if the Council determines that additional Title 24 measures should be required, Condition #12 should be modified accordingly.

**Other items:**

Also attached is correspondence from Wilfrid Houde (Attachment 2), Mary Ellen Kaschub (Attachments 3 and 13), William Kaschub (Attachments 4 and 14), Egon Jensen (Attachment 15), James and Nortrud Raymond (Attachment 16), and Martha McGraw (Attachment 17) expressing their concerns with the proposed conversion of the Bay Tree Apartments to condominiums.

Additionally, an ad was placed in the Los Gatos Weekly Times which reiterated concerns that have been expressed during the processing of the proposed project. The following is a list of some of those issues with staff's input in italics:

Condominium Conversion Ordinance should be adopted prior to final action – *The Council directed staff to include analysis and discussion on condominium conversion during the Housing Element update. As a result of the requested analysis and discussion the appropriate course of action will be decided, which may include adoption of a Condominium Conversion Ordinance.*

Vacancy rate – *Questions have been raised regarding the existing vacancy rate and the necessity for a vacancy rate trigger which may preclude condominium conversions. The Town does not currently have a vacancy rate trigger for condominium conversions. The most current Census from 2000 showed a vacancy rate of 2.3% for rentals. The Town also cannot predict the vacancy rate for 2011 when these units will be marketed. During the discussion of condominium conversions during the Housing Element update, staff will research and provide direction on the best way to maintain up to date information regarding vacancy rates.*

Number of parking spaces and configuration – *The proposed number of parking spaces does not meet the current Town Code requirements. However, the Town Code allows the Council to reduce the required number of parking spaces in a Planned Development. The proposed tandem parking was also raised as a concern. The Town Code also allows the Council to*

*approve alternative parking configurations in a Planned Development and tandem parking has been approved by the Council in other Planned Developments and it has functioned successfully.*

*Below Market Price Units – The applicant is proposing to allow five Special Circumstance Seniors to remain on-site until they voluntarily vacate their units. These units will become BMP units when they voluntarily vacate the units. This provision will require the Council to modify the BMP Guidelines to allow this. At the previous Council meeting it was expressed that this concept was acceptable, pending further Council review and action.*

*Pending condominium conversions -- This is the only application for condominium conversion currently being processed in Town.*

Attachments:

1. Planned Development Ordinance (7 pages)
2. Correspondence dated September 5, 2008 from Wilfrid Houde (2 pages)
3. Correspondence dated October 6, 2008 from Mary Ellen Kaschub (3 pages)
4. Correspondence dated October 10, 2008 from William Kaschub (6 pages)
5. Post Hearing Follow Up from the applicant, received October 6, 2008 (8 pages)
6. Proposed Parking Plan, received August 6, 2008 (1 page)
7. Parking Maneuverability Study, received October 16, 2008 (4 pages)
8. Parking Requirements Matrix, received October 6, 2008 (1 page)
9. Vehicle Survey, received October 7, 2008 (2 pages)
10. Revised Resident Assistance Program, received October 6, 2008 (5 pages)
11. Timeline from applicant, received October 14, 2008 (1 page)
12. Letter from Santa Clara County Fire Department, dated November 13, 2008 (1 page)
13. Correspondence received December 11, 2008 from Mary Ellen Kaschub (2 pages)
14. Correspondence received December 11, 2008 from William Kaschub (2 pages)
15. Correspondence received December 9, 2008 from Egon Jensen (1 page)
16. Correspondence received December 11, 2008 from James and Nortrud Raymond (4 pages)
17. Correspondence received December 11, 2008 from Martha McGraw (1 page)

Distribution:

Lyon Realty Advisors, Attn: Ron Cole, 4901 Birch St., Newport Beach, CA 92660

**ORDINANCE OF THE TOWN OF LOS GATOS  
AMENDING THE TOWN CODE EFFECTING A ZONE CHANGE  
FROM RM:5-12 TO RM:12-20:PD FOR PROPERTY AT  
347 MASSOL AVENUE (APN 510-14-004)**

THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN AS  
FOLLOWS:

**SECTION I**

The Town Code of the Town of Los Gatos is hereby amended to change the zoning on property at 347 Massol Avenue (Santa Clara County Assessor Parcel Numbers 510-14-004) as shown on the map attached hereto as Exhibit A, and is part of this Ordinance, from RM:5-12 (Medium Density Residential, 5-12 dwelling units per acre) to RM:12-20:PD (High Density Residential, 12-20 dwelling units per acre, Planned Development).

**SECTION II**

The PD (Planned Development Overlay) zone established by this Ordinance authorizes the following construction and use of improvements:

1. Conversion of the existing fifty-six apartments to condominiums.
2. Parking lot modifications and other site improvements shown and required on the Official Development Plan.
3. Exterior façade improvements to the existing buildings.
4. Uses permitted are those specified in the underlying RM ( Multiple Family Residential) zone by Sections 29.40.610 (Permitted Uses) and 29.20.185 (Conditional Uses) of the Zoning Ordinance, as those sections exist at the time of the adoption of this Ordinance, or as they may be amended in the future, subject to any restrictions or other requirements specified elsewhere in this ordinance including, but not limited to, the Official Development Plan. However, no use listed in Section 29.20.185 is allowed unless specifically authorized by this Ordinance, or by Conditional Use Permit.

SECTION III  
COMPLIANCE WITH OTHER DEVELOPMENT STANDARDS

All provisions of the Town Code apply, except when the Official Development Plan specifically shows otherwise.

SECTION IV

A recorded final map and Architecture and Site approval are required before exterior modification and site improvement construction work is performed, whether or not a permit is required for the work and before any permit for construction is issued. Construction permits shall only be in a manner complying with Section 29.80.130 of the Town Code.

SECTION V

The attached Exhibit A (Map), and Exhibit B (Official Development Plans), are part of the Official Development Plan. The following conditions must be complied with before issuance of any grading, or construction permits:

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

*Planning Division*

1. APPROVAL: This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the plans approved and noted as Exhibit 8 of Attachment 2 of the report to the Town Council for the June 16, 2008 meeting and Attachment 7 (Revised Parking Plan) of the report to the Town Council for the August 18, 2008 meeting. Any changes or modifications made to the approved plans shall be approved by the Director of Community Development, Development Review Committee, Planning Commission or the Town Council, depending on the scope of the change(s).
2. TOWN INDEMNITY: Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement from the Town shall defend, indemnify, and hold harmless the Town and its officials in any action brought by a third party to overturn, set aside, or void the permit or entitlement. This requirement is a condition of approval of all such



permits and entitlements whether or not expressly set forth in the approval.

3. **BELOW MARKET PRICE (BMP) UNITS:** Eight (8) BMP units will be provided as part of the approved development plan per Town Code Section 29.10.3025 and 29.10.3030. The applicant shall meet with the Director of Community Services prior to the issuance of any permits or the recordation of the final subdivision map to commence the BMP process for the units. The BMP units shall be renovated by Lyon, at no cost to the Town or ultimate owner(s) or tenant(s), with the following upgrades: refinish the cabinets and counter tops; repaint the units; replace the carpet; replace the door knobs, faucets and other hardware; and install a washer and dryer.
4. **DEED RESTRICTION:** Prior to issuance of a building permit or recordation of the final subdivision map, a deed restriction shall be recorded by the applicant with the Santa Clara County Recorder's office, stating that the required BMP units must be sold as below market priced units pursuant to the Town's BMP Guidelines. The BMP Guidelines in effect at the time of the sale of the market rate units shall be used unless the sales prices in the BMP Guidelines have been reduced to a level lower than the prices in effect in 2008.
5. **ARCHITECTURE AND SITE REQUIRED:** An Architecture and Site application and approval is required for the façade improvements, parking lot improvements, and other site improvements. The Planning Commission shall be the deciding body for the Architecture and Site application.
6. **SUBDIVISION REQUIRED:** A tentative map application shall be approved prior to the submittal of building permits. The Development Review Committee may be the deciding body for the tentative map.
7. **BIKE RACKS:** The property owner shall work with staff to explore the possibility of on-site covered and/or uncovered bicycle parking.
8. **COMPLIANCE MEMORANDUM:** A memorandum shall be prepared and submitted with the building permit and/or final subdivision map detailing how the Conditions of Approval will be addressed.
- 8a. **TENANT RELOCATION SERVICES:** Applicant shall prepare a Tenant Relocation Assistance Services Program to the satisfaction of the Director of Community Development.
- 8b. **PARKING ALLOCATION:** Applicant shall prepare a Residential Parking Allocation Plan to the satisfaction of the Director of Community Development

*Building Division*

9. PERMITS REQUIRED: A building permit shall be required for exterior façade improvements and parking lot modifications. **Separate building permits** are required for site retaining walls, water tanks, and swimming pools; separate electrical, mechanical, and plumbing permits shall be required as necessary.
10. CONDITIONS OF APPROVAL: The Conditions of Approval **must be blue-lined** in full on the **cover sheet** of the construction plans.
11. SIZE OF PLANS: Four sets of construction plans, maximum size 24" x 36. STREET NAMES & HOUSE NUMBERS: Submit requests for new unit numbers from the Building Division **prior** to the building permit application process.
12. TITLE 24 ENERGY COMPLIANCE: California Title 24 Energy Compliance forms CF-1R and MF-1R **must be blue-lined** on the plans.
13. SPECIAL INSPECTIONS: When a special inspection is required by UBC Section 1701, the architect or engineer of record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the building permit. The Town Special Inspection form **must be completely filled-out, signed by all requested parties and be blue-lined** on the construction plans. Special Inspection forms are available from the Building Division Service Counter or online at [www.losgatosca.gov](http://www.losgatosca.gov).
14. NONPOINT SOURCE POLLUTION STANDARDS: The Town standard Santa Clara Valley Nonpoint Source Pollution Control Program shall be part of the plan submittal as the second page. The specification sheet is available at the Building Division Service Counter for a fee of \$2 or at San Jose Blue Print.
15. PLANS: The construction plans shall be prepared under the direct supervision of a licensed architect or engineer. (Business and Professionals Code Section 5538)
16. APPROVALS REQUIRED: The project requires the following agencies approval before issuing a building permit:
  - a. Community Development: Joel Paulson at 354-6879
  - b. Engineering Department: Fletcher Parsons at 395-3460
  - c. Santa Clara County Fire Department: (408) 378-4010

- d. West Valley Sanitation District: (408) 378-2407
- e. Local School District: (Contact the Town Building Service Counter for the appropriate school district and to obtain the school form.)

TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS:

*Engineering Division*

- 17. FINAL MAP: A final map shall be recorded. Two copies of the final map shall be submitted to the Engineering Division of the Parks & Public Works Department for review and approval. Submittal shall include closure calculations, title reports and appropriate fee. The map shall be recorded before any permits are issued.
- 18. DEVELOPMENT AGREEMENT: The Applicant shall enter an agreement to construct public improvements in accordance with Town Code §24.40.020.
- 19. UTILITY COMPANY REVIEW: Letters from the electric, telephone, cable, and trash companies indicating that the proposed improvements and easements are acceptable shall be provided prior to recordation of the final map.
- 20. PUBLIC IMPROVEMENTS: The following improvements shall be installed by the developer. Plans for those improvements shall be prepared by a California registered civil engineer, reviewed and approved by the Town, and guaranteed by contract, Faithful Performance Security and Labor & Materials Security before the issuance of a building permit or the recordation of a map. The improvements must be completed and accepted by the Town before a Certificate of Occupancy for any new building can be issued.
  - a. Massol Ave - Curb, gutter, sidewalk, street lights, tie-in paving, signing, striping, storm drainage and sanitary sewers, as required.
- 21. GENERAL: All public improvements shall be made according to the latest adopted Town Standard Drawings and the Town Standard Specifications. All work shall conform to the applicable Town ordinances. The adjacent public right-of-way shall be kept clear of all job related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at

the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the Town performing the required maintenance at the developer's expense.

22. ENCROACHMENT PERMIT: All work in the public right-of-way will require a Construction Encroachment Permit: All work over \$5,000 will require construction security.

23. PUBLIC WORKS INSPECTIONS: The developer or his representative shall notify the Engineering Inspector at least twenty-four (24) hours before starting any work pertaining to on-site drainage facilities, grading or paving, and all work in the Town's right-of-way. Failure to do so will result in rejection of work that went on without inspection.

24. RESTORATION OF PUBLIC IMPROVEMENTS: The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Engineering Construction Inspector, and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.

25. CC&R'S: A copy of the CC&R's shall be submitted for review and approval by the Town Attorney and Planning Division prior to map recordation. The CC&R's shall be consistent with the Residential Parking Allocation Plan required in Condition #8b.

## SECTION VI

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on June 16, 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 and becomes effective 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 OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

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RECEIVED

SEP 08 2008

September 5, 2008

MAYOR & TOWN COUNCIL

TO: Mr Greg Larson, Los Gatos Town Manager  
CC: ✓Barbara Spector; Mike Wasserman; Diane McNutt; Joe Pirzynski

RE: Bay Tree Condo Conversion application

Thank you for the time spent with Bill Kaschub and myself on Thursday morning. Your explanation of the process and how the system works was very enlightening. We appreciate your candor and straight talk.

In view of the recommendation by the Planning Commission and general staff to deny the General Plan amendment and zone change it is apparent that the Town Council has to somehow explain why they should overturn their decision.

Our concerns and answers to these concerns still remain as follows:

How many rental units are available in Los Gatos? Without the rental versus ownership numbers there is no way of knowing if we are in compliance with the general plan.

What is the true apartment vacancy rate .5% or 5% ?, or some other number as Ms. De Mos' submission concludes (.8%).

There seems to be a high desire for increasing low cost ownership via condos. What is to assure that these condo units will not be bought and rented? Is there any ratio of owner occupancy vs owner rental that can be applied to Bay Tree? If not, the argument for low cost ownership in Los Gatos may disappear with own- to-rent units.

Parking continues to be an unanswered problem. Section 29.10.155 Development Standards of the town code provide detail specifications for parking, spaces, aisles, and turn-a- rounds. The latest parking plan submitted by Bay Tree falls short of meeting many of the specifications. What specifications will be used at Bay Tree and why?

The adjacent hi-density 8 house unit on Bachman Court has 4 spaces allowed for visitor parking. How many visitor spaces are planned for Bay Tree?

A recent check with the County Fire Marshall's office indicated that there was no record of inspection for fire regulations since 2007. Is the latest parking plan submitted in accordance with City Fire regulations?

Title 24 is an energy related code, and there is a question of what structural building standards will be applied to Bay tree in view of the major changes in earthquake standards that exist today? What guidance exist and what standards apply?

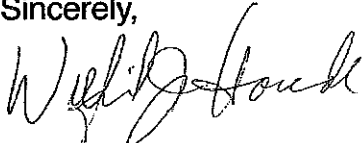
Bay Tree was built in an era when asbestos was in wide use. Is there any asbestos mitigation required with the Bay Tree conversion?

How can the Council's desire to make this a "gold standard" for condo conversion be applied if we do not even meet the the "best practices" of surrounding communities ?

In fact what practices will we be using?

Thanks again for use of your time in listening to our concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Wilfrid Houde', written in a cursive style.

Wilfrid Houde

315 Massol Ave.

[wil1937@comcast.com](mailto:wil1937@comcast.com)

408-395-7952

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OCT 10 2008

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OCT 10 2008

DATE: OCTOBER 6, 2008 TOWN OF LOS GATOS  
PLANNING DIVISION

TO: TOWN COUNCIL, TOWN OF LOS GATOS

TOWN OF LOS GATOS  
PLANNING DIVISION

SUBJECT: BAY TREE CONDO CONVERSION: THE ISSUES RECAPPED

I submit a copy of the *Letter to the Editor*, published Sept. 30, 2008 in the Los Gatos Weekly Times. It was written as a rebuttal to Michael Silva's Sept. 16 letter, "*Plan for condo conversion is well thought out.*"

This letter recaps the situation as it has unfolded at the Bay Tree Apartments and the issues that remain with the condo-conversion proposal.

"I take issue with Michael Silva's recent letter (*Plan for Condo Conversion Well Thought Out*, LGWT of Sept 16), and his view that the Bay Tree condo-conversion project has been well thought out by all concerned.

While the Lyon Development Company may have worked on their project for three years, official neighborhood notification was not made until this spring. Lyon has not worked with affected neighbors on the issues that impact us. They instead hired local residents as "consultants" to help influence public opinion via petitions, appearances before Town Council and general influence-peddling.

Issues important to neighbors and tenants were never heard until the first Planning Commission hearing. That body voted against the project. Lyon has asked for exemptions on many of the existing Town codes: parking; 360-degree architecture; open-space, humane resident relocations and BMP provisions to name a few.

Condo conversion guidelines should have been developed by the Town in the three-year window they had before this went before Town Council. Guidelines would have addressed all the issues that confront members of our community, neighbors and renters today. To name two: adequate on-site resident and guest parking that doesn't dump cars on to the street; treatment of long-term and elderly tenants and tenants with children in the public schools.

In addition, the project would never have proceeded if the town had threshold vacancy rates below which no conversion application would ever be considered: as it is, the vacancy rate is below one-percent and displaced tenants must leave town. Yet another open issue involves the sale and ownership of condo units. Will they be owner-occupied or simply bought as investment properties which in turn are rented at higher monthly rates.

Mr. Silva is aligned with Lyon representative Ron Cole and is not a neutral, objective party to this issue, nor does he reside in the neighborhood. Quality-of-life



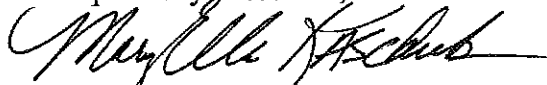
is at issue in the Almond Grove historic district. This project needs thorough and thoughtful dialogue, and these precedent-setting decisions must be made with care.

It is not enough to "make the rules" after the horse is out of the barn so to speak. Having in place well-crafted condo-conversion guidelines for the Town of Los Gatos that can be modeled on like guidelines currently in place in every one of our surrounding communities are the only way for all parties involved to have the rules to abide by."

Mary Ellen Kaschub  
320 Massol Ave.

- My hope is Town Council at the Oct. 20 meeting addresses the following:
  - **Parking** including a viable plan that protects the neighborhood from excess cars and should the street be gifted to condo-parking overflow, a requirement that a security firm be hired by the HOA to monitor and ticket offenders (this is currently practiced in Southern California condo-complexes);
  - **Renter protections** for current renters who need them;
  - **Owner-occupied** provisions required for initial condo buyers incorporated into HOA provisions. See attachment (July 14, 2008 letter. Subject: Covenants, 347 Massol Ave, Condo Conversion):

Respectfully submitted,



Mary Ellen Kaschub  
320 Massol Ave.

7/14/08  
Subj.: Covenants, 347 Massol  
Ave., Condo Conversion

Dear Mr. Lortz,

Thank you for discussing with me the various "levels" available, in the event the Lyon proposal is approved Town Council, to obtain a related Town Council vote that would require owner occupancy of all units for a period of three (3) years from the initial sale of each unit. A covenant would attach to each unit even if there are transfers of ownership within the three-year period.

If in fact there is a demand backed-up for "empty-nesters" and "first-time buyers", this provision would not be a burden. In absence of such a provision, all that would be accomplished would be to substitute higher-priced rentals for current lower-priced rentals as new owners buy-to-rent.

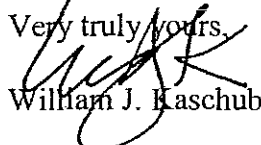
As I understood them, you gave three options to accomplish this limitation:

1. A required covenant in all Bay Tree deeds that would be mandatory in the first sale and remain attached for three-years regardless of the number conveyances within the three-year period.
2. A CC&R that would impose the same limitation.
3. A mandate to include the same limitation in the Bay Tree "owners' association rules when created.

You indicated that the Town would not want to become an "administrator." If that remains the Planning Department's position, the best way would be covenants that "run with the land" or in this instance, with each condominium. Each sold unit would have the three-year restriction in the deed and would make all potential buyers aware of the restriction. There would be no administration required even if a unit is sold one or more times during the three-year period.

In short, I would prefer Option 1, a three-year covenant that runs with each unit and would be required in any sale of all units.

Notwithstanding my preference and, again, if the conversion is approved, I believe some three-year restriction is in order and remain open to further discussions as to how that restriction is posed to the Town Council.

Very truly yours,  
  
William J. Kaschub

Cc: Greg Larson; Joel Paulson; Barbara Spector; Mike Wasserman; Diane McNutt; Joe Pirzynski

RECEIVED

OCT 10 2008

TOWN OF LOS GATOS  
PLANNING DIVISION

RECEIVED

OCT 10 2008

TOWN OF LOS GATOS  
PLANNING DIVISION


DATE: OCTOBER 10, 2008

TO: TOWN COUNCIL, TOWN OF LOS GATOS

SUBJECT: BAY TREE CONDO CONVERSION  
347 MASSOL AVE.

Enclosed are two items submitted to be included in the record in the above-referenced matter:

- 1) A copy of my letter to Mr. Larson, subject matter RE: Bay Tree – Applicable Rules and Regulations. Although Wifrid Houde and I met with Mr. Larson, neither he nor I have received any of the information I/we requested.
- 2) A document entitled LOS GATOS CITIZENS...PARTICULARLY TENANTS/RENTERS. This will appear in the Oct. 14 edition of Los Gatos Weekly Times and reiterates many of the points made in other earlier submissions.

  
William J. Kaschub  
320 Massol Ave.

August 29, 2008

TO: Mr. Greg Larson, Manager, Town of Los Gatos

CC: Barbara Spector; Mike Wasserman; Diane McNutt; Joe Pirzynski

**RE: Bay Tree – Applicable Rules and Regulations**

I remain concerned as to what rules and regulations are being applied to the conversion of Bay Tree Apartments to condominiums. This prompts many questions.

