



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. GP09-08-03. A GENERAL PLAN AMENDMENT REQUEST TO CHANGE THE LAND USE/TRANSPORTATION DIAGRAM DESIGNATION FROM VERY LOW DENSITY RESIDENTIAL (2 DU/AC) TO LOW DENSITY RESIDENTIAL (5 DU/AC) ON A 2.61 GROSS ACRE SITE LOCATED ON THE EAST SIDE OF RUBY AVENUE, APPROXIMATELY 50 FEET NORTHERLY OF MURILLO AVENUE.

RECOMMENDATION

The Planning Commission voted 7-0-0 to recommend that the City Council approve the proposed General Plan Amendment to change the Land Use/Transportation Diagram land use designation from Very Low Density Residential (2 DU/AC) to Low Density Residential (5 DU/AC) on a 2.61 gross acre site located on the east side of Ruby Avenue, approximately 50 feet northerly of Murillo Avenue.

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 Amendment request on the 2.61 gross acre subject site for the reasons stated in the attached staff report.

Planning staff gave a brief report stating that the staff recommends no change to the General Plan land use designation on the subject site because an increase in residential density would be out of character for the neighborhood. Ruby Avenue is the clear dividing line between residential densities as shown on the General Plan map located on page 2 of the staff report. Properties easterly of Ruby Avenue are Very Low Density Residential in contrast to the Medium Low and

April 8, 2010

Subject: GP09-08-03

Page 2

Low Density Residential designations westerly of Ruby Avenue. These designations deliberately reflect the topography of the area.

In addition, this site and the larger area around it are not being considered in the Envision San Jose 2040 General Plan Update as a location for new housing development beyond the existing Very Low Density Residential (2 DU/AC) land use designation because it is not near planned or existing transit. A land use change at this location would result in an isolated spot of land designated as 5 DU/AC amid the larger area designated 2 DU/AC on those properties located easterly of Ruby Avenue. This area above Ruby Avenue was deliberately planned for a density of 2 DU/AC as this designation appropriately reflects the hillside topography of the area.

The applicant, Jerry Strangis, then spoke on the item and stated that he spoke with many of the adjacent neighbors in person and all of them had signed a petition in support of the project. He also stated that development of the approved church use would create more traffic than a single-family residential use. The project engineer, Vince Rivero, went on to state that the development surrounding the site is very similar to the proposed housing development on the subject site. Commissioner Zito asked what the lot sizes for the project would be and the applicant responded that the minimum lot size would be 10,000 square feet.

The Planning Commission then took public testimony. There were five speakers on the item, all of whom were in support of the proposed land use change.

The speakers stated that the vacant lot is blighted and development would be welcome and would provide more housing. Two of the speakers were members of the adjacent mosque and stated their support for the change to residential.

The Commission then closed the public hearing. Commissioner Kamkar stated that given that the lot is below the 15% slope line that this would be a nice transition between the larger lots up hill and Ruby Avenue. Commissioner Zito recommended that the street on the site be private so as to not further burden the City with additional road maintenance. Commissioner Zito made a motion to approve the requested General Plan Amendment. He spoke on the motion and stated that this would be a good trade off instead of the approved assembly use as it would less traffic for the neighborhood. The Planning Commission then voted 7-0-0 to recommend to the City Council approval of the proposed General Plan Amendment.

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.

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. In addition, on January 21, 2010, a community meeting was held at the Evergreen Community Center located on San Felipe Road, at which seven community members were in attendance.

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.

HONORABLE MAYOR AND CITY COUNCIL

April 8, 2010

Subject: GP09-08-03

Page 4

CEQA

CEQA: Negative Declaration.

JOSEPH HORWEDEL, SECRETARY
Planning Commission

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

STAFF REPORT
PLANNING COMMISSION

FILE NO.: GP09-08-03

Submitted: August 27, 2009

PROJECT DESCRIPTION:

General Plan amendment to change the Land Use/Transportation Diagram land use designation from Very Low Density Residential (2 DU/AC) to Low Density Residential (5 DU/AC) on a 2.61 gross acre site.

