



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** April 8, 2010

**COUNCIL DISTRICT:** 8  
**SNI AREA:** NA

**SUBJECT: FILE NO. GP09-08-01. A GENERAL PLAN AMENDMENT REQUEST TO CHANGE THE LAND USE/TRANSPORTATION DIAGRAM DESIGNATION FROM PUBLIC/QUASI-PUBLIC TO MEDIUM LOW DENSITY RESIDENTIAL (8 DU/AC) ON A 3.2 GROSS ACRE SITE LOCATED AT THE SOUTHEAST CORNER OF YERBA BUENA ROAD AND DOVE HILL ROAD.**

## **RECOMMENDATION**

The Planning Commission voted 5-2-0 (Commissioners Jensen and Cahan opposed) to recommend that the City Council approve the proposed General Plan Amendment to change the Land Use/Transportation Diagram land use designation from Public/Quasi-Public to Medium Low Density Residential (8 DU/AC) on a 3.28-acre subject site located at the southeast corner of Yerba Buena Road and Dove Hill Road.

## **OUTCOME**

Should the City Council approve the General Plan Amendment, the applicant would be able to move forward with a Planned Development Rezoning to allow for a single-family detached residential project on the subject site.

## **BACKGROUND**

On April 7, 2010, the Planning Commission held a public hearing to consider the proposed General Plan Amendment. The Director of Planning, Building and Code Enforcement recommended no change to the General Plan land use designation request of Medium Low Density Residential (8 DU/AC) on the 3.2 acre subject site for the reasons stated in the attached staff report. The item was on the evening's public hearing calendar.

Planning staff gave a brief report stating that the proposed land use designation is inconsistent with the goals and policies of the San Jose 2020 General Plan, in that, it would not direct growth away from the hillside, it would create a visual impact affecting properties and public places including the visual and aesthetic scene as viewed from the urban throughways that traverse the City.

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In addition, in 1995, a General Plan Amendment was approved on the site that changed the land use designation from Non-Urban Hillside to Public/Quasi-Public to allow for a church use. This land use change was appropriate given the lack of land designated for Public/Quasi-Public uses and it was concluded that a church use would be of low intensity, and could be designed to protect the scenic views of the hillside. Therefore, any land use change on the subject site should only be to convert the site back to its original Non-Urban Hillside land use designation.

The applicant, Gerry De Young, then spoke on the item and emphasized that the City Council's actions in the past have changed the hillside character of the area and that visual impacts would result even with the approved church being constructed on the subject site.

The Planning Commission then took public testimony. There were two speakers who spoke in favor of the land use change. The speakers stated that the site as it exists is blighted and a fire hazard and a residential development on the site would create construction jobs.

The Commission then closed the public hearing and discussed the item. Commissioner Zito requested that a motion include a provision to preclude an opportunity for a portion of the site to be developed as housing without the remaining portion developed as a church at the same time, in order to avoid having the church portion later be changed to housing.

Commissioners Zito and Campos did not see what staff was trying to protect with the no change recommendation as the hillside preservation opportunity had passed with the approval of the adjacent Ranch residential development. Commissioner Zito mentioned an interest in some riparian protection of the adjacent concrete channel. Commissioner Cahan was opposed to the land use change because a church would not be viable on the remaining portion of the site and a residential designation might inhibit the construction of a place of worship.

Commissioner Campos moved to recommend to the City Council approval of the proposed General Plan Amendment with the recommendation that a piecemeal development should not occur on the site. The Planning Commission then voted 5-2-0 (Commissioners Jensen and Cahan opposed) to recommend to the City Council approval of the proposed General Plan Amendment as proposed.

### **ANALYSIS**

For complete analysis please see the original staff report (see attached).

### **EVALUATION AND FOLLOW-UP**

The applicant would be required to file subsequent development permits with the Planning Division in order to implement the increased density on the subject site.

### **POLICY ALTERNATIVES**

Not applicable.

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**PUBLIC OUTREACH/INTEREST**

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

A notice of the Planning Commission and City Council public hearings was mailed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. This staff report is also posted on the Planning division website and staff has been available to respond to questions from the public.

**COORDINATION**

This project was coordinated with the City Attorney's Office, Department of Transportation, Department of Public Works, Building Division, and the Fire Department.