ACCESS

When I submitted an alternative parking plan to the Planning Department on July 7, 2008 (corrected copy July 14, 2008), I sat with Bud Lortz and Joel Paulson and asked to be included in any meetings on parking and relocation in which the developer, Lyon, was present. It was my understanding that both issues were assigned to other units within the Town that deal with those issues and that those meeting would be open for input from interested citizens, particularly if the developer and/or its representatives or other citizens of the Town were present.

I received no calls to attend any meetings. Rather, I received a call from Joel Paulson the day before Lyon's proposals on parking and relocation were put online, Friday, August 15, 2008. By that time I had the outlines of both proposals because they had been passed out by Lyon in the tenant's meetings held on either August 12 or 13, 2008.

**Question:** Who did attend meetings with the Planning Department, the Parking Commission, and/or Social Services when the proposals on parking and relocation were discussed and finalized?

FLOATING NUMBERS

Key relevant numbers continue to be given to the Town Council by way of answers to questions asked by members: There is no reason that they can't be pinned down so that all parties have accurate numbers on which to base decisions:

- 1) I was told by Mr. Lortz in my July 7, 2008 meeting that there were 4600 rental units in Los Gatos. In the August 16 hearing, he said there were 3000.

**Question:** How many rental units are there in Los Gatos?

- 2) Ms. De Mos' vacancy rate is the only accurate number that is part of the record. Mr. Lortz continues to use 5% as a vacancy rate: This number conflicts with Ms. De Mos' and is counter-intuitive given the desirability of Los Gatos and the economic times. Once you have the number of apartments, it's quite easy to order from PG&E the number of

“spinning meters” in those units. This is the way towns with threshold vacancy rates get theirs.

**Question:** What is the real vacancy rate in rental units in Los Gatos?

- 3) Mentioned often is the 30% goal for rental units in the total housing stock. It is now said that there is 35% with the implication that Bay Tree is dispensable and won't hurt the rental stock bogie. It is unclear to me whether Sobrato is in the current calculation.

**Questions:** What was the rental stock percentage for 2005-2007? If it went up, what were/are the rental additions? When did/will Sobrato be added?

#### PARKING

Mr. Lortz left the Town Council with the impression that the parking plan was in accordance with fire regulations. Fire inspections are performed by the County. There is no record of such an inspection being either ordered or completed.

Additionally, **Section 29.10.155 Development standards** of the Town code provide detail specifications for parking spaces, aisles, turn-arounds, etc. The latest parking plan submitted by Bay Tree falls short of meeting many of the specifications.

**Question:** Will the Town council follow the existing parking code?

#### TITLE 24

When the discussion turned to double-pane windows, air conditioning, and “noisy” walls, Mr. Lortz cited **Title 24** as taking care of all structural issues. Title 24 is an energy-related provision.

I think it's necessary to be much clearer as to what Title 24 will cover and what the Town will require on other structural issues. I walked away with the impression that the Town Council wants Bay Tree to conform as close as is possible to new condominiums and residential remodel requirements. For certain, it does not want a minimally “redeveloped” Bay Tree that would be a source of continuing consternation as to how it ever got approved, if that is the final result down the road.

**Questions:** Does Lyon know exactly what is going to be required if Bay Tree is redeveloped for condominiums? If so, what are the redevelopment guidelines that would be followed?

I have a call to your office for a meeting with Wil Houde and me. While I understand it may take some time for you to gather data, we would hope to meet with you at the latest sometime during the week of September 22, 2008.

William J. Kaschub  
320 Massol Ave.  
408-399-0153/wjkaschub@comcast.com

## **LOS GATOS CITIZENS... PARTICULARLY TENANTS/RENTERS**

I am writing the citizens of Los Gatos on a matter that will signal whether the Town Council wants to be 1) law-full or law-less or 2) caring or uncaring. These two items will come into play Oct. 20, 2008, when the Town Council holds its third meeting on the proposal to convert 56 Bay Tree apartments at 347 Massol Ave. into condominiums. The result could be the eviction of all tenants, except perhaps five seniors.

Main sponsors of this proposal are a large developer, paid canvassers, real estate agents and wealthy homeowners that say they want condos for "empty-nesters" and children brought up in Los Gatos, termed "first-time-home-owners."

Opposed to the condo conversion are tenants, neighbors and other interested parties. They are not opposed to condo conversions in principle but are interested in the passing of an ordinance whereby ALL parties would know what rules will apply to ALL condo conversions...not just Bay Tree.

### **AN ORDINANCE**

Unlike most towns and cities in Silicon Valley, Los Gatos has no condo conversion ordinance. From the start of public hearings, persons against the condo conversion have been consistent in asking for a delay while the Town designs and approves an ordinance. The Town has known about the developer's plans at least since 2006, ample time to have completed an ordinance. Rather than doing this, the Town Council is picking-and-choosing what will apply, or not apply, from existing building codes, and there are no rules on tenant/renter protections (the Palo Alto ordinance is a model in this regard.) The developer's proposal would be dismissed in Palo Alto, Saratoga, Cupertino, Campbell, and San Jose. If approved, Los Gatos will be law-less in their shadows.

### **DISPUTED ISSUES**

- 1) VACANCY RATE – An ordinance modeled after others in the Valley most certainly would have a "vacancy rate trigger" between 3% and 5%. If the vacancy rate for rentals is even at the low end of the range at 3% in Los Gatos, no apartments could be converted to condos. The reason is quite understandable: **YOU SHOULD NOT EVICT TENANTS UNLESS THERE ARE OTHER APARTMENTS TO MOVE TO.** The Town Council is poised to ignore the fact that the vacancy rate is less than 1% in Los Gatos, well below any "trigger" in the Valley. **TENANTS COULD BE ALL PACKED UP AND NO PLACE TO GO. A CARING TOWN COUNCIL WOULD NOT LET THIS HAPPEN.**

- 2) PARKING – There are only two parking requirements applicable to residences in Los Gatos: 3 spaces per unit for new condos and 2 per house for residential. Tandem parking...front to back for two cars... is discouraged, if not illegal. The Planning Commission staff report, Page 5, 347 Massol Ave., April 23, 2008 states the problem and presents a conclusion:

*(D) Parking*

*The Town Code requires three parking spaces for condominiums which equals 168 spaces for the project. The complex currently has 56 spaces. The applicant proposed to provide 36 additional parking spaces, including 20 tandem spaces which are not permitted by town Code (see Exhibit5). The proposed total of 92 spaces will not comply with the Town Code requirement.*

The Town Council is prepared to count 20 tandem spaces and to permanently “gift over” street parking to the developer to solve its parking problems. In the process the Council would violate Town regulations to accommodate the developer. While the developer claims to have added spaces since the April staff report, they are “spaces” jammed into the same area: no real change and still non-compliant.

In other towns and cities in the Valley, there is only one way around this type of parking issue: The developer must decrease the density by changing the number of units on the site to make the condominium complex self-sufficient for parking of residents and guests. In this case, the developer should be required to remove at least one or perhaps two of the seven buildings and turn it/them into parking areas.

The Town Council should not grant parking exceptions to a developer that only wants to maximize profit on the back of exceptions...again, with no ordinance; in violation of the Town’s own parking requirements; and with the parking burdens squarely and permanently in the neighborhoods and on the streets near Bay Tree.

3) BMP

There are also issues surrounding BMP (Below Market Pricing) units, long a requirement of development/redevelopment. The Town Council is poised to allow the developer to “borrow” BMP units to accommodate tenants who are 65 years or older. Tenant protection for seniors and others would likely be a requirement under an ordinance, and the developer should take the five units from its stock, not “borrow” them from BMP stock.

There are many other issues surrounding this proposed condo conversion, many of which, in absence of an ordinance, will involve picking-and-choosing on the part of the Planning Commission and/or Town Council. This will continue to be unfair to all citizens with an interest in the outcome of Bay Tree: none will know the rules.

**FOR TENANTS/RENTERS, THE PLANNING DEPARTMENT  
ACKNOWLEDGES THAT MANY LANDLORDS ARE "IN LINE" FOR CONDO  
CONVERSIONS COVERING OVER 400 APARTMENTS IF BAY TREE IS  
APPROVED. YOU ARE PARTICULARLY AT RISK OF EVICTION.**

We have long-prided ourselves on being a "government of laws" at all levels of government in this country. That keeps us law-full not law-less. Bay Tree cries out for development of an ordinance...a law...not the "government of men and women" who make it up as they go along and are susceptible to influence at every juncture. **THE DECISION ON BAY TREE SHOULD BE GOVERNED BY AN ORDINANCE.**

The Town Council should dismiss the developer's application to convert Bay Tree to condominiums.

**PLEASE ATTEND THE MONDAY, OCT. 20, 2008, TOWN COUNCIL MEETING  
AND CONSIDER SPEAKING AGAINST THE BAY TREE CONDO  
CONVERSION.**

Thank you for your attention.

William J. Kaschub  
320 Massol Ave.  
Los Gatos, CA 95030

Paid for by concerned citizens of Los Gatos





# Bay Tree Condominium Conversion

## Application Summary Highlights

Prepared by:  
Ron W. Cole  
December 4, 2008



# Contents

- Parking Plan
- Resident Assistance Plan
- Property Improvements



# Parking Plan

- Additional Spaces:

Originally approved and developed with 56 spaces

Goal: 1 space for every One-bedroom unit and 2 spaces for every Two-bedroom unit for a total of 98 spaces.

42 additional space locations have been identified. Some of these spaces have been added. Some will not be added until the condominium units are marketed for sale.

Total proposed parking spaces: 98 spaces

See Parking Plan Exhibit

- Additional Measures:

Governance: HOA implementation of Association Decals to track on-site parking.

Two secured, in-door bike racks will be added to promote alternative means of transportation.

- Council Request Follow Up:

Request: Conduct a parking maneuverability study for the revised parking plan

Response: Study completed and forwarded to Town Staff

Findings: The proposed parking for the Bay Tree conversion meets industry standards for design and turning radii as well as industry standard safety factors.



# Resident Assistance

- Purchase Plan:

All Qualified Residents, defined as those who have lived at the property prior to the 180 Day Notice of Intent to Convert is implemented, will receive:

Reduced sales price - 5% discount off of the price at which their unit is first offered for sale to the general public.

Reduced escrow costs

Reduced loan fees and charges



# Resident Assistance

- Modification summary:

*Council requested that additional consideration for residents residing at the property Pre-60 Day Notice of Intent to Convert.*

Increased benefits: All resident who originally were receiving the General Assistance benefit will now receive the Hardship Assistance benefit. This includes:

- ***All Residents*** who have lived at the property prior to the 60 Day Notice of Intent to Convert was implemented.
- ***Senior Households*** at 70 years or older regardless of move-in date.
- ***All Single Parents*** of children younger than 18 at the time of relocation regardless of move-in date

In addition, Lyon will commit to double the state required 180 Day Notice.

Residents with children under the age of 18 will only be required to vacate during the summer months

# Resident Assistance Review:

- Special Circumstance Senior Consideration:

- This category is designed to address specific residents that meet the following criteria:

- Residents older than 65 years of age as of the approval of the Tentative Map application.
- Residents residing at the property prior to the initial 60 Notice of Intent to Convert sent on October 27, 2005 via certified mail.