LOCATION:

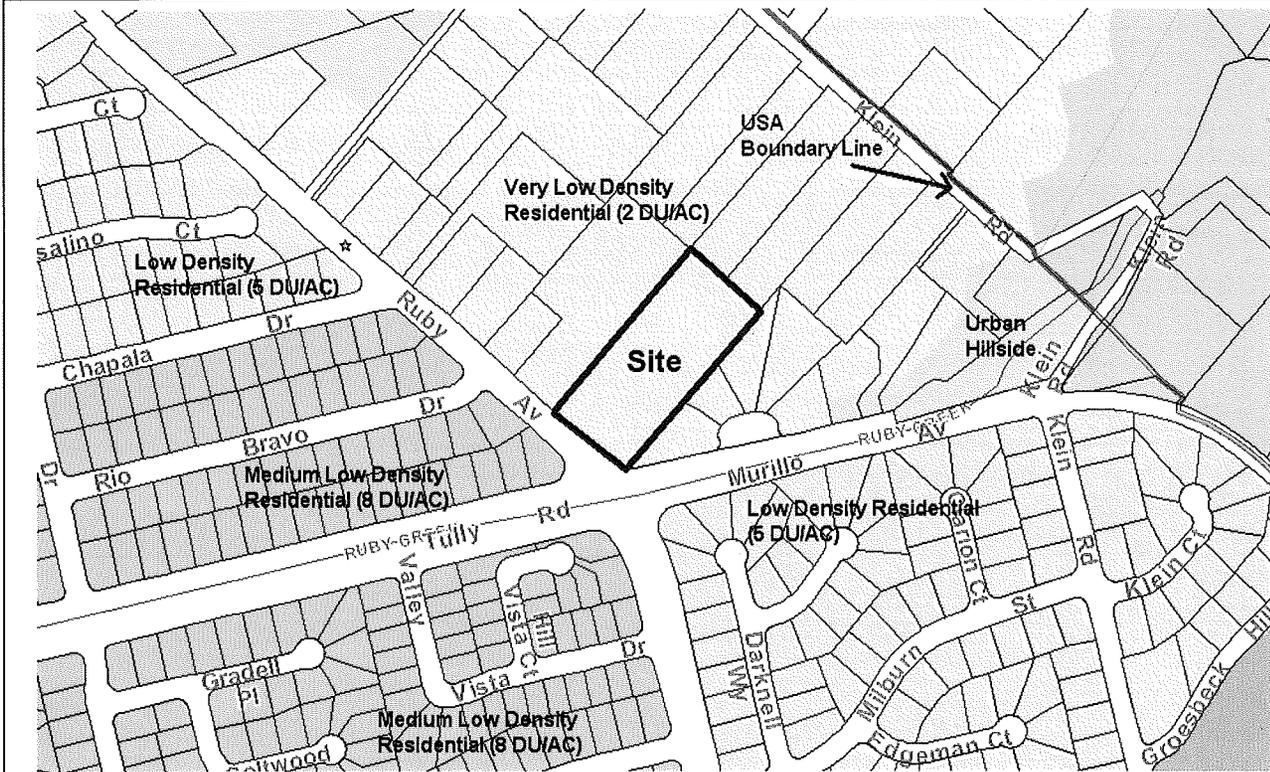
East side of Ruby Avenue, approximately 50 feet northerly of Murillo Avenue (2494 Ruby Avenue)

Existing General Plan	Very Low Density Residential (2 DU/AC)
Proposed General Plan	Low Density Residential (5 DU/AC)
Existing Zoning	A(PD) Planned Development
Council District	8
Annexation Date	February 26, 2002 (Evergreen No. 185)
SNI	NA
Historic Resource	NA
Redevelopment Area	NA
Specific Plan	NA