**FISCAL/POLICY ALIGNMENT**

This amendment has been evaluated for its consistency with the San Jose 2020 General Plan as further discussed in attached staff report.

**COST SUMMARY/IMPLICATIONS**

Not applicable.

**BUDGET REFERENCE**

Not applicable.

**CEQA**

CEQA: Negative Declaration.

/s/

JOSEPH HORWEDEL, SECRETARY  
Planning Commission

For questions please contact Lesley Xavier at 408-535-7852.

**STAFF REPORT**  
**PLANNING COMMISSION**

**FILE NO.:** GP09-08-01

**Submitted:** June 9, 2009

**PROJECT DESCRIPTION:**

General Plan amendment to change the Land Use/Transportation Diagram land use designation from Public/Quasi-Public to Medium Low Density Residential (8 DU/AC) on a 3.2 gross acre site.

Existing General Plan	Public/Quasi-Public
Proposed General Plan	Medium Low Density Residential (8 DU/AC)
Existing Zoning	A(PD) Planned Development
Council District	8
Annexation Date	May 8, 1972 (Evergreen No. 67)
SNI	NA
Historic Resource	NA
Redevelopment Area	NA
Specific Plan	NA

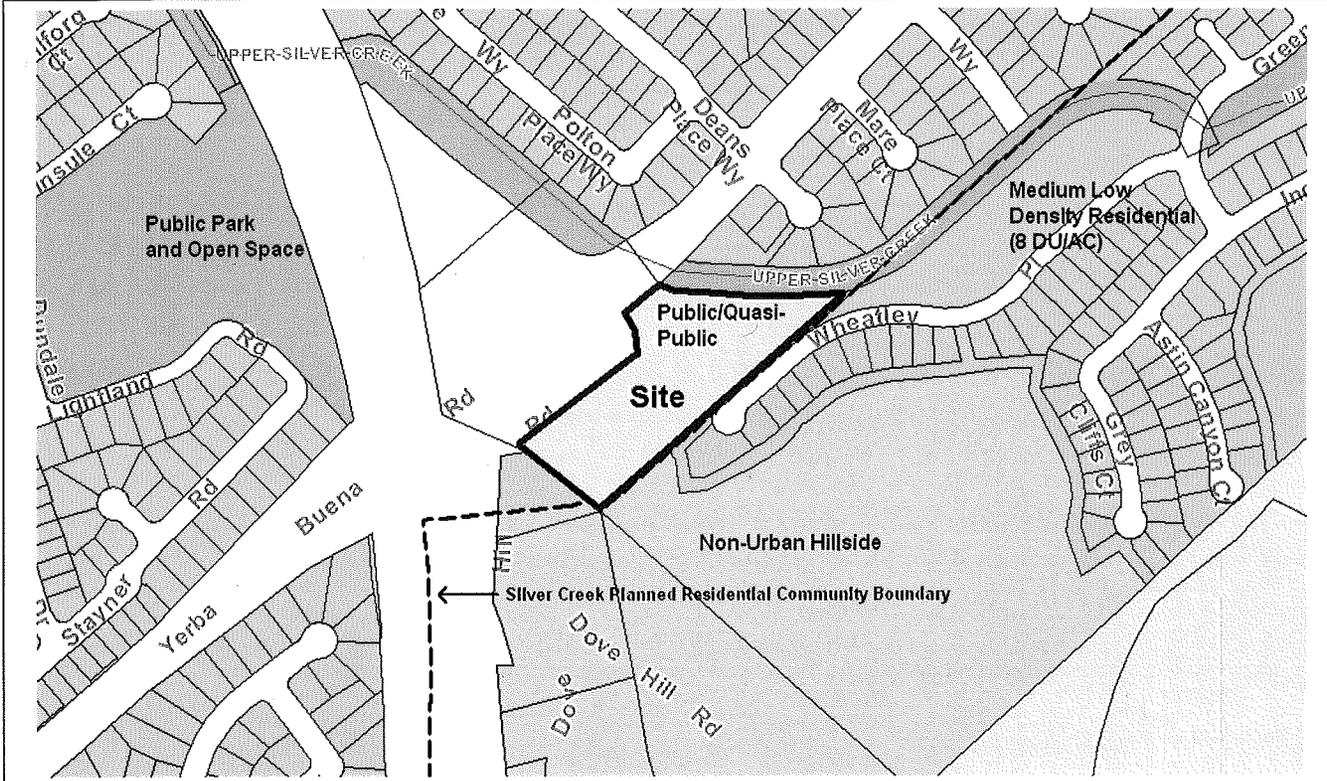
**LOCATION:**

Southeast corner of Yerba Buena Road and Dove Hill Road (3800 Dove Hill Road)