- Considering the above qualifications, five residents qualify for long term tenancy at the property.

# Resident Assistance Review:

## ○ Hardship Category:

Defined as:

- ***Disabled Households***, as defined under the Social Security Act, and who cannot physically prepare for a move
- ***Low-income Households***, as determined by income limits as determined by the State of California Housing Department, County of Santa Clara, with tenancy prior to the Developer giving the 60 Day Notice of Intent to Convert the apartments to condominiums, and unable to reasonably locate replacement housing.
- ***Senior Households*** at 70 years or older irregardless of move-in date.
- ***All Residents*** who have lived at the property prior to the 60 Day Notice of Intent to Convert was implemented.
- ***All Single Parents*** of children younger than 18 at the time of relocation irregardless of move-in date

Benefit:

- Coordination – identifying a satisfactory location
- Moving expenses, including the packing, relocation, unpacking and waste pick-up, will be paid (within 10 mile radius).
- An additional monetary supplement of \$3,000

Considering the above qualifications, 16 residents qualify for this benefit



# Property Improvements:

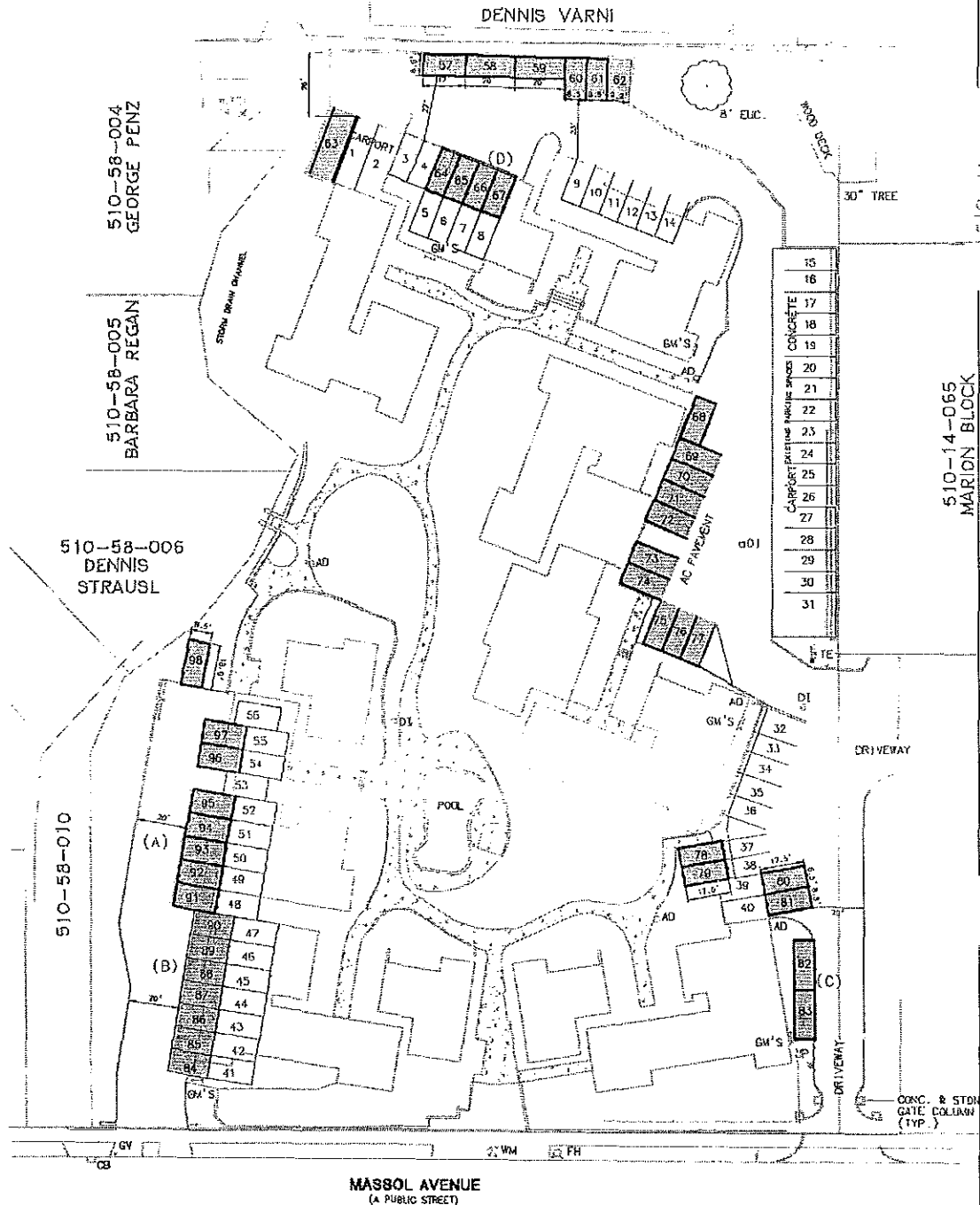
At previous hearings, questions arose regarding what improvements Lyon will complete as part of the overall conversion renovation.

1. Lyon will upgrade the exterior façade of the property to bring it more in line with the overall feel of the Almond Grove Historic District.
2. Lyon is also committed to replacing all windows with double paned windows which will significantly improve energy efficiency and noise reduction.
3. The Department of Real Estate Public Report process requires that the owner/developer follow stringent requirements when establishing the HOA budget. This includes establishing the useful life of the mechanical, plumbing, electrical and structural components of the project to ensure that a proper budget is created to fund the on-going maintenance of the property.



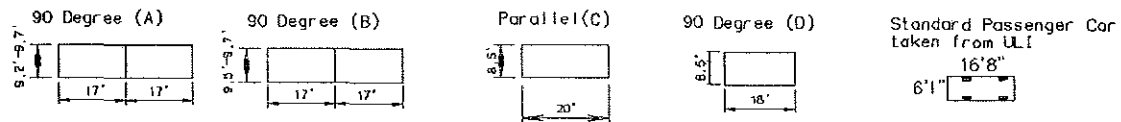
# SITE PLAN-PARKING FOR CONDOMINIUM PURPOSES TOWN OF LOS GATOS, CALIFORNIA

RBF CONSULTING



(A) Due to slope at tandem parking a sign shall be installed displaying: "Set Parking Brake"

Typical Parking Dimensions:





## MEMORANDUM

**To:** Ron Cole  
**From:** Frederik Venter, Laura Worthington Forbes  
**Date:** October 16, 2008  
**Subject:** Bay Tree Parking

JN 10-104647

---

This memorandum includes our parking evaluation and updated information for the proposed condominium conversion for your property located at 347 Massol Avenue, in Los Gatos.

Included is the parking layout with existing and proposed dimensions indicated for parking spaces and significant dimensions shown for drive aisles. Turning templates for passenger vehicles maneuvering in and out of the spaces are shown as well.

The vehicle dimensions used in the analysis was taken from the "all cars" vehicle classification in the Urban Land Institute "Dimensions of Parking", Fourth Edition, 2005. The design vehicle for parking analysis is 16.8 x 6.1 feet. The large vehicle is 16.9 x 6.2 feet. Vehicles actually parking on the site can be larger and smaller compared to the dimensions used to evaluate the proposed parking layout. The turning templates follow the ASSHTO guidelines for vehicle design and turning radii and incorporate safety factors between 2 and 5%.

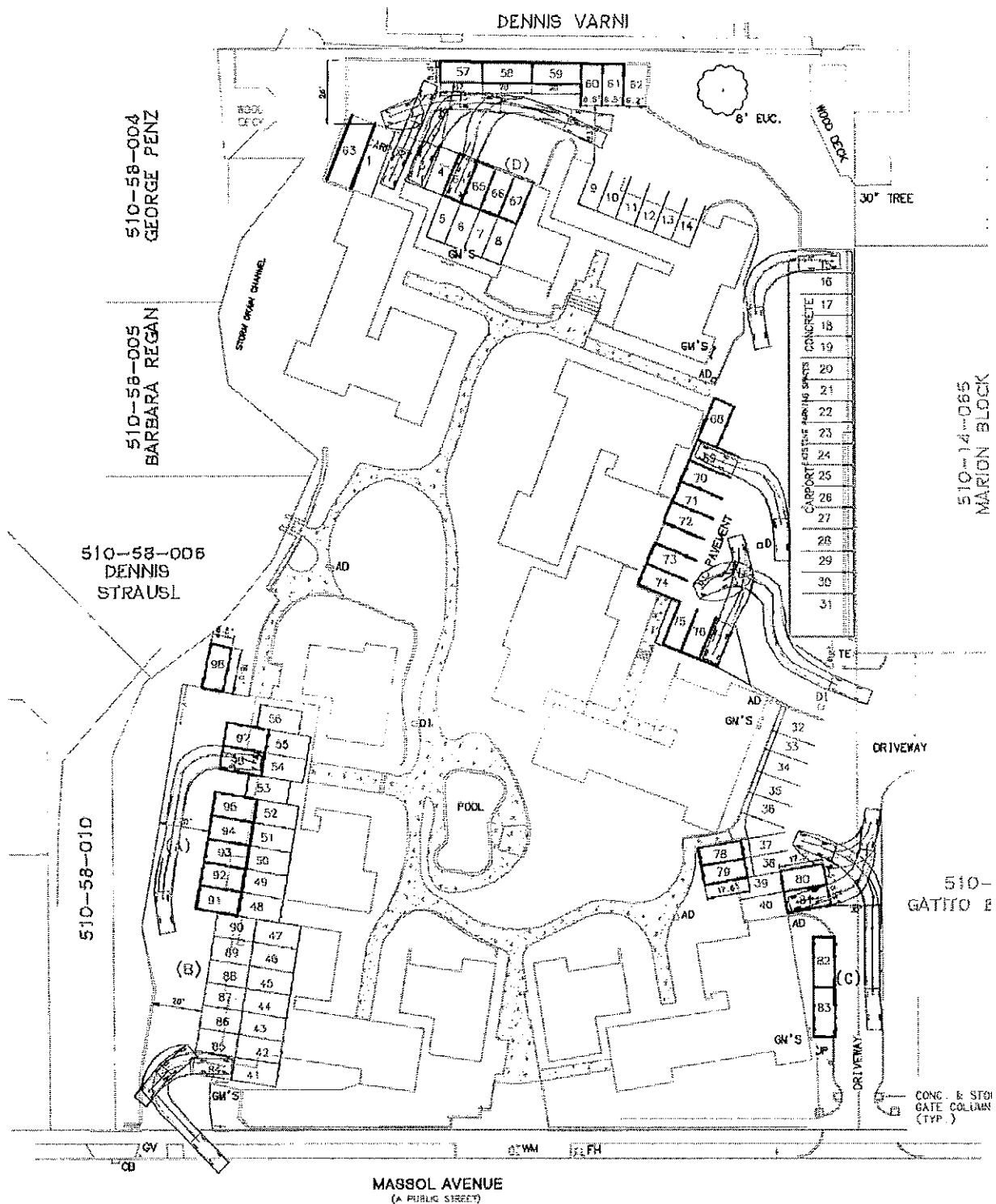
All the parking spaces (existing and proposed) on the site are indicated on the drawing by grouping at location. Typical drive aisle width, where vehicles park on both sides (double loaded), is between 22 and 24 feet wide. These can be reduced where there is a curb on one side and vehicle overhang can protrude into landscaping, as is evident along parking spaces 84 through 97.