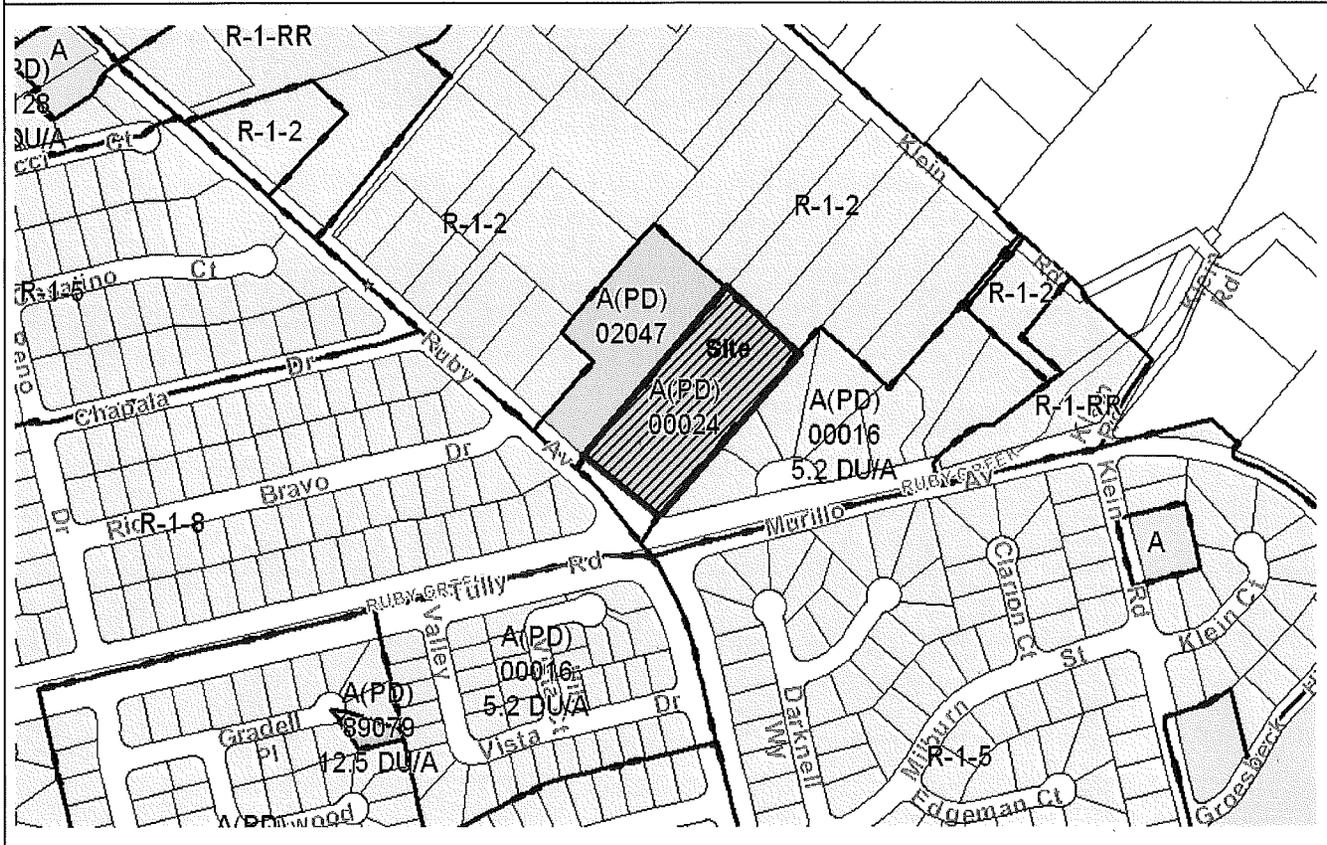
Aerial Map



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 Very Low Density Residential (2 DU/AC) to Low Density Residential (5 DU/AC) is inconsistent with the goals and policies of the San Jose 2020 General Plan, most notably:
 - a. Residential Land Use Policy No. 9, as an increase in residential density would be out of character for the neighborhood.

