



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: December 2, 2010

COUNCIL DISTRICT: 8
SNI AREA: N/A

SUBJECT: FILE NOS. GP09-08-05/GPT09-08-05, A GENERAL PLAN AMENDMENT TO CHANGE THE SAN JOSE 2020 GENERAL PLAN LAND USE/ TRANSPORTATION DIAGRAM LAND USE DESIGNATION FROM VILLAGE CENTER ON 8 ACRES AND PUBLIC PARK AND OPEN SPACE ON 7 ACRES TO VILLAGE CENTER ON THE TOTAL 15 GROSS ACRE SITE; AND A GENERAL PLAN TEXT AMENDMENT TO AMEND THE GENERAL PLAN AND EVERGREEN SPECIFIC PLAN TEXT TO ADD 150 NEW RESIDENTIAL UNITS TO THE EXISTING CAP OF 3,031 RESIDENTIAL UNITS ALLOWED IN THE EVERGREEN PLANNED RESIDENTIAL COMMUNITY AND SPECIFIC PLAN AND RELATED TEXT AMENDMENTS

RECOMMENDATION

The Planning Commission voted 7-0 to recommend to the City Council approval of the proposed General Plan Amendments as recommended by staff.

OUTCOME

Should the City Council approve the General Plan Amendments as recommended by the Planning Commission and staff, the applicant would be able to move forward with a Planned Development Rezoning and subsequent Planned Development Permit and building permits to allow for the construction of a mixed-use project of up to 107 residential units, up to 25,000 square feet of commercial uses, and the preservation and restoration of the historic Mirassou Winery building and (Peter Mirassou) Heritage house, on the subject site.

BACKGROUND

On December 1, 2010, the Planning Commission opened a public hearing to consider the proposed General Plan Amendments. The Director of Planning, Building and Code Enforcement recommended approval of the proposed General Plan Amendments.

Staff provided introductory comments, then Joe Head, representing SummerHill Homes, spoke on behalf of the project. He explained that the phased project includes historic restoration, voluntary payment of additional monies to both the Elementary and High School Districts upon commencement of construction, and the payment of traffic fees in compliance with the Evergreen Development Policy (EDP).

Several community member presented slides on the project that included their concerns with the change to the Evergreen Specific Plan, limited outreach, environmental issues, school overcrowding, inadequate analysis of adjacent well and water quality supply safety due to DDT and other hazardous chemicals on the site, and traffic.

Bonnie Mace from the District 8 Community Roundtable spoke in favor of the project as it would enhance Evergreen Village Square, contributing to the creation of an iconic sense of place. She also noted that the City should make sure the project is done well since SummerHill Homes is not a retail developer, and that any traffic improvements that are required to be constructed as a part of the EDP should be those that are closest to the project site.

The Commission then closed the public hearing and discussed all of the Mirassou items. The Commission's comments focused on the zoning (see related item for PDC10-001), endorsing:

- The retail connection from Aborn to the Village Square,
- Historic restoration,
- Community involvement,
- The design charette process,
- Vineyard replanting,
- A monument sign at Aborn to help the Village Square, and
- A partnership with Shappell for the entire retail area.

Commissioner Abelite suggested doing the Capitol and Aborn improvements since money would be available to build it. There was some discussion about a cul-de-sac in the southwestern portion of the site. Staff and counsel explained that the townhouse street is private and therefore the City cannot require the connection.

The Planning Commission then voted 7-0 to certify the EIR and recommend to the City Council approval of the proposed General Plan Amendments as recommended by staff.

ANALYSIS

A complete analysis of the issues regarding this project, including General Plan conformance, is contained in the staff report to the Planning Commission. This report was provided to the City Council under separate cover.

EVALUATION AND FOLLOW-UP

If the General Plan amendments are approved, the Council could consider the pending zoning for the site.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 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)**
- Criterion 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)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30; Public Outreach Policy. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The rezoning was also published in a local newspaper, the Post Record. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

On October 4, 2010, a community meeting was held to present the General Plan Amendments and Planned Development Rezoning of the subject site. The meeting was held at the Evergreen Elementary School located on Fowler Road, at which 23 community members were in attendance. A majority of those at the meeting expressed that they were concerned about the impact to schools and traffic. They would like to see development with fewer residential units and the inclusion of a public park. A second follow up community meeting was held on November 1, 2010 at Evergreen Elementary School at which representatives were present from the City's Department of Transportation, the Evergreen School District, and the East Side Union High School District to specifically discuss how the project would affect schools and traffic.