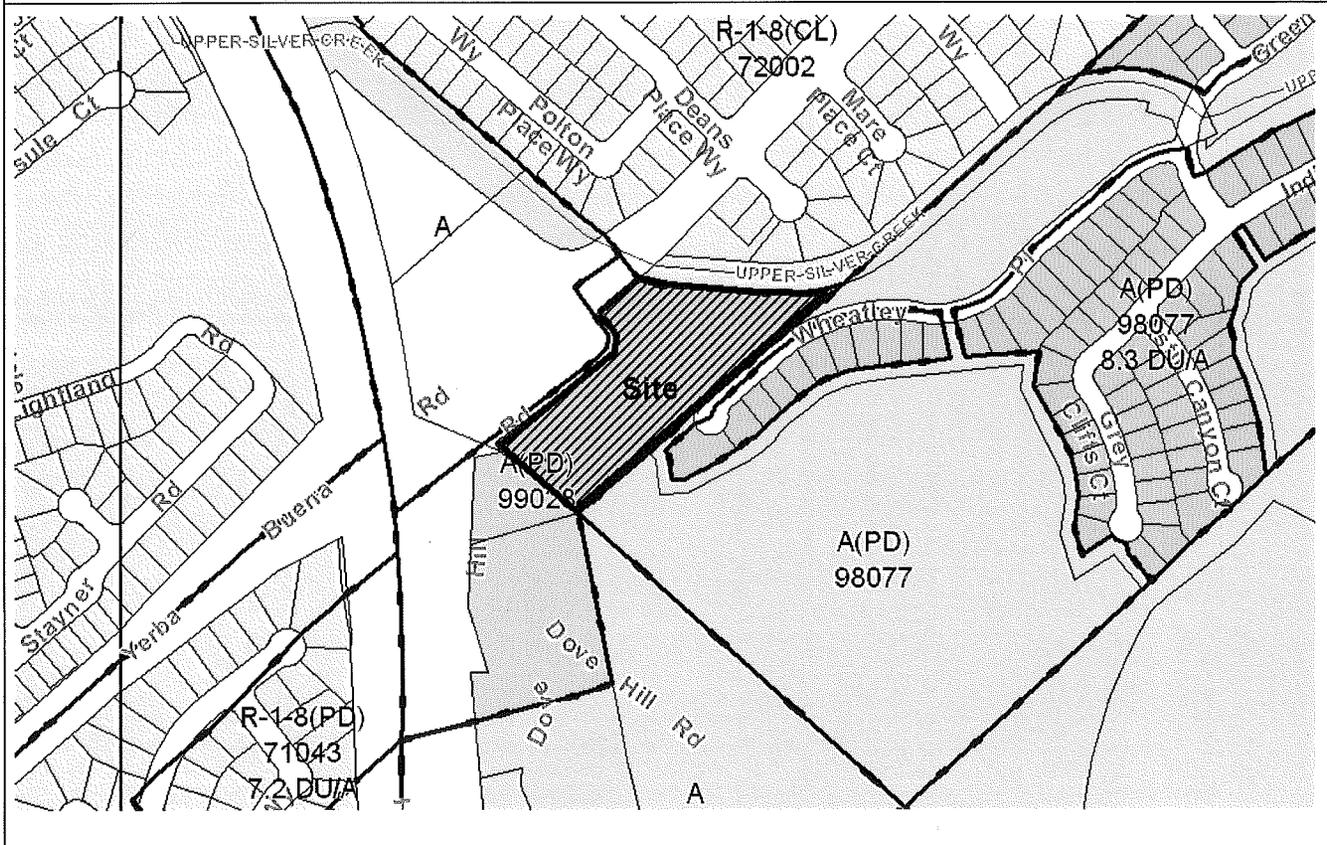
**Aerial Map**



### GENERAL PLAN



### ZONING



## **RECOMMENDATION**

Planning staff recommends that the Planning Commission recommend to the City Council no change to the General Plan on the subject site for the following reasons:

1. The proposed amendment to change the Land Use/Transportation Diagram on the subject site from Public/Quasi-Public to Medium Low Density Residential (8 DU/AC) is inconsistent with the goals and policies of the San Jose 2020 General Plan, most notably:
  - a. Growth Management Major Strategy, as a land use change on the site with not direct growth away from the hillside, which is a goal of this Strategy.
  - b. Hillside Development policy No. 9, as the site's sloping topography is visible from the valley floor and a land use change would facilitate residential units which would create a visual impact affecting public places and other properties.
  - c. Scenic Routes Policy No. 4, as the land use change would have a visual and aesthetic impact on a designated Urban Throughway on the Scenic Routes and Trails Diagram.

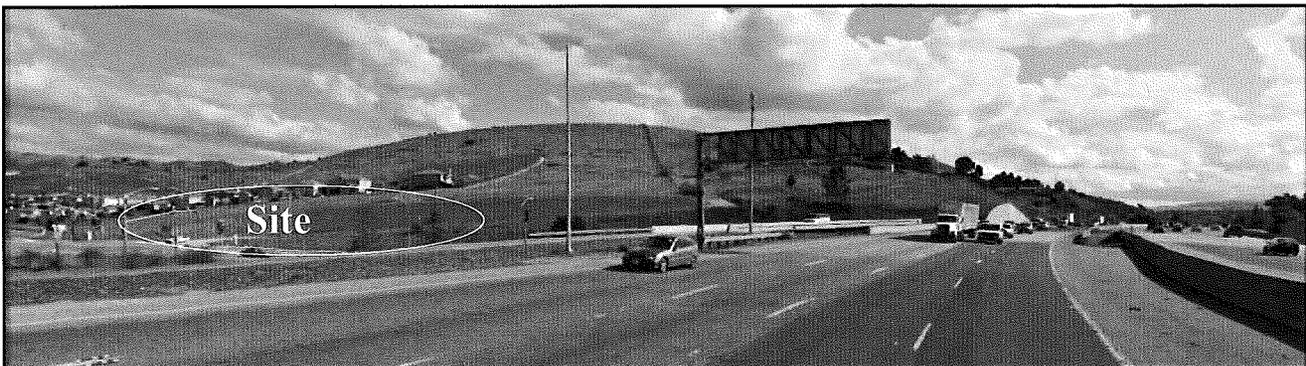
## **BACKGROUND & DESCRIPTION**

This is a privately initiated General Plan Amendment request to change the San José 2020 General Plan Land Use/Transportation Diagram designation from Public/Quasi-Public to Medium Low Density Residential (8 DU/AC) on a 3.2 gross acre site located on the southeast corner of Yerba Buena Road and Dove Hill Road.

Approval of the proposed General Plan Amendment to Medium Low Density Residential (8 DU/AC) and a subsequent Planned Development Rezoning would facilitate the development of single-family residential uses.

### **Site and Surrounding Land Uses**

The subject site is undeveloped, sloping, grassland that overlooks Highway 101 to the northwest. The land uses surrounding the site include single-family residential to the north and east, open hillside and single-family residential to the south, and Highway 101 to the west. The site is visible from Highway 101.



### **Previous Planning Approvals**

In 1995, a General Plan Amendment was approved to change the land use designation on the site from Non-Urban Hillside to Public/Quasi-Public (File No. GP95-08-04). This request was filed to facilitate the development of a church on the site. In 2001, a subsequent Planned Development Rezoning (File No. PDC99-028) was approved that allowed for a church use to be developed on the site. The site design was such that the parking areas were distributed on either side of a single building to minimize the total visual

impact. The subject site is located below the 15% slope line; however, its sloping topography is visible from the valley floor.