Along parking spaces 63 through 67 and 9 through 14, there is sufficient space for vehicle maneuvers as indicated on the drawing, and along spaces 84 through 97, the critical dimension is 20 feet.

Parking spaces 84 through 90 are already striped for tandem spaces. These spaces will be restriped to be 17 feet long and retain the existing width with a 20 foot drive aisle.

The attached drawings indicate that passenger cars can maneuver in and out of all the spaces. Maneuvering out of space 96 would require the driver to back out and make a turn in-between spaces 95 and 96 and then back out again. Spaces 84 through 97 have a width between 9.2 and 9.7 feet and can accommodate a slightly wider turning radius.

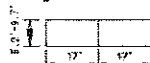
# Inbound Maneuvers and Dimensions at Critical Parking Spaces



(A) Due to slope at tandem parking a sign shall be installed displaying: "Set Parking Brake"

Typical Parking Dimensions:

90 Degree (A)



90 Degree (B)



Parallel (C)



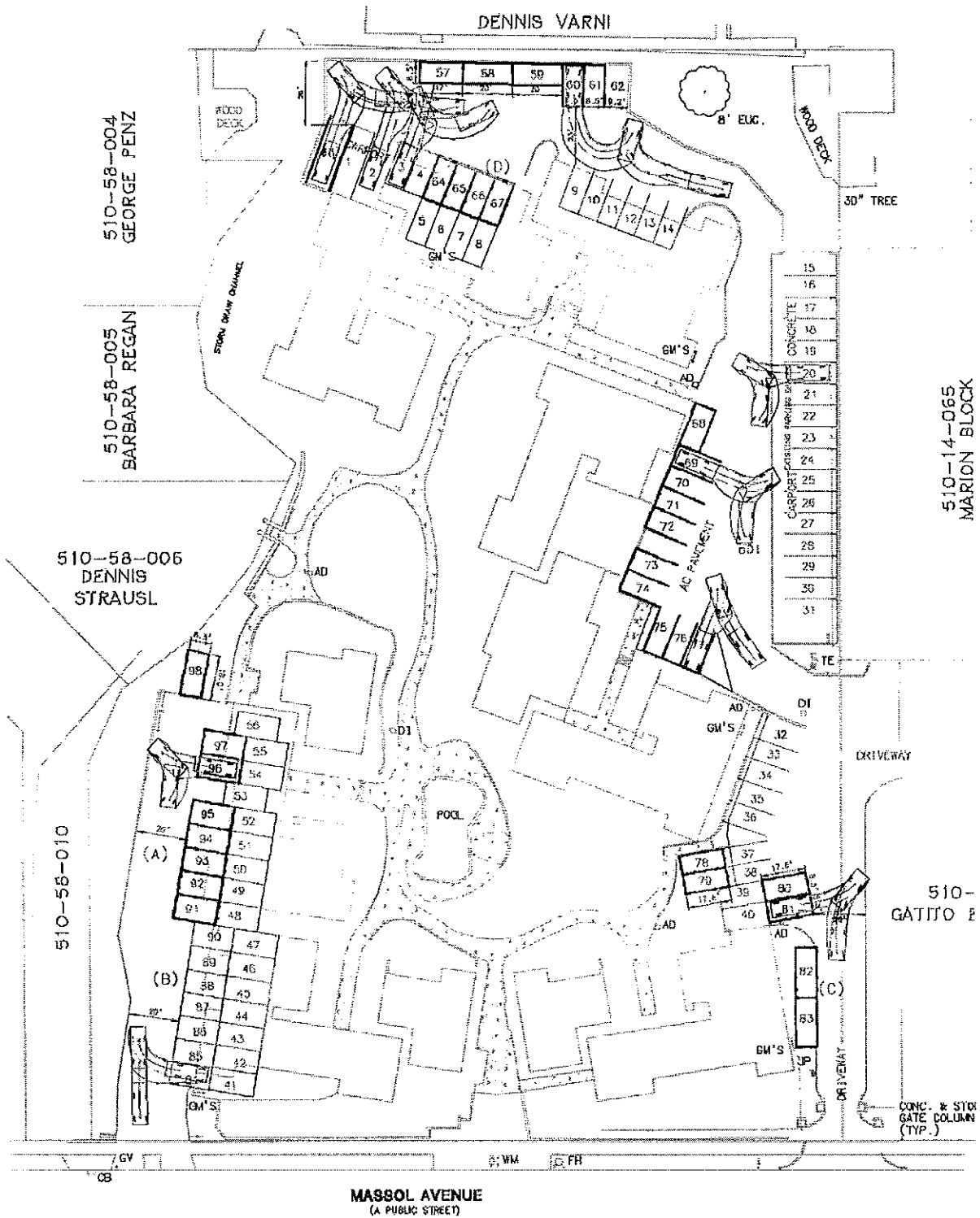
90 Degree (D)



Standard Passenger Car taken from ULI

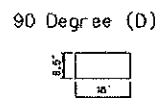
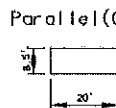
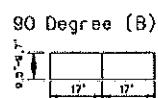
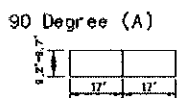


# Outbound Maneuvers and Dimensions at Critical Parking Spaces

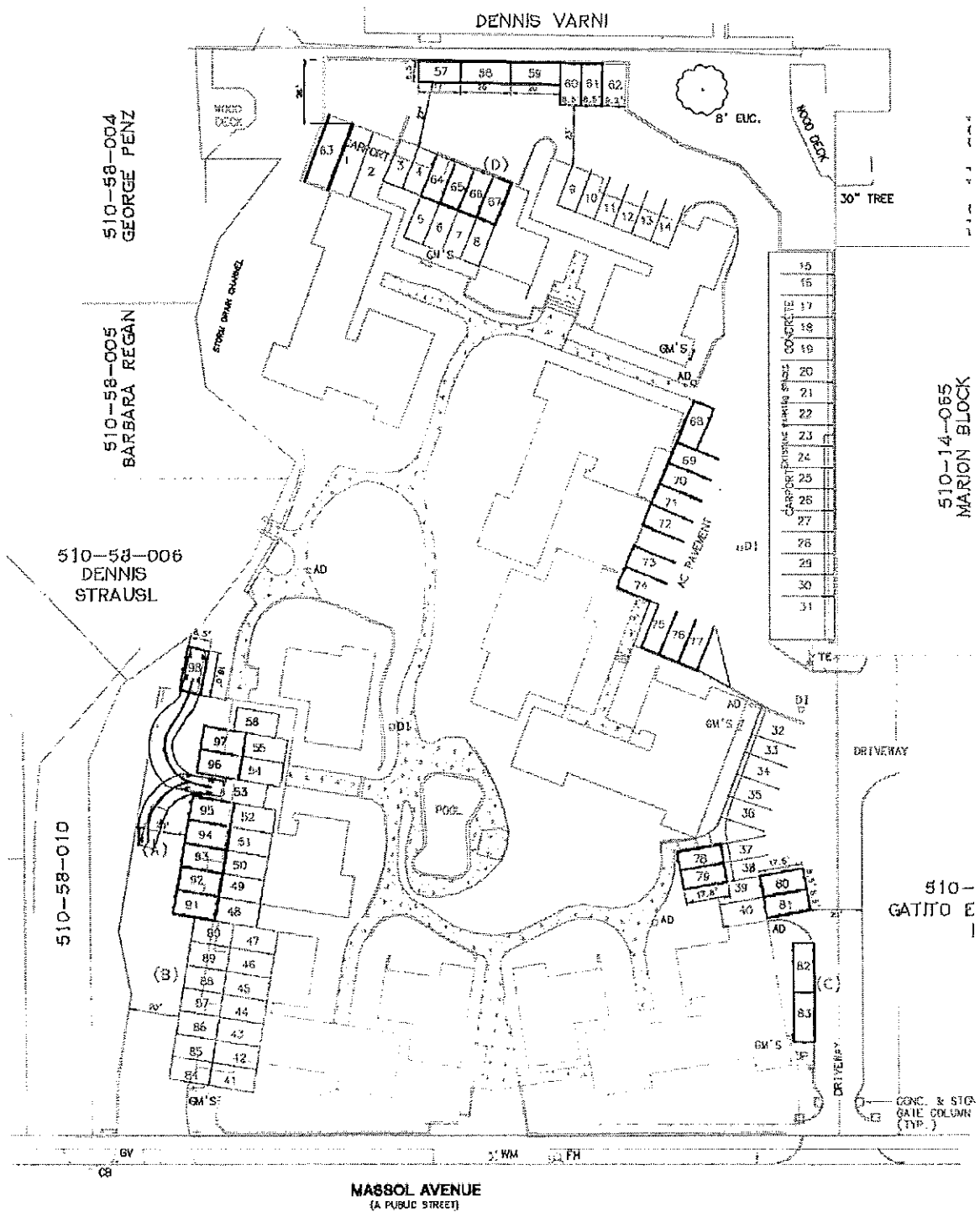


(A) Due to slope at tandem parking a sign shall be installed displaying: "Set Parking Brake"

Typical Parking Dimensions:



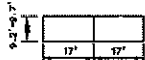
# Outbound Maneuvers and Dimensions for Space #98



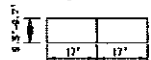
Ⓐ Due to slope at tandem parking a sign shall be installed displaying: "Set Parking Brake"

Typical Parking Dimensions:

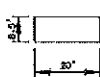
90 Degree (A)



90 Degree (B)



Parallel (C)