In addition, the applicant presented the project at the January 7, 2010 District 8 Community Roundtable meeting. A number of questions were brought up about the future development and most were pleased to see that the winery buildings would be preserved. The applicant returned to the group on October 7, 2010.

As a part of the environmental process, an EIR scoping meeting was held on May 17, 2010 at Evergreen Elementary School. Those in attendance were mainly concerned about the adequacy of traffic capacity and school capacity.

COORDINATION

This project was coordinated with the Department of Public Works, Fire Department, Building Division, Environmental Services Department, and the City Attorney.

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan policies and City Council approved design guidelines.

CEQA

An Environmental Impact Report (EIR) was prepared for the project, which ended its public circulation period on November 8, 2010. The EIR concludes that the proposed General Plan Amendments and Planned Development Rezoning will not have a significant effect on the environment with mitigation.

/s/

JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Mike Enderby, at 408-535-7843

COUNCIL AGENDA: 12-07-10

ITEM: 10.2



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: November 16, 2010

COUNCIL DISTRICT: 8

SNI: N/A

T R A N S M I T T A L M E M O

File No. GP09-08-05 & GPT09-08-05. A General Plan Amendment request to change the San Jose 2020 General Plan Land Use/Transportation Diagram designation from Village Center on 8.0 acres and Public Park and Open Space on 7.0 acres to Village Center on 15.0 acres and associated text changes to the Evergreen Specific Plan.

The Planning Commission will hear this project on December 1, 2010. The memorandum with Planning Commission recommendations will be submitted under different cover. We hope the submittal of this staff report is of assistance in your review of this project.

/s/

JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

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

STAFF REPORT
PLANNING COMMISSION

FILE NO.: GP09-08-05/GPT09-08-05

Submitted: October 19, 2009

PROJECT DESCRIPTION: General Plan Amendment to change the Land Use/Transportation Diagram designation from Village Center on 8 acres and Public Park and Open Space on 7 acres to Village Center on the total 15 gross acre site; and a General Plan Text Amendment to amend the General Plan and Evergreen Specific Plan text to add 150 new residential units to the existing cap of 3,031 residential units allowed in the Evergreen Planned Residential Community & Specific Plan and related text amendments.

Existing General Plan	Village Center and Public Park and Open Space
Proposed General Plan	Village Center
Existing Zoning	A(PD) Planned Development
Council District	8
Annexation Date	April 27, 1989 (Evergreen No. 171)
SNI	NA
Historic Resource	Mirassou Winery Building; 1924 Heritage (Peter Mirassou) House
Specific Plan	Evergreen Specific Plan

TEXT REFERENCE: San José 2020 General Plan, Chapter 5, Land Use/Transportation Diagram, page 173, Relationship to Evergreen Specific Plan; and page 176, Figure 18. Evergreen Planned Residential Community. Evergreen Specific Plan, Chapter 1, Executive Summary, page 1-1; Evergreen Specific Plan, Chapter 2, Introduction, Detailed Project Description, B. Commercial, page 2-3; Evergreen Specific Plan, Chapter 5, Land Use Plan, Commercial, page 5-3; Evergreen Specific Plan, Chapter 8, Private Development, Uses, page 8-2.

LOCATION: South side of Aborn Road between Alessandro Drive and Ruby Avenue (3000 Aborn Road)