### **Evergreen-East Hills Development Policy**

The subject site is located within the Evergreen-East Hills Development Policy (EEHDP) area, which encompasses all areas of the City that are south of Story Road and east of Highway 101. A revised Policy was adopted on December 8, 2008 to change the traffic analysis methodology for managing the traffic congestion associated with near term development in the EEHDP area and promote development consistent with the General Plan goals. The updated EEHDP establishes a capacity for the development of up to 500 new residential units, 500,000 square feet of new retail, and 75,000 square feet of new office within the area. The pool of new residential units is divided up between small projects (35 units or less) and large projects (between 35 and 150 units).

Units and/or square footage are withdrawn from the pool with the approval of a rezoning or development permit. The previous policy created a benefit assessment district which allocated units to specific parcels and not every undeveloped or underdeveloped parcel had a unit allocation. Under the old policy, the subject site had no allocation. With the adoption of the new EEHDP the subject site now has the ability to develop 35 residential units with the approval of a Planned Development Zoning. The subject General Plan Amendment would facilitate a Planned Development Rezoning of the site for single-family residential uses.

As a General Plan Amendment does not entitle the allocation of development capacity to the subject site, which can only occur through the approval of a development permit, the analysis required under the EEHDP for allocation is not done at this time, but at the Planned Development Rezoning stage of the project. In addition, under the EEHDP, the applicant will pay a Traffic Impact Fee (TIF) based on a fair-share contribution towards the cost of providing transportation improvements that directly mitigate the traffic impacts associated with any development.

### **ANALYSIS**

#### **Land Use Designations**

The site's existing General Plan land use designation of Public/Quasi-Public is used to designate public land uses, including schools, colleges, corporation yards, homeless shelters, libraries, fire stations, water treatment facilities, convention centers and auditoriums, museums, governmental offices and airports. This category is also used to designate lands used by some private entities, including public utilities and the facilities of any organization involved in the provision of public services such as gas, water, electricity, and telecommunications. In addition, such institutions as places of worship, private schools and private hospitals are also appropriate for this designation.

The applicant's proposed General Plan land use designation of Medium Low Density Residential (8 DU/AC) is typified by the 6,000 square foot subdivision lot which is prevalent in San José. It is characteristic of many residential neighborhoods, and is the density at which the majority of San José's single-family housing has been built. If this designation is applied to this site, it could allow up to 25 single-family detached residential units on the subject site.

Staff does not support the proposed General Plan Amendment. As stated above, in 1995, a General Plan Amendment (File No. GP95-08-04) was approved on the subject site that changed the land use designation from Non-Urban Hillside to Public/Quasi-Public to allow for a church use. This land use change was appropriate given the lack of land designated for Public/Quasi-Public uses and it was concluded that a church use would be of low intensity, and be designed to protect the scenic views of the

hillside and incorporate the hillside's natural features. Therefore, any land use change on the subject site should only be to convert the site back to its original Non-Urban Hillside land use designation. The Non-Urban Hillside designation limits land uses to those that have very little physical impact on the land and require no urban facilities or services. Very low intensity uses, such as grazing, tree farming, or very large lot residential estates, are potential uses under this category. The maximum residential density is determined by the Hillside Slope Density Formula which defines minimum lot sizes between 20 and 160 acres (i.e., a density range of 0.05 to 0.0063 DU/AC) based on average slope of an existing legal parcel.

### **Vacant Land Inventory**

The Vacant Land Inventory, last updated in 2007, provides an overview on the rate of development of vacant land in San Jose, and the amount of remaining vacant land in the City's Urban Service Area. According to the inventory, there are a total of 17 acres of vacant Public/Quasi-Public land available in the Evergreen Planning Area, of which the subject site makes up 3.2 acres. Given the lack of land designated for uses such as churches, private schools, and private hospitals to be located, the proposed land use change to residential is not recommended.

### **General Plan Goals and Policies**

The proposed land use change from Public/Quasi-Public to Medium Low Density Residential would be inconsistent with the following General Plan provisions as discussed below:

- **Growth Management Major Strategy:** This Strategy seeks to direct the growth of the City and find the balance between housing new population and balancing the City's budget while providing acceptable levels of service.