90 Degree (D)



Standard Passenger Car taken from ULI



Bay Tree - Parking Requirement  
Comparison Study

City Parking Requirements					
City	Zone	Resident Parking Spaces	Guest Parking Spaces	Spaces Required if Developed in Other Jurisdiction	Separate Condo Requirements
Proposed Project (347 Massol Avenue) <sup>1</sup>	RM 12 to 20, Planned Development				None
	1 Bedroom Units	1.00 per unit		14	
	2 Bedroom Units	2.00 per unit		84	
	<b>Subtotal</b>			<b>98</b>	
Los Gatos <sup>2</sup>	Residential Condominiums	2.00 per unit	1 per unit	168	None
	Multiple-Unit Dwellings in All Zones	1.50 per unit	1 per unit	140	
ITE Standards (85th Percentile) <sup>3</sup>	Residential - Multi Family	1.46 per unit		<b>82</b>	
Gilroy	Downtown Residential				None
	< 800 Square Feet <sup>4</sup>	1.00 per unit	1 per 6 units	16	
	> 800 Square Feet	1.50 per unit	1 per 4 units	74	
	<b>Subtotal</b>			<b>90</b>	
Cupertino	High Density Multiple-Story Condominium	2.00 per unit	40% of units <sup>5</sup>	134	Yes <sup>6</sup>
Mountain View	Multi-Family Dwellings				None
	1 to 2 Bedroom Units	2.00 per unit	15% of required spaces (may increase to 2.3 per unit per zoning administrator)	129	
Saratoga	Multi-Family Dwellings	2.50 per unit		190	None
Los Altos	R3-1.8 District				Yes <sup>7</sup>
	1 Bedroom Units	1.50 per unit		21	
	2 Bedroom Units	2.00 per unit		84	
	<b>Subtotal</b>			<b>105</b>	
Palo Alto	Multiple Family Residential				None
	1 Bedroom Units	1.50 per unit	1 space plus 10% of units, or 33% of units if > 1 space per unit is assigned or secured	27	
	2 Bedroom Units	2.00 per unit		99	
	<b>Subtotal</b>			<b>126</b>	
Santa Clara	R3-25D District	2.00 per unit		112	None
Milpitas	R-3 Multi-Family High Density District	2.00 per unit	20% of required spaces	138	None
Carmel-by-the-Sea	Multi-Family Dwellings	1.00 per unit		50	None
Sausalito <sup>8</sup>	Multiple Famil Residential				None
	1 Bedroom Units	1.50 per unit		21	
	2 Bedroom Units	2.00 per unit		84	
	<b>Subtotal</b>			<b>105</b>	
San Mateo	Downtown Residential				None
	1 Bedroom Units	1.30 per unit	1 per 5 units	21	
	2 Bedroom Units	1.50 per unit		71	
	<b>Subtotal</b>			<b>92</b>	
San Jose	Residential Multiple Dwelling - Downtown	1.00 per unit		70	None
Average (excluding Los Gatos and Proposed Project)	1 bedroom	1.60 per unit	11% of units or spaces	105	
	2 bedroom	1.77 per unit	12% of units or spaces		

1- Proposed project includes 14 one bedroom units and 42 two bedroom units (total of 56 units). On-site parking supply recommended is 98 spaces.

2- Two categories indicated for Los Gatos

3- Source: Parking Generation 3rd Edition, 2004, Institute of Transportation Engineers

4- For the purposes of this analysis, one bedroom units are assumed to be < 800 square feet and two bedroom units are assumed to be > 800 square feet.

5- Code has 2 per unit plus 40% of unit. For the purposes of this analysis, the additional 40% is assumed to be guest parking.

6- Cupertino Zoning Code, Section 19.88.040 (Parking)

A. Off-Street Parking. The project shall provide parking consistent with the multifamily zone and the owner shall demonstrate that additional spaces exist to reasonably accommodate guest parking.

7- Los Altos Zoning Code, Section 14.28.060 (Development standards)

A. Off-street parking. The off-street parking shall conform to the zoning district requirements of this chapter in effect at the time the final or parcel map is recorded.

8- Parking requirements may be reduced in the historic overlay consistent with section 10.40.110.G of the zoning code.

# BAY TREE PARKING COUNT (As of 10/7/08)

## Parking Report

License Plate #	Unit	Parking Tag	Resident Name	Parking Space
(220) - Bay Tree				
6BAY916	101 - 1	09558	Colman, Robin	
3G5U287	103 - 1	09576	Silvera, Ethel	
	104 } 1	10025	Robin, Beatrice	
	104		Robin Michael	
3RUXG19	105 } 2	09720	Raymond, Jim	
SJM3875	105		Raymond Nondy	
5XCMG29	106 - 1	09450	Hare, Steve	
5MQSG10	107 - 1	10007	Kirovski, Jovan	
	108 } 1	09681	Ilkbahar, Alper	
5GQL	108		Ilkbahar Aysen	
5NAABEE	201 - 2	09792, 09810	Word, Cheryl	
5LJK396	202 } 2	09630	Suglian, Michael	
4JUA602	202		Franza-Suglian Barbara	
WC5470	203 - 3	09540, 09522, 09504	Forbes, Chatham	
4HRH88J	204 - 2	09342, 09324	Lagunas, Diego	
	205 - 1	09486, 09468	McGraw, Martha	
5NWK274	207 } 2	09864	Bohm, Sebastian	
	207	09882	De Mos Carlo	
5CMV786	208 - 2	10026, 10044	Kennedy (EMP), Mike	
	302 } 2	09737	Oman, Sean	
	302		Uchiyama Clyde	
4NHP421	303 } 2	09989	Royset, Johannes	
5NKB862	303	09971	Chandra Aditi	
HKG98	304 } 2	09738	Hogan, Tim	
5ZIX936	304		Fung-Hogan Brenda	
5ZF2445	305 - 1	10134	Gilbert, Jonathan	
	306 - 1	09791	Studios, Cryptic	
4YXV247	307 - 1	10151	Georgiana, Michael	
6CXY672, 4PVD544	308 - 2	10115, 10133	Cardella, James	
6DKZ232	401 - 1	09606	Gabi Nagel, Petra	
5KRP499	403 - 1	09953	Cox, James	
5TKM460	404 - 1	09899	Nelson, Reed	
5PMK644	405 - 1	10152	Halvorson, Shelly	
4VNF020	406 } 2	09612	Anderson, Erik	
5PAN207	406		Anderson Kirsun	
5BVG616	408 - 1	09360	Hope, Marilyn	
5LIL034	501 - 2	10097	Rodriguez, Raul Manuel	
5RHJ827	502 - 1	10008	Pfommer, Chris	
029SLT	503 - 1	10169	Ward, Susan	
	504 - 0	09809	Studios, Cryptic	
4RTY967	505 - 2	10187	Carbloni, Eric	
4RQNS76	506 - 1	09774	Chad, Cindy	
5EXU212	507 - 1	09846	Ratcliff, Mary	
5NGM105	601 } 1	09432	Goldman Joseph	
	601		Goldman Marilyn	

# Parking Report

License Plate #	Unit	Parking Tag	Resident Name	Parking Space
6EDX165	602 - 1	09306	Lize, Yannick	
4MHV241	604 } 2	09683	McLaughlin, Malcolm	
	604	09701	McLaughlin Ruth	
4CZ6021	605 } 2		Wilson Carole	
5GCS303	605	09828	Wilson, Robert	
5KHA721	606 - 1	10116	Drake, Mollie	
5TVV340	607 - 1	09990	Pearce, Charles	
	608 } 2	09575	Sweeney Ellen	
5ZYP818	608	09593	Sweeney, Dennis	
5UJG790	701 - 2	10061	Douglas, Abigail	
4NLM231	702 - 1	09954	Brown, Robert	
2DGG2438 / 4RUG390	703 - 2	10043	Kight, Andrew	
1EMJ740	704 } 3	09827	Guzzetti Susan	
	704	09845, 09863	Guzzetti, Stephen	
4FRH921	705 - 3	09629 / 09647	Ladd, Natalie	
5MAD444	707 - 1	09648	Tsongas, Tom	

Count: 61  
170





# **Bay Tree Condominiums Resident Assistance Programs**

Prepared by:

Ron W. Cole  
(949) 838-1221

**LYON**  
**CAPITAL**  
**VENTURES**

**ATTACHMENT 10**

The revised Relocation and Homeowners Assistance Programs constitutes the basis for an agreement with the Town of Los Gatos.

Qualified Residents are defined as residents who reside in a unit at the time of receipt of the 180 Day Notice of Intent to Convert, pursuant to the provisions of Section 66427.1 of the Government Code.

To facilitate in the resident assistance process for all Qualified Residents, the Owner shall engage an individual or firm to act in the capacity of "Relocation Coordinator." The Relocation Coordinator shall be the primary coordination and referral point for all Qualified Residents during all phases of the relocation process. The Relocation Coordinator will also work with the Owner to identify those Residents who would like to pursue the purchase of their unit through the Purchase Assistance Program outlined later in this document.

### **Relocation Program:**

The Relocation Coordinator shall survey ***all*** Qualified Residents to determine eligibility for Relocation Assistance as designated below.

#### **I. Special Circumstance Senior Consideration:**

This category is designed to address specific residents who meet the following criteria:

- A. ***Senior Households*** with residents 65 years and older as of the approval of the Tentative Map application.
- B. ***Senior Households*** with residents residing at the property prior to the initial 60 Notice of Intent to Convert sent on October 27, 2005 via certified mail.
- C. ***Senior Households*** with residents meeting the above qualifications and maintaining continuous residency at the property.

Considering the above qualifications, five residents qualify for long term tenancy at the property.

Therefore, at the time individual condominium units are marketed for sale, the five qualified residents will be allowed to remain in their units until they voluntarily vacate their units.

#### **II. Hardship Assistance:**

The Relocation Coordinator shall develop an Individual Relocation Plan, including any related recommendations for any household that meets one or more criteria. All Hardship household's Relocation Plan findings and recommendations shall be provided to the Town's Planning Staff within 45 days prior to the marketing of any unit(s).

- A. At the Town Council's request, the Owner has agreed to include all residents that have resided at the property prior to the 60 Day Notice of Intent to Convert (10/27/05) in this category of relocation assistance.

During the initial survey/interviewing process, the Relocation Coordinator shall determine whether Qualified Residents meet one or more of the Hardship Criteria defined below:

- **Disabled Households** with a disabled household member, as defined under the Social Security Act, and who cannot physically prepare for a move
- **Low-income Households** determined by income limits as determined by the State of California Housing Department, County of Santa Clara, with tenancy prior to the Developer giving notice of intent to convert the apartments to condominiums, and unable to reasonably locate replacement housing.
- **Senior Households** at 70 years or older irregardless of move-in date.
- **All Residents** who have lived at the property prior to the 60 Day Notice of Intent to Convert was implemented.
- **All Single Parents** of children younger than 18 at the time of relocation irregardless of move-in date

- B. Moving expenses, to be paid by the Developer, for the Hardship households shall include:

- Packing the residents valuables
- Actual cost of moving belongings to a location within 10 miles from the Bay Tree Apartments
- Unpacking if so desired

- C. Additional relocation assistance for those Hardship residents will be provided, in the form of a monetary award within 10 business days after the relocation has taken place, the sum of \$3000 (three thousand dollars) to assist with security deposits and all other related moving expenses.

### III. Other Relocation Assistance:

- A. The Developer shall provide notice to prospective residents w move to the project that a condominium conversion is underway. This notice shall also be provided to the residents, in writing, at the time a rental agreement or lease is signed. Under Government Code Section 66452.8, any resident that does not receive the notice at such time and who does not purchase their unit, shall be entitled to an amount equal to the sum of the following:

- Actual moving expenses incurred when moving from the subject site, not to exceed \$1,100.
- A portion of the first month's rent on the tenant's new rental unit, if any, immediately after moving from the subject property, but not to exceed \$1,100.

IV. Terms of Relocation Assistance:

- A. Resident must be in good standing with the terms and conditions of the lease agreement that they signed with Lyon Management Group, Inc.
- B. The assistance outlined above is allocated on a per unit basis.
- C. Residents must maintain continuous occupancy at the property to qualify for any of the above mentioned assistance programs.

## **Proposed Homeowners Assistance Program**

For the purposes of this program, a Qualified Resident is defined as that resident who resided in the Project unit at the time of receipt of a 180 Day Notice of Intent to Convert prior to termination of tenancy, pursuant to the provisions of Section 66427.1 of the Government Code.