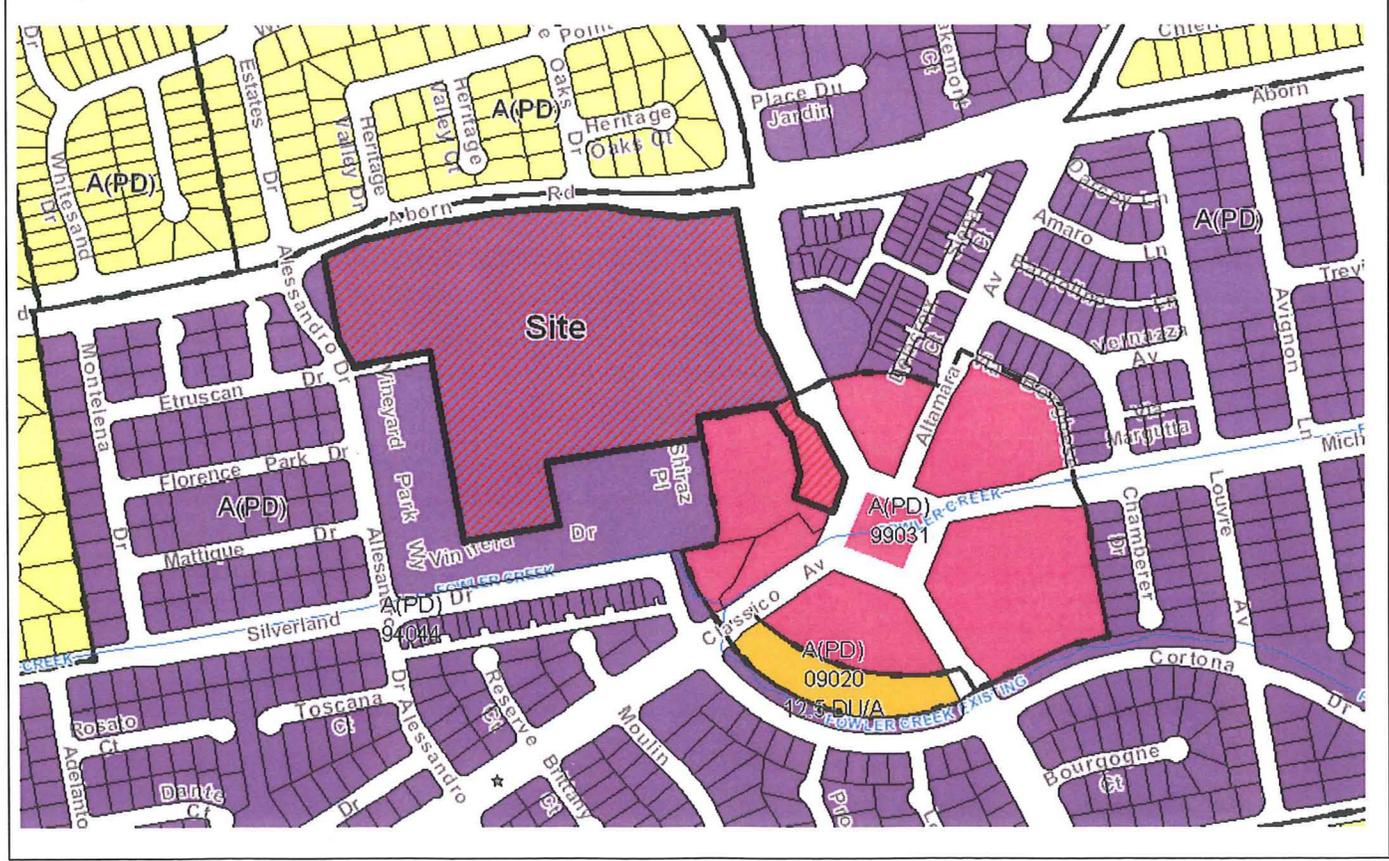
Aerial Map



GENERAL PLAN



ZONING



RECOMMENDATION

Planning staff recommends that the Planning Commission recommend to the City Council approval of the General Plan Amendment on the subject site and the General Plan Text Amendment for the following reasons:

1. The proposed amendment to change the Land Use/Transportation Diagram on the subject site from Village Center and Public Park and Open Space to Village Center is consistent with the goals and policies of the San Jose 2020 General Plan, most notably, but not limited to:
 - a. Urban Conservation Policy No. 2 to enhance the existing desirable qualities of the community as an increase in the amount of the Village Center land use designation on the site would provide more flexibility in the site design to help achieve the City's goal of drawing people from Aborn Road into the Evergreen Village Center and at the same time provide more housing to support the commercial uses in the Village Center. The proposal will also facilitate the restoration and adaptive re-use of historical buildings within the former Mirassou Winery facility.
 - b. Neighborhood Identity Policy No. 3 to improve the character of existing neighborhoods by removing urban barriers with the creation of a mixed-use development on the entire site that includes commercial, multi-family attached townhomes, and single-family detached development to continue a compatible development pattern and provide further connections from the existing neighborhoods to the former Mirassou Winery buildings and the existing Evergreen Village Center.
2. The project is consistent with the Evergreen Specific Plan.