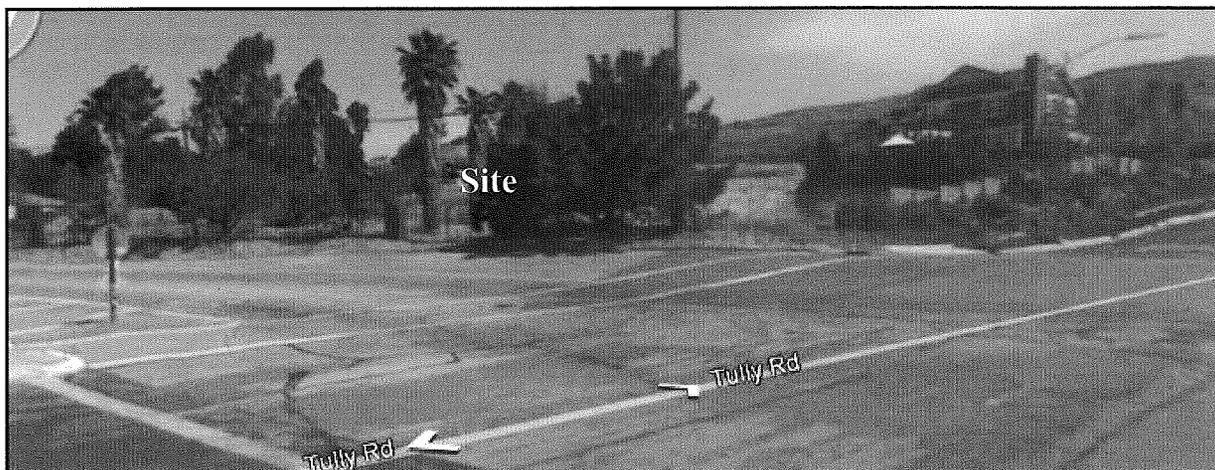
BACKGROUND & DESCRIPTION

This is a privately initiated General Plan Amendment request to change the San José 2020 General Plan Land Use/Transportation Diagram land use designation from Very Low Density Residential (2 DU/AC) to Low Density Residential (5 DU/AC) on a 2.61 gross acre site located on the east side of Ruby Avenue, approximately 50 feet northerly of Murillo Avenue. Approval of the proposed General Plan Amendment to Low Density Residential (5 DU/AC), and a subsequent Planned Development Rezoning could theoretically allow up to 13 residential units on the site.

An associated Planned Development Zoning (File No. PDC09-028) has been filed to allow up to 10 single-family detached residences, which is at an approximate net density of 4 DU/AC. This zoning application proposes large lot, 2 story, single-family detached units. This proposed zoning would be presented in a staff report to Planning Commission and City Council at a future date if the proposed General Plan Amendment is approved.

Site and Surrounding Land Uses

The subject site is undeveloped, moderately sloping, grassland. The land uses surrounding the site includes assembly (mosque and community center) to the north, single-family detached residential to the east, to the south across Ruby Avenue, and to the west. Ruby Avenue is a clear dividing line between residential densities as shown on the General Plan map located on page 2 of this report. Properties easterly of Ruby Avenue are Very Low Density Residential in contrast to the Medium Low and Low Density Residential designations westerly of Ruby Avenue. These designations deliberately reflect the topography of the area.



Previous Planning Approvals

In 1997 a General Plan Amendment (File No. GP97-08-03) request was denied to allow for a land use designation change from Very Low Density Residential (2 DU/AC) to Medium Low Density Residential (8 DU/AC) because: (1) it was out of character with surrounding development, (2) it was inconsistent with the General Plan's Hillside Development policies, and (3) the site only had one unit of allocation under the Evergreen Development Policy in place at the time.

On December 4, 2001, a Planned Development Rezoning (File No. PDC00-024) was approved to allow for the development of a 22,570 square foot, two-story, church (Young Nak Presbyterian Church). The church building was planned near the middle of the site and a total of 131 parking spaces were to be sited in both the front and the rear of the facility. The church was anticipated to have a maximum capacity of 524 people. A Planned Development Permit was never filed to implement the zoning and the church was never constructed.

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; however there is one single-family residence that was on the site and credit will be give for that one unit. With the adoption of the new EEHDP the subject site now has the ability to develop up to 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 up to 13 single-family detached residences.

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 the development.

ANALYSIS

The subject site is located within the City's Greenline/Urban Growth Boundary and Urban Service Area, and is located below the 15% slope line.

Land Use Designations

The subject site's existing land use designation of Very Low Density Residential (2 DU/AC) is typified by half acre residential lots. In areas planned for this density the designation is based upon topographical and/or geologic considerations. On a given parcel, sufficient unaffected area may be found to sustain a

density of two units per acre. In the foothills of San Jose, this density is typically based on the need to limit development due to the potential for landsliding and soil creep.

The applicant's requested land use designation of Low Density Residential (5 DU/AC) is typified by 8,000 square foot lots. This density category is found in neighborhoods within Evergreen, including northwesterly of the subject site.

General Plan Goals and Policies

The proposed land use change from Very Low Density Residential (2 DU/AC) to Low Density Residential (5 DU/AC) on the subject site is inconsistent with the following General Plan Goals and Policies and are the main reasons for recommending no change to the General Plan as discussed in the following:

- **Residential Land Use Policy No. 9:** When changes in residential densities are proposed, the City should consider such factors as neighborhood character and identity, compatibility of land uses and impacts on livability, impacts on services and facilities, including schools, to the extent permitted by law, accessibility to transit facilities, and impacts on traffic levels on both neighborhood streets and major thoroughfares.

An increase in residential density would be out of character for the area northeasterly of Ruby and Murillo Avenues. A density of 5 DU/AC on the 2.61 gross acre site could allow up to 13 dwelling units. The resulting lot size from this density would be approximately 8,800 square foot lots. As shown in the map below, the lots surrounding the subject site range in size between 10,890 square feet and 1.55 acres.



Even the associated Planned Development Rezoning that is currently on file proposing 10 lots with a minimum lot size of 10,000 square feet is inconsistent with the large lot character of the neighborhood. The existing land use designation provides the right density for the subject site as it

would allow approximately five units with a lot size of approximately 22,738 square feet consistent with the large lot character on the uphill side of Ruby Avenue.

- **Housing Policy No. 1:** The City encourages a variety and mix in housing types to provide adequate choices for housing to persons of all income levels in San José. Where appropriate, implementation of this policy in large-scale development projects should be considered.

This policy aims to provide a variety of housing types in the City. Ruby Avenue is a natural separation between the higher residential densities down hill, the lower residential densities uphill, and the Greenline/Urban Growth Boundary. Allowing for a land use change that results in an increase in residential density on a single property would reduce the amount of land available for large lot residences (i.e. executive homes) in the City. There are currently few opportunities in the City for large lot residential uses and an increase in density would work against the goal of providing a varied housing mix and choices for all persons at all income levels.

In addition, this site and the larger area around it are not being considered in the Envision San Jose 2040 General Plan Update as a location for new housing development beyond the existing 2 DU/AC land use designation because it is not near planned or existing transit. A land use change at this location would result in an isolated spot of 5 DU/AC amid the larger area designated 2 DU/AC on those properties located easterly of Ruby Avenue. This area above Ruby Avenue was deliberately planned for a density of 2 DU/AC as this designation appropriately reflects the hillside topography of the area. Should the decision makers decide that this area is appropriate for an increase in density, all of the properties designated as 2 DU/AC located easterly of Ruby Avenue should be analyzed comprehensively and not individually.

Conclusion

The subject General Plan amendment request is inconsistent with the San Jose 2020 General Plan and its Goals and Policies, as stated above.

ENVIRONMENTAL REVIEW

A Negative Declaration (ND) was adopted on March 30, 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

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.

Community Meeting

On January 21, 2010, a community meeting was held at the Evergreen Community Center located on San Felipe Road, at which seven community members were in attendance. A majority of those at the meeting expressed that they preferred a single-family detached residential use on the site as opposed to an assembly use. There were also concerns about the additional traffic that the new units would add to the street network in Evergreen.

General Correspondence

Three comment letters were received in regards to the proposed land use change (see attached). Two of the letters were against increasing the residential density on the site and one was concerned about the future road connection of Murillo Avenue and the planned traffic signal at Ruby Avenue and Murillo Avenue.

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:

Samuel Piretti

Date:

3-30-10

Owner/Applicant:	Attachments:
<u>Owner:</u> Mahmood Ghori 3331 Alfonso Drive Concord, CA 94518 <u>Applicant:</u> Jerry Strangis 3546 Steval Place San Jose, CA 95136	Neighbor Correspondence

Xavier, Lesley

From: Ralph Portillo [ralph.portillo@gmail.com]
Sent: Tuesday, September 01, 2009 11:45 AM
To: Xavier, Lesley
Subject: Planning Department

Public Comments

Folder Number: 2009 030732 AO ~~EP09-08-03~~

Project Manager: Lesley Xavier

I strongly disagree with the proposal to change the GP for this 2.5 acre site to a 5DU/Acre. This would carve out a square lot in the middle of a section of hillside that is mostly open. The urban creep up the hillside must stop at Ruby Road. There are plenty of opportunities for homeowners to purchase 6K-8K sq.ft lots in the area. We do not need to carve out a piece of hillside for 10 more options. Leave the land as its been zoned for. The owner of this property can not just go around buying land on the cheap to develop into a parcel it was not intended for.

Name: Ralph Portillo
Email: ralph.portillo@gmail.com
Telephone Number: 408.528.8826

Web Server: www.sjpermits.org
Client Information: Mozilla/5.0 (Windows; U; Windows NT 5.1; en-US; rv:1.9.1.2) Gecko/20090729 Firefox/3.5.2 (.NET CLR 3.5.30729)

Xavier, Lesley

From: lmontagano@comcast.net
Sent: Monday, January 25, 2010 7:43 PM
To: Xavier, Lesley
Cc: strangis@aol.com
Subject: General Plan Amendment (File #GP09-08-03) and planned Development Rezoning (file #PDC 09-028)

Regarding meeting of 1/21/10 at Evergreen Community Center, I would like to reiterate for the record that most neighbors around this planned area would like to see that Murillo Ave stays closed down at Grosbeck Park and that no lights go in at the intersection of Ruby, Murillo & Tully.

Thank you,
Linda & Tony Montagano

3/25/2010

Xavier, Lesley

From: Susan Sundberg [sundberg27@yahoo.com]
Sent: Monday, March 01, 2010 9:40 PM
To: Xavier, Lesley
Subject: Tully Road/White Road parcel Files no. GP09-08-03 and PDC09-028

Hi Lesley,

I know I am kind of late with my comments, but I would still like to put in my two cents worth. I live on Rio Bravo Drive and I am very against them building more housing in an extremely crowded area at this site. The reason is that it takes almost 30 minutes to get to the freeway from this area on weekday mornings. It is a distance of maybe 4 miles. The traffic around here is horrendous. We do not need more traffic on Tully Road and Capitol Expressway during commute times.

Another reason I am really against this is all of the construction noise it will create. The monster houses that were put up at the opposite corner of Tully and White about 10 years ago created two YEARS of construction noise starting at 6am every morning. It was really annoying and I DO NOT want to go through that again. Please don't let them build anymore traffic producing housing around here.

Sincerely,

Susan Sundberg