1. **90 Day Right of First Refusal to Purchase:** Pursuant to Government Code 66427.1 and for a period of 90 days from the issuance of a Final Subdivision Public Report under Section 11018.2 of the Business and Professions Code, Developer will provide all residents with a Right of First Refusal to purchase their unit. All Qualified Residents shall be given notice of receipt of the Final Subdivision Report within ten (10) days of receipt of such report, as provided by the relevant provisions of the cited code sections. Every resident's right to purchase will be at the price units are first offered for sale to the general public. Additionally, the provisions of Government Code 66459 of the Subdivision Map Act shall also apply and tenants occupying a rental unit following Final Map approval for the condominium project shall receive notice and be given a Right of First Refusal to purchase the unit as specified in Section 66459.
2. **Qualified Resident Purchase Discount Program:** All Qualified Residents desiring to purchase their Project unit will receive a discount equal to five percent (5%) of the price at which their unit is first offered for sale to the general public. The price is established by the Developer for each individual unit plus adjustments based on each unit's views, location and amenities.
3. **Reduced Escrow Costs:** A single Title Company will be used by the Developer for market rate units to provide reduced escrow fees to current qualified residents purchasing units.
4. **Reduced Loan Fees and Charges:** The Homeownership Counselor shall refer all pre-qualified residents to lenders that offer reduced loan origination fees, reduced interest rates, mortgage credit certificates or other special incentives for financing.
5. **Phase One Pricing:** Any Qualified Resident will have the right to purchase a for sale Project unit at Phase One Pricing, regardless of the phase in which the unit is located. Phase one pricing will be those List Prices initially established and published by the Developer for each type of market rate unit in the first phase of Project units to be released for sale at the Project. This benefit will enable Qualified Residents currently living in areas of the Project scheduled to be sold in later phases to avoid paying higher prices due to demand driven inflation



## FIRE DEPARTMENT SANTA CLARA COUNTY

14700 Winchester Blvd., Los Gatos, CA 95032-1818  
(408) 378-4010 • (408) 378-9342 (fax) • [www.sccfd.org](http://www.sccfd.org)



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November 13, 2008

Mr. Joel Paulson, Associate Planner  
Town of Los Gatos Planning Department  
110 E Main Street  
Los Gatos, CA 95031

Subject: 347 Massol Avenue, Baytree Apartments, PD-07-2

Dear Mr. Paulson

This letter will confirm the findings of the Santa Clara County Fire Department regarding operational site access at the proposed Baytree Apartments/Condominium conversion addressed in Town of Los Gatos application PD-07-2.

On 10/16/2008, crews from our operations and fire prevention divisions met at site to review the most current, stacked parking proposal portion of the application as it relates to site access and rescue abilities. Of note was the South-most access road inward from Massol Avenue. Consideration was based upon the proposed dimensions, which were outlined in the site diagram provided and evolutions performed. It is determined that the current, proposed parking plan would be acceptable to this department.

Should you have further questions, please feel free to contact myself.

Sincerely,

Wayne A. Hokanson, Deputy Fire Marshal  
Fire Prevention Division



DATE: DECEMBER 11, 2008

TO: TOWN COUNCIL, TOWN OF LOS GATOS

SUBJECT: BAY TREE: PARKING ISSUES AND RECOMMENDATION

There remain many unresolved issues with the proposed conversion of Bay Tree Apartments to condominiums: safety, construction quality, tenant protections, owner-occupied units and parking. I will focus my comments on the Parking issue, both onsite and street parking.

From day one, parking has been a contentious issue with the Bay Tree conversion proposal. All parties acknowledge that there is not enough space on the property to provide adequate parking for the all potential residents, no guest parking is provided and street parking remains the fall-back position for overflow.

#### **THE LYON PLAN**

Lyon's consistent answer is a restriped parking plan that shoe-horns onto the site a total of 98 spaces. And, according to their latest plan document, many of these spaces won't be activated until condo units are finally marketed. (Why is that I may ask?).

**There is not, nor has there ever been, a viable plan by the developer to ensure that these designated spaces will be used by condominium owners.** The current resident parking program stickers Bay Tree resident vehicles. However, there is no process to ensure that these cars actually park on the property and not on the street. In fact, many cars of residents are currently parked on the street.

Testimony at a prior council meeting spoke to the safety issue of current parking slots with some of the tandem spaces. Cars using these spaces must back up a small grade and dodge a pole before turning in a tight space to get out. Damage to cars on two occasions was reported by this resident. To support that problem, Lyon has a note at the bottom of their most recent "Site-Plan Parking for Condominium Purposes" document. It states: *"Due to slope at tandem parking a sign will be installed displaying 'Set Parking Brake.'"* Does Lyon really think that a sign will prevent further accidents in this very tight, dangerous parking situation?

#### **THESE ARE THE BIG ISSUES:**

- Lyon's plan is not realistic for the property and as it stands, the neighborhood and Town will pay the longer-term consequences.
- Does anyone care that this is a gateway into historic Almond Grove, a neighborhood already plagued with traffic and parking problems?
- Why do my neighbors and I have to struggle to be heard and so far have received absolutely no consideration for the parking and traffic issues which concern and impact us?



And finally,

- Why do some of you on the Council say, I've visited that area, and I don't see a parking problem? That's easy to say but that cavalier attitude belies the problems at hand and negates legitimate neighborhood concerns.

What has been lost sight of, in this drive to condo-ize, is that this project impacts the neighborhoods negatively as it is currently proposed. It is up to the developer to carry responsibility to ensure their development doesn't negatively impact our historic neighborhood. To date, nothing has been proposed to address this. Nor has there been any dialogue with affected parties about the issues.

Therefore I make the following recommendations to both Lyon and the Town regarding the parking situation:

#### **LYON MUST ENSURE PARKING COMPLIANCE**

To protect the neighborhood, **Lyon must present a concrete, specific parking system that ensures condominium owners cars are parked on the property.** Currently that is not the case. For many residents it is more convenient, if not safer to park on the street than in their assigned tight, hard-to-get-into spaces.

**Lyon must ensure it is the LEGAL obligation of the HOA to police parking regularly on site with CC&Rs that mandate residents must park in their assigned spaces.** The current decal system used by Lyon does not work in this manner.

If the HOA is unable to effectively police their condo parking to ensure compliance, then Lyon must be required to hire a contract patrol service to do the job. **Condominium complexes in Lyon's home turf of southern California regularly use patrol services, such as Patrol Masters, to monitor parking of residents and visitors.** Locally many of our businesses hire patrol services to monitor their parking lots such as Bank of America and Wells Fargo. This is a common practice and should be used with the Bay Tree property.

A parking system that ensures compliance will prevent the endless neighborhood disputes that can result from the current Lyon parking plan. It is Lyon's responsibility to not adversely impact the neighborhood. They must be required to proactively address the parking impact that their project will have.

Like it or not, this project sets precedence. Is this the model, as it stands, that the Council wishes to perpetuate as many other apartment houses line up to convert to condominiums in Los Gatos? I wouldn't think so.

Respectfully submitted,



Mary Ellen Kaschub

320 Massol Ave.

TO: TOWN COUNCIL, TOWN OF LOS GATOS, DEC. 15, 2008  
RE: 347 Massol Ave. (Bay Tree)

The Bay Tree ("347") matter has been slow and bumpy. What would have been relatively simple matter under an ordinance/Housing Element, has turned into a law-making process tipped heavily in favor of Lyon, the developer/applicant by "people of influence." It began with both the Town Manager, Mr. Larson, and the then-Director-Community Development, Mr. Lortz, being against the project because there was no guiding statutory or administrative framework.

But there have been learnings along the way.

First, we know that 347 is an old complex with suspect mechanical and electrical systems (no grounding). The walls are "noisy": that is, tenants can hear what's going on in neighboring units. There are no sprinkler systems or air conditioning. And regardless of the parking designs proffered, the property cannot come close to taking care of its own parking needs. If approved, the owner's association will in perpetuity be called upon to deal with expensive repairs, upgrades, and parking disputes...unless, of course, owners default to parking on the street and that practice becomes acceptable because there are no alternatives. Re: parking neither the developer nor the Town Council has even explored removal of one or two buildings as a way to be self-contained or at least ameliorate the terrible parking situation.

The Town Council wants a "best in class" result. It will not get that if this is approved. What it will get is a "gussied up Motel 6", with fractured governance...all in the middle of a neighborhood in the historic district composed of \$1.5-3M homes. It will be a reminder of what poor governance and influence can wrought, more like similar condo conversions in Florida, Mississippi, or the Central Valley of California.

Second, we now know that renters have no rights in the Town of Los Gatos. When the Beckwith Building at 31 E. Main Street changed owners recently, the new owner raised rents in excess of 20% for all 10 apartments. Renters received no "bill of particulars" for amounts over 5%; sought the help of Community Services; received no help from Project Sentinel; and ultimately were forced to move.

Similarly, Lyon has passed on rent increase in excess of 5% to most renters and did not tender the details justifying the increases. Again, they were not supported by either Community Services or Project Sentinel. On one prior occasion, there was mediation, arduously dragged out by Lyon so that no renter would or could ever take the time to dispute future increases.

Third, we know when there is no ordinance/Housing Element, influence counts. It started at the Planning Commission with a shrill advance that BMP shouldn't apply and that there should be new concept called "practical affordability" to support the taking of rental

units so that lower cost housing would be available to “empty nesters” and returning children of residents. Damn the renters: full speed ahead!

This was followed by the cynical submission to the Town Council that the Town should either buy or “borrow” units to use to take care of persons over age 65. That proposal could never have been designed without the influence and participation of a person in the community that knew well how BMP could be used to satisfy obligations that would in any other community be the obligations of the developer. To its credit, the Town Council saw this as overreaching and sent the developer back to the drawing board.

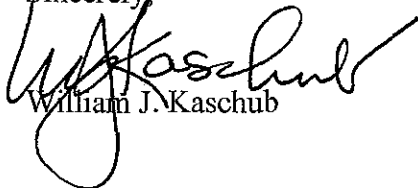
In the meantime, the requests of the persons deemed “adversaries” by the developer were ignored or rebuffed by the Planning Department and The Town Manager: We got almost nothing regarding our questions and concerns.

Fourth, the Town Council leans on the “surplus”...over 30%...of rental units in Los Gatos as a reason for justifying consideration of this condo conversion. But this isn’t just any rental complex: It is one of the only one left that is within walking distance of N. Santa Cruz. This is not a Sobrato that resembles a high-priced housing “project.” And 347 is for all practical purposes within the Historic District. The influential sponsors say, “Take it. They are only renters!”

The renters never did anything to deserve this from the Town. We, the neighbors, do not deserve a change that does not benefit or improve the neighborhood. We get nothing except the perpetuation of a terrible parking situation and the construction of a development that will be a constant source of even more disputes, both within and outside of the 347 plot.