*The General Plan provides direction on where growth in the City should occur and the limit of that growth is defined by the Greenline/Urban Growth Boundary. In addition, the General Plan seeks to protect the hillsides that are a visually prominent feature in the City. The fact that the land use designation of the subject site was Non-Urban Hillside prior to its change to Public/Quasi-Public furthers the goal of the General Plan to direct development away from the hillsides. Residential use on the subject site would be inconsistent with the strategy of directing growth away from the hillsides.*

- **Hillside Development Policy No. 9:** Consideration should be given to the siting of homes for privacy, livability, and adequate solar access and wind conditions. Siting should take advantage of scenic views but should not create significant visual impacts affecting public places and other properties.

*Residential homes on this site would be adjacent to, and overlook Highway 101 and the 101/Yerba Buena Road on and off ramps. This location is not ideal for residential uses as it would be a challenge to provide privacy and livability to residents.*

*The site is also highly visible from southbound Highway 101 and provides an unobstructed view of the hillside. The number of homes that would be allowed by the proposed land use change would result in multiple buildings, as opposed to a single building under the existing designation. Multiple buildings would inhibit the scenic views of the hillside. The proposed Amendment is inconsistent with this policy.*

- **Scenic Routes Policy No. 4:** Any development occurring adjacent to Landscaped Throughways should incorporate interesting and attractive design qualities and promote a high standard of architectural excellence.

*Urban Throughways are designated as scenic routes on the Scenic Routes and Trails Diagram. This designation includes all the State and Interstate Highways that traverse through San Jose's Sphere of Influence. These Throughways are important transportation routes with high traffic volumes. San José's image for both residents and visitors are affected by the visual and aesthetic scene both at gateways where these routes enter the City, and as these routes traverse the City. Maintaining the Public/Quasi-Public use provides an opportunity for a structure with architectural interest consistent with this policy.*

### **Conclusion**

The subject General Plan amendment request is inconsistent with the San Jose 2020 General Plan and its Goals and Policies, as stated above. The site is more suited for the development of one building with Public/Quasi-Public uses as it would have the ability to provide a structure of architectural interest and maintain the scenic views of the hillside.

### **ENVIRONMENTAL REVIEW**

A Negative Declaration (ND) was adopted on March 15, 2010, and states that the proposed General Plan Amendment will not have a significant effect on the environment. The entire ND and Initial Study are available for review on the Planning web site at: [www.sanjoseca.gov/planning/eir/MND.asp](http://www.sanjoseca.gov/planning/eir/MND.asp)

### **PUBLIC OUTREACH/INTEREST**

The property owners and occupants within a 1,000-foot radius were sent public hearing notices for the Planning Commission and City Council hearings. This staff report has been posted on the City's web site. Signage has been posted at the site to inform the public about the proposed change. Staff has been available to discuss the proposal with interested members of the public.

### **General Correspondence**

One comment letter was submitted by a community member and stated that the City does not need more housing supply, but land for business enterprises (see attached letter).

### **Tribal Consultation**

This General Plan amendment is subject to the State of California Tribal Consultation Guidelines and was referred to the tribal representatives. To date, no comments from tribal representatives on the subject General Plan amendment request have been received.

**Project Manager:** Lesley Xavier

**Approved by:** Laurel Powell

**Date:** 03/30/2010

<b>Owner/Applicant:</b> Joey Lo 3300 Ralston Avenue Hillsborough, CA 94010	<b>Attachments:</b> Community Correspondence
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## Xavier, Lesley

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**From:** James Meza [meza4@yahoo.com]  
**Sent:** Wednesday, June 17, 2009 9:48 AM  
**To:** Xavier, Lesley  
**Subject:** Planning Department

### Public Comments

Folder Number: 2009 020867 AO *File No. GP09-08-01*  
Project Manager: Lesley Xavier

In my opinion, the general plan was drafted with the correct ideals in mind. In this area and economy, we do not need more of a housing supply.

We should focus on preservation of our vacant land for business enterprise, which is much needed. I hope you consider this comment in your decision. Thank you.

Name: James Meza  
Email: meza4@yahoo.com  
Telephone Number:

Web Server: [www.sjpermits.org](http://www.sjpermits.org)

Client Information: Mozilla/4.0 (compatible; MSIE 7.0; Windows NT 5.1; InfoPath.2; .NET CLR 2.0.50727; .NET CLR 3.0.04506.30; .NET CLR 3.0.04506.648; .NET CLR 3.0.4506.2152; .NET CLR 3.5.30729)