BACKGROUND & DESCRIPTION

On October 19, 2009, SummerHill Homes initiated a General Plan Amendment request to change the San José 2020 General Plan Land Use/Transportation Diagram land use designation from Village Center on 8 acres and Public Park and Open Space on 7 acres (*Evergreen Planned Residential Community*) to Village Center (*Evergreen Planned Residential Community*) on the total 15 gross acre site located on the south side of Aborn Road between Alessandro Drive and Ruby Avenue. In addition to the land use change, a San José 2020 General Plan Text Amendment has also been requested to change the text of the Evergreen Planned Residential Community and Evergreen Specific Plan to add 150 units to the 3,031 residential unit cap in the Evergreen Specific Plan in accordance with the Evergreen-East Hills Development Policy.

An associated Planned Development Rezoning (File No. PDC10-001) has been filed to allow up to 107 single-family and multi-family residences at an approximate net density of 14 DU/AC and a new 7,500 square commercial building, as well as the preservation and restoration of the Mirassou Winery building and the (Peter Mirassou) Heritage House. The conceptual site plan contains a mix of single-family detached homes, court homes, and attached townhomes. This proposed rezoning is presented in a separate staff report to Planning Commission and City Council to be considered after the General Plan Amendments.

Site and Surrounding Land Uses

The subject site has a gentle slope of approximately five (5) percent with relatively flat areas adjacent to existing buildings on the property. Historically, the project site has been used for a winery and is currently occupied by vacant buildings, pavement, former vineyards, and some landscaping. Older winery structures include vacant residential, office, sales, production, and warehouse buildings. Wine production at the site was discontinued in 2005. The site is one of the few remaining development opportunity sites within the Evergreen Specific Plan area which was originally approved in 1991.

The land uses surrounding the site consist primarily of single-family detached residential uses across Aborn Road to the north of the site, and single-family attached residential uses to east, south and west. A municipal water pump station is also located to the west at the corner of Aborn Road and Alessandro Drive. An existing fire station is also located across Ruby Avenue to the east and the main core of the Evergreen Village Center (a neighborhood shopping center) is located to the southeast.

Evergreen-East Hills Development Policy

On December 16, 2008, the City Council approved the update of the Evergreen-East Hills Development Policy (Resolution No. 74741), and Evergreen-East Hill Traffic Impact Fee (Ordinance No. 28473), which established new procedures and transportation analysis methodology for the Evergreen-East Hills Development Policy area (Ordinance No. 25658). The San José 2020 General Plan text was amended by the City Council on June 16, 2009 to incorporate the EEHDP (File No. GP08-T-01).

The subject site is located within the Evergreen-East Hills Development Policy (EEHDP) area which encompasses the area south of Story Road and east of Highway 101. The revised Policy changed the traffic analysis methodology for managing the traffic congestion associated with near term development in the EEHDP area and promote development consistent with the San José 2020 General Plan goals. The updated EEHDP establishes a capacity for the development of up to 500 new residential units within the area covered by the policy. The pool of new residential units is divided between 70% for small projects (35 units or less) and 30% for large projects (between 35 and 150 units). Units are withdrawn from the pool with the approval of a rezoning or development permit.

The previous Evergreen Development Policy created a benefit assessment district which allocated units to specific parcels and not every undeveloped or underdeveloped parcel had a unit allocation. With the adoption of the new EEHDP, the subject site now has the ability to develop up to 150 residential units with the approval of a Planned Development Zoning, if it meets the criteria for a large project as identified in the Policy. The subject General Plan Text Amendment is necessary to allow an increase in the total number of units permitted under the Evergreen Planned Residential Community and Specific Plan, which would facilitate a Planned Development Rezoning of the site.

Approval of the proposed General Plan Amendment does not allocate the specific number of units of residential development capacity to the subject site in accordance with the EEHDP. Allocation can only occur through the approval of a rezoning or development permit. Therefore, the analysis required under the EEHDP for allocation of residential dwelling units on the subject site, including how the project will meet the criteria for a large project, will be done at the Planned Development Rezoning stage of the process. 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 proposed development.

Community Engagement

On October 4, 2010, a community meeting was held to present the General Plan Amendments and Planned Development Rezoning of the subject site. The meeting was held at the Evergreen Elementary School located on Fowler Road, at which 23 community members were in attendance. A majority of those at the meeting expressed that they were concerned about the impact to schools and traffic. They would like to see development with fewer residential units and the inclusion of a public park. A second follow up community meeting was held on November 1, 2010 at Evergreen Elementary School at which representatives were present from the City's Department of Transportation, the Evergreen School District, and the East Side Union High School District to specifically discuss how the project would affect schools and traffic.

In addition, the applicant presented the project at the January 7, 2010 District 8 Community Roundtable meeting. A number of questions were brought up about the future development and most were pleased to see that the winery buildings would be preserved. The applicant returned to the group on October 7, 2010.

As a part of the environmental process, an EIR scoping meeting was held on May 17, 2010 at Evergreen Elementary School. Those in attendance were mainly concerned about the adequacy of traffic capacity and school capacity.

ANALYSIS

The proposed General Plan land use and text amendments in addition to the Evergreen Specific Plan text amendments will allow for additional residential uses within the Village Center land use designation and facilitate the development of up to 107 new residential units and 7,500 square feet of additional commercial uses, as well as the restoration of the historic Mirassou Winery building and the Heritage (Peter Mirassou) house on the subject site. Given that the EEHDP caps the allocation of the 500 available new residential units to 150 units per new large project, the development of the subject site cannot exceed 150 new residential units plus previous allocations, of which the site has none. The main focus of the analysis is whether or not additional residential uses and additional commercial uses are appropriate on the subject site. The appropriateness is based on a determination of consistency with the General Plan's Goals and Policies, the Evergreen Specific Plan, and the California Environmental Quality Act (CEQA).

Land Use Designations

The subject site is within the City's Greenline/Urban Growth Boundary and Urban Service Area, as well as, within the boundary of the Evergreen Specific Plan. The site's existing Village Center land use designation is describe in the Specific Plan as being a use that surrounds the primary radial hub of the circulation system. In addition to commercial uses, the Village Center land use designation also allows for mixed-use development with residential uses above retail uses, and independent multi-family residential projects.

The site's Public Park and Open Space land use designation, which in the Specific Plan is called Public Facilities/Open Space, was used to identify the location of all of the schools and parks within the planned community. On the subject site the designation specifically identified what is known as the Heritage Vineyard. At the time of the creation of the Evergreen Specific Plan the Mirassou Winery was still in operation. The Heritage Vineyard was planned to be acquired and maintained by the

Community Facilities District (CFD) and was to be an area that lead into the Village Center and included a meandering sidewalk adjacent to Aborn Road. The Mirassou Winery has since ceased its operation on the site and the Heritage Vineyard shown on the land use plan is primarily gone, only a small degraded rectangular area remains directly in front of the winery building adjacent to Aborn Road. The meandering sidewalk was installed when Aborn Road was constructed as planned. (See picture below.)



General Plan Goals and Policies

The proposed land use change from Village Center and Public Park and Open Space to Village Center on the entire subject site is consistent with the following General Plan Goals and Policies as discussed in the following:

- Urban Conservation Policy No. 2: The City should encourage new development which enhances the desirable qualities of the community and existing neighborhoods.

The requested land use change to increase the amount of the Village Center land use designation on the site would provide more flexibility in the site design of a project on the site to help achieve the City's goal of drawing people from Aborn Road into the Village Center and at the same time provide more housing to support the commercial uses in the Village Center. The proposal will also facilitate the restoration and adaptive re-use of historical buildings within the former Mirassou Winery facility.

- Neighborhood Identity Policy No. 3: Public and Private Development should be designed to improve the character of existing neighborhoods. Factors that cause instability or create urban barriers should be discouraged or removed.

The character of the existing neighborhood is two- and three- story attached townhomes and one-, two-, and three-story single-family detached homes. The subject site, given its size, is underutilized and has not been in operation since 2005. A mixed-use development that includes commercial, multi-family attached townhomes, and single-family detached development on the subject site would continue the development pattern in the area and provide further connections from the existing neighborhoods to the Mirassou Winery and the Village Center, and will better integrate existing developments that surround the former winery site.

- Balanced Community Policy No. 1: The City should foster development patterns which will achieve a whole and complete community in San José, particularly with respect to improving the balance between jobs and economic development on the one hand, and housing resources and a resident work force on the other.

The proposed amendments would increase the amount of job generating land area on the subject site, as well as, residential uses because the Village Center designation allows for mixed-use development. The Village Center designation on the entire site will afford the opportunity to complete the neighborhood and enhance the Village Center with a mix of uses.

- Commercial Land Use Policy No.1: Commercial land in San José should be distributed in a manner that maximizes community accessibility to a variety of retail commercial outlets and services and minimizes the need for automobile travel. New commercial development should be located near existing centers of employment or population or in close proximity to transit facilities.

The subject site is already designated for commercial uses. The requested Village Center designation across the entire site will allow for more flexibility in the site design of a project on the site. Most specifically it will allow for commercial uses to be located at Aborn Road and Ruby Avenue, thereby providing a better commercial connection from the main road into the Village Center. This should improve the economic viability of the existing commercial uses within the core of the Village Center.

- 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.

While the amendment request is not an increase in density, the land use request would increase the area available for residential development, but at the same time, the text amendment to add single-family detached residences as a permitted use within the Village Center will allow for fewer units on the site. Ultimately, fewer units on the site will have a lesser impact on city services and traffic, but at the same time be at a density and product type that is consistent with the existing and planned uses surrounding the site.

Evergreen Specific Plan

The Evergreen Specific Plan is the City's policy for governing development in the Evergreen Planned Residential Community. The Specific Plan supplements the General Plan and provides for the implementation of the planned community. The main objectives of the Specific Plan were to create a unique residential community and to develop a solution for the severe traffic capacity constraints in the area. The Specific Plan also sought to make the most of the natural amenities of the area. The Specific Plan area is now largely built out except for an area designated for single-family houses adjacent to the Sikh Temple and Clark Elementary School and three parcels fronting onto the Evergreen Village Center Square, one of which has an approved, but not yet constructed, commercial and townhome development, and a portion of the subject site that extends to the Village Center, adjacent to the lake.

The proposed amendment to change a portion of the subject site from Public Park and Open Space to Village Center is consistent with the intent of the specific plan. It will allow for the extension of the Village Center, the community's primary activity hub, out to Aborn Road providing more visibility and connectivity to and from the surrounding neighborhoods. The Specific Plan expected the Mirassou Winery to remain, but did consider its potential conversion to other commercial uses of a similar nature and intensity to be consistent with the character of the Village Center should the Mirassou Winery operation cease. The land use change is consistent with this intent.

The Specific Plan document also calls for a variety of housing styles, types and densities. The Text Amendment to add single-family detached residences as a permitted use within the Village Center is consistent with providing a variety housing as the designation already allows for vertical mixed-use with residential above commercial, and stand alone multi-family development.

Text Change

The intent of the text change is to allow for single-family detached residences in the Village Center and increase the cap for residential development within the Evergreen Planned Residential Community/Specific Plan area by up to 150 dwelling units consistent with the revised Evergreen-East Hills Development Policy (EEHDP). This Policy added traffic capacity to the Evergreen area to allow the addition of 500 new residential units within the Policy area, which includes the Evergreen Specific Plan area. This General Plan Text Amendment enables 150 residential units to be allocated to the Evergreen Village Center with a subsequent Planned Development rezoning.

The Policy was set to limit growth in the area so that the area's traffic circulation system remains at a level of service that is deemed acceptable. With the adoption of the updated Policy, the City Council has made the decision to allow 500 new residential units in the Evergreen Area and with that accepted that there would be some additional traffic impacts. The 500 units are intended to be distributed in three different subareas. The updated Policy assumed that approximately 236 new residential units would be constructed in the subarea and that the project site is located (south of Aborn Road/Capitol Expressway and east of Highway 101). Given that the project proposes 107 new residential units, the project is consistent with the Policy, and therefore staff recommends approval of the proposed text amendment.

Proposed Text Changes to the San Jose 2020 General Plan and Evergreen Specific Plan

The proposed text changes are shown as underlined and/or strikethrough text for additions and deletions as follows:

- San José 2020 General Plan, Chapter 5, Land Use/Transportation Diagram, page 173, Relationship to Evergreen Specific Plan:

.....The ESP also sought to make the most of the natural amenities of the EPRC area. The Evergreen Specific Plan allows for up to ~~3,031~~ 3,181 residential units (both attached and detached), a small Village Center retail area and supporting public facilities.....

- San José 2020 General Plan, Chapter 5, Land Use/Transportation Diagram, page 176, Figure 18. Evergreen Planned Residential Community.

Land Use Designations	
Lot Type/Size	Number of Units
Multi-Family	334 <u>484</u>
Townhouses	279
Carriage Homes	318
Duplex	185
4,000 Square Feet	425
5,000 Square Feet	474
6,000 Square Feet	692
7,000-8,000 Square Feet	224
10,000 Square Feet (Hillside)	3,031 <u>3,181</u>
TOTAL	

- Evergreen Specific Plan, Chapter 1, Executive Summary, page 1-1.

Residential development consisting of ~~3,031~~ 3,181 dwelling units of varying types and densities:

- o 334 484 units of High Density Residential
 - o 279 units of Townhomes
 - o 185 units of Duplex Units
 - o 318 units of Carriage Homes
 - o 425 units of 4000 Square Foot Lots
 - o 474 units of 5000 Square Foot Lots
 - o 692 units of 6000 Square Foot Lots
 - o 224 units of 7000 to 8000 Square Foot Lots
 - o 100 units of Hillside Lots
- Evergreen Specific Plan, Chapter 2, Introduction, Detailed Project Description, B. Commercial, page 2-3.

B. Commercial

A neighborhood commercial center will be located adjacent to the existing Mirassou Winery. The commercial area will include approximately 150,000 square feet of retail and service space. Preliminary uses include a major health club facility, a movie theater, restaurants, and approximately 5,000 square feet of retail space in connection with the existing Mirassou Winery's tasting room and winery facilities. Mixed Use Development with residential uses above retail uses, single-family detached, and independent multi-family residential projects are also permitted in the Village Commercial Center as long as the overall total for the Evergreen Specific Plan Area of ~~3,031~~ 3,181 dwelling units is not exceeded.

- Evergreen Specific Plan, Chapter 5, Land Use Plan, Commercial, page 5-3.

Commercial

The Evergreen Specific Plan includes a commercial village center adjacent to the existing Mirassou Winery and visitor's center. The Village Center surrounds the primary radial hub of the circulation system. It is open and visible from Aborn Road. In addition to commercial uses, the Village Commercial land use also allows mixed use development with residential uses above retail uses, single-family detached, and independent multi-family residential projects are also permitted in the Village Commercial Center as long as the overall total for the Evergreen Specific Plan Area of ~~3,031~~ 3,181 dwelling units is not exceeded. (Chapter Eight "Private Development" provides an in-depth discussion on the Village Center as well as providing development criteria.)

- Evergreen Specific Plan, Chapter 8, Private Development, Evergreen Village Center, Uses, page 8-2.

Uses

The Specific Plan's goal for the Village Center is that it house a variety of locally-serving and specialty-draw users. Theater, health club, salon, restaurants and cafes, shops, a small market, and small community-serving professional offices are all considered appropriate. In addition, Mixed Use Development with residential uses above retail uses, and independent multi-family residential projects are also permitted in the Village Commercial Center as long as the overall total for the Evergreen Specific Plan Area of ~~3,031~~ 3,181 dwelling units is not exceeded; and to ensure that the form and character of the Village Center is achieved, any residential uses permitted would occur only after the Village Center square has been encircled by commercial structures.

- Evergreen Specific Plan, Chapter 8, Private Development, Evergreen Village Center, Permitted Uses, page 8-4, add the following to the list of uses:

Y. Single-family detached

California Environmental Quality Act (CEQA)

An Environmental Impact Report (EIR) was prepared for the project, which ended its public circulation period on November 8, 2010. The EIR concludes that the proposed General Plan Amendments and Planned Development Rezoning will not have a significant effect on the environment with mitigation. The entire EIR and Initial Study are available for review on the Planning web site at: <http://www.sanjoseca.gov/planning/eir/EIR.asp>

Cultural Resources

For the purposes of this project, a significant impact would occur if the project would have an adverse effect on one or more properties listed on, or potentially eligible for, inclusion on the National Register of Historic Places, California Register of Historical Resources, or at the local level as a "City Landmark" or "Candidate City Landmark" in the City of San Jose Historic Resources Inventory. Two

of the structures on the site appear eligible for listing in the California Register of Historic Resources and National Register of Historic Places. CEQA Sections 15064.5(b) (1) and (2) state that demolition, destruction, relocation, or alteration activities that would impair the significance of a historic resource represent a substantial adverse impact to cultural resources.

The project, as proposed, preserves the historically significant 1937 winery building and the Peter Mirassou Heritage House, including the garden and landscaping features that create the residential setting of the house. The remodeling and disturbance of these two historic buildings could represent a significant impact based on CEQA if not conducted in conformance with the *Secretary of the Interior's Standards for Rehabilitation and Rehabilitating Historic Buildings*. The historical evaluation indicated that rehabilitation in accordance with these standards appears to be feasible and that the resources offer opportunities for adaptive reuse that are compatible with the proposed mixed use development. However, specific plans for adaptive reuse of these structures are not known at this time. Alterations to the historic buildings could significantly impact these resources.

Transportation and Traffic

The Evergreen-East Hills Development Policy EIR concluded that the proposed land use changes (addition of 236 residential units) in the Evergreen Subarea would result in significant unavoidable program-level traffic impacts. While the proposed project would generate a very small proportion of the future vehicle trips in the Evergreen area, it would still contribute towards significant traffic impacts identified in the Evergreen-East Hills Vision Strategy EIR. However, the proposed project would not create any new significant impacts than already identified in the EIR. See link for additional information and proposed traffic improvements: <http://www.sanjoseca.gov/planning/evergreen>.

The Evergreen-East Hills Development Policy EIR provides near term traffic allocation for a Development Pool of 500 residential units on various sites throughout the Evergreen-East Hills area. The EIR analyzed the near-term traffic impacts of trips generated by development allowed under the policy. The traffic analysis in the EIR was based on assumptions about the distribution of the development that would receive traffic allocation under the Policy. The EIR assumed 236 residential units would be constructed in the subarea in which the project site is located. Given that the project proposes 150 additional residences over existing conditions, the project is consistent with this assumption.

In addition, the project will be required to pay the Traffic Impact Fee that has been created to fund the identified transportation improvements in the Evergreen-East Hills Development Policy. Therefore, Level of Service impacts resulting from project would not require mitigation, and the project would not result in any additional significant traffic impacts.

Schools

State law (Government Code §65996) specifies the method of offsetting a project's effect on the adequacy of school facilities as the payment of a school impact fee prior to the issuance of a building permit. The proposed project would increase the number of school children attending public schools in the project area. The impact to schools would be less than significant and development of the subject site will require the payment of a school impact fee, as mandated by the State, to offset the increased demands on school facilities caused by the proposed project.

CONCLUSION

As discussed in this report, the subject General Plan Amendment requests are consistent with several of the goals and policies in the San Jose 2020 General Plan. The Amendments are also consistent with the Evergreen Specific Plan and its intent to create a unique community that provides a variety of housing types, employment, schools, public parks and recreation, and shops and restaurants. The approval of the Village Center land use designation across the entire site, from the Village Center itself out to Aborn Road, would allow for the site to be developed in such a manner so that it is a true extension of the existing Village Center and really becomes the identifiable visual hub of the area that the Specific Plan intended.

PUBLIC OUTREACH/INTEREST

In addition to the community meetings held, 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

A number of comment letters were received in regards to the overall proposed project (see attached). Some of these letters are written in the context of commenting on the EIR, but include comments that are project related and not environmental. All of the comments are in opposition to the residential portion of the project as it would further impact schools and traffic in the area.

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:



Date:

11/18/10

<p>Owner/Applicant:</p> <p><u>Owner:</u> Mirassou Trust Richard Lambie, Trustee 367 S. Baywood Avenue San Jose, CA 95128</p> <p><u>Applicant:</u> SummerHill Homes Vince Cantore 777 California Avenue Palo Alto, CA 94304</p>	<p>Attachments:</p> <ul style="list-style-type: none"> ▪ Neighbor Correspondence ▪ Summary of Comments from the D8 Roundtable on January 7, 2010
---	---

Xavier, Lesley

From: Victor Abalos [victor.abalos@gmail.com]
Sent: Thursday, November 18, 2010 9:33 AM
To: Xavier, Lesley
Cc: District8
Subject: Fwd: [EvergreenOF] Digest Number 309

Hi Lesley,

In reference to the Summerhill development proposal as summarized below, the developer should be required to improve the perennial bottleneck that exists at the corner of Aborn Rd. and Capitol Expwy heading west (to 101). Also, to possibly synchronize the lights on Aborn Rd.

I support the schools' request for funding as schools here are already overcrowded.

Sincerely,
Victor Abalos

----- Forwarded message -----

From: <EvergreenOpenForum@yahoogroups.com>
Date: Thu, Nov 4, 2010 at 4:48 AM
Subject: [EvergreenOF] Digest Number 309
To: EvergreenOpenForum@