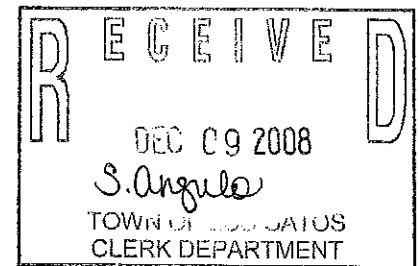
For all the reasons previously submitted in written position statements, this condo conversion should be denied. If approved, it could be a case study on bad government and a Town Council subject to influence...to the exclusion of the “adversaries.”

Sincerely,



William J. Kaschub

Los Gatos Town Council  
Los Gatos, CA.



Ref: Bay Trees Appartment

December 9, 2008

Mr. Mayor and Council Members

The application to convert The Bay Tree Apartment complex has been pending for some time now. In spite of all the scrutiny by the staff and Town Council, I feel we still have a number of unanswered questions. Remember, the complex is almost 50 years old; how does it measure up to the present building code?

I have visited one of the units in the complex and found that the electrical wiring was not grounded.

During the time that the 'The Bay Tree Apartment' complex was constructed the cities and towns in California were growing at a very fast rate. Los Gatos in the same period as The Bay Tree was built, several other projects were under construction such as Live Oak Manor, Paradise Valley, plus a number of single family houses.

At this time, the Town of Los Gatos had just one Building Inspector, Bill Oaks. It seems doubtful that one person could thoroughly inspect all the construction sites. Besides the lack of inspection the Construction Industry faced a shortage of skilled labor and anybody who could swing a hammer could become a carpenter overnight. On top of that, the contractors were in a hurry to get their projects completed as the next project was waiting to get started. The end result was that a lot of poor workmanship was performed during that unprecedented growth period throughout California.

When my home was built on Lester Lane I inspected the construction very closely, and several times I found fault with the work done and insisted that it be corrected.

I hope the members of the Council will vote to deny the application in order to maintain the rental residents' housing stock.

If on the other hand the Council does not agree with that suggestion; I will ask you to consider adding the following conditions prior to the approval:

The buildings are to be inspected by a licensed Structural Engineer.  
Report to be presented to the Town Council before final approval of the project.

Buildings must conform to the present Building codes pertaining to Earthquake Standards, and soundproof walls between units.

Lyons Company shall guarantee the roofs of the buildings five years from the date of the first sale of a condominium unit.

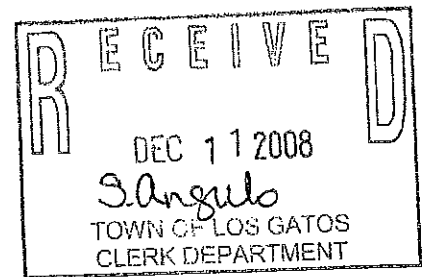
Fire sprinkler to be installed.

Sincerely

A handwritten signature in cursive script, appearing to read "Egan Amos".



James and Nortrud Raymond  
347 Massol Avenue, #105  
Los Gatos, CA 95030



Town of Los Gatos  
Town Council  
110 E. Main Street  
Los Gatos, CA 95030

December 10, 2008

**Subject: Proposed Conversion of the Bay Tree Apartments to Condominiums**

Dear Los Gatos Town Council,

As long-term residents of the Bay Tree, we would like to address some issues we feel are important in considering Lyon Management's (Lyon's) proposal to convert the Bay Tree into condominiums.

The issues we would like to address fall into the following major categories:

1. Legal Framework
2. Treatment of the Current Residents
3. Traffic and Parking
4. Conversion Project
5. Sales

**Legal Framework**

There are many different stakeholders involved, and all hope to maximize what they can get from the conversion. Some of the stakeholders we have been able to identify are listed as follows:

- Lyon
- Building contractors
- Real estate agents
- Investors
- Speculators ("flippers")
- Senior homeowners wishing to trade down
- Other Home Buyers
- The Town of Los Gatos
- Current Bay Tree renters
- Bay Tree neighbors
- Business owners

As President Lincoln once said, "You can please some of the people some of the time, but you can't please all of the people all of the time." Obviously, some stakeholders will not get everything they want, and some may even go away empty-handed. However, if there is no orderly process in place, the conversion will most certainly provide fertile

ground for lawsuits, accusations and recriminations, and bad blood among the townspeople and Council members, not to mention the displaced tenants.

Before the Town Council votes on any conversion proposal, a legal framework governing conversions needs to be in place. The Palo Alto Municipal Code is a good example of what we mean. The framework should address all the issues surrounding the above listed major categories. If the Town Council should approve a conversion without the existence of such a legal framework, the entire process will be subject to attack and legal challenges from all sides

The legal framework governing condo conversions must be enforceable, and must be applied without deference to any special interest group.

In our opinion, it is not appropriate for Lyon to be defining Town policy as part of their proposal. The Town should not try to evade their responsibility for setting the policy for condo conversions.

Lyon has spent a lot of time and money on this proposal, but they are not our elected representatives, and should not be classifying people into categories or setting policies for the relocation of tenants. It is admirable that they are willing to offer certain residents special consideration, but is that really their responsibility? We think the Town is responsible for implementing and enforcing policy. The fox should not be in charge of the hen coop.

### **Treatment of the Current Residents**

This part of the legal framework should set the policy for dealing with the current residents during a conversion. At a minimum, it should clearly define any special categories, what each special category is entitled to, and how all other residents are to be treated that don't fall into a special category. Contrary to popular belief, renters are people who work, pay taxes, and contribute to the community in which they live. Most renters are renters by circumstance, and not by choice. Therefore, they should be treated just like any other resident of Los Gatos would expect to be treated.

People who decide to continue renting after the conversion is approved will need protection from

- Being forced into a smaller and/or less desirable apartment
- Yearly maximum rent increases
- Denial or delay of maintenance services
- Denial or delay of external cleaning/pickup services
- The addition of questionable "pass-through" costs to the rent
- The costs of moving out, living in temporary housing, storage, and moving back in after the construction/renovation

Policymakers should insure that all renters are treated equally, and that no one is worse off after the conversion.

Rent increases for special category renters should be a matter for regulation by policy. Many of the special category renters are on fixed incomes and/or depend on proceeds from their investments.

Once the conversion is approved and the second renovation begins, Lyon should – at their expense - provide temporary housing for those affected by the dirt and noise, until the area becomes livable again. This should be a matter governed by policy. This is especially important for renters working from a home office, because it is virtually impossible to conduct business with heavy construction going on and music blaring everywhere.

There is no mention how this is all going to take place. Looking at it from our perspective, we would have to pack all our things, move out, put everything in temporary storage, live in temporary housing, and move everything back in after the conversion is complete. This involves a lot of time and expense. Is Lyon going to cover it?

Our apartment has not been renovated in more than 20 years, and we are not alone. We would hope that Lyon would do this as part of the conversion, but this issue has not been addressed yet.

Current residents who are given the opportunity to stay on after the conversion, but decide not to continue on as renters or new owners should be able to move immediately without penalty, once the conversion is approved. Policymakers should enforce this, and insure that qualified residents electing this option be given financial assistance for the move. To their credit, Lyon has already agreed to provide relocation assistance to residents in certain categories. Some basic type of relocation assistance should be offered to everyone.

Lyon has already offered a purchase plan for qualified current residents, which is commendable.

### **Traffic and Parking**

It is illegal to leave a car parked on the street for longer than 72 hours. Otherwise, the car may be considered abandoned, and towed away. Policymakers need to insure that the Bay Tree provides adequate parking for the residents, whether or not they are renters or owners. In the interim, policymakers should insure that spillover parkers are given a sticker in order to identify their cars out on the street, so they won't be cited.

Policymakers also need to insure that Lyon's proposal to pack 98 parking spaces into the property is consistent with existing fire regulations. This is especially important because many of the parking spaces are located in carports beneath the apartments.

Given the proposed increase in parking opportunities at the Bay Tree and the current traffic situation on Massol Avenue, safeguards against speeders need to be put into place. Traffic currently moves too fast, and there are no speed bumps, making it sometimes dangerous to enter and leave the Bay Tree driveways during the morning and evening hours.

### **Conversion Project**

By this, we mean: what exactly will be done, where and when will it be done, who will contract to do it, when will it be completed, and who is in charge of quality/oversight?



We assume that the Planning Commission has the ultimate oversight, but it would be nice if the residents who elect to continue on at the Bay Tree were kept in the loop so they can plan accordingly.

In our opinion, the following needs to be done in order to bring the Bay Tree into the 21<sup>st</sup> Century, beyond what Lyon has already agreed to:

- Make sure the buildings are up to code (structure, properly insulated, etc.)
- Add solar panels to the roofs
- Fix all the gutters and drainpipes
- Insulate all the heating and hot water pipes
- Upgrade all the electrical wiring, with grounded outlets in each room
- Place cable and cat-5/6 connections in each room
- Upgrade the plumbing with quality materials (copper)
- Work with potential owners/renters during the design phase
- Provide handicap accessibility

The ultimate goal should be to reduce total maintenance costs while at the same time providing a quality living experience.

## **Sales**

Since the Bay Tree is a residential community, policymakers should insure that the apartments don't become objects of real estate speculation. In our opinion, they should be sold only to the people who will actually inhabit them, and should not be resold within at least a year. Third party agents should not be involved in the initial sales. The Town will need to enforce this.

Sincerely,

A handwritten signature in cursive script that reads "James C. Raymond". The signature is fluid and extends across the width of the text area.

James Raymond

Joel Paulson - Fwd: Bay Tree Condo Conversion TC meeting 12/15

---

From: Patsy Garcia  
To: Bud Lortz; Greg Larson; Marilyn Cosden; Pamela Jacobs  
Date: 12/11/2008 3:39 PM  
Subject: Fwd: Bay Tree Condo Conversion TC meeting 12/15  
CC: Lynda Seastrom

---

To be added to 12/15 Council report

>>> Carla de Mos <carlademos@hotmail.com> 12/11/2008 3:28 PM >>>

To: Los Gatos Town Council

From: Martha Mc Graw

Subject: Regarding: Concerns regarding the treatment of "Special Circumstances Seniors" tenants if the Bay Tree apartments are converted to condominiums

Date: December 11, 2008

Dear Los Gatos Town Council,

I was first relieved when I heard at the last Town Council meeting that Lyon intends to allow myself and four other "Special Circumstance Seniors" to remain indefinitely. Now I have concerns that have not been addressed by Lyon such as:

Will we be able to stay in our present homes or will we have to move to less desirable apartments?

When work begins and the communal washers and dryers located on my floor are incorporated into a converted apartment, what arrangements will be taken to provide me with a washer and drier? Will I have to use machines in another building which are not easily accessible and entail me to traverse stairs every time I need to do wash?

I am also concerned about rent increases. Some tenants have received 5% increases plus a pass through addition which Lyon has not provided a justifiable reason.

Will all these concerns be spelled out for us in writing? Will the Town Council make sure that Lyon makes good their promises?

Sincerely,

Martha Mc Graw  
347 Massol Avenue, Apt. 205  
(408) 395-3617

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**ATTACHMENT 17**

file://C:\Documents and Settings\jpaulson.LOSGATOSCA\Local Settings\Temp\XPgrpw... 12/11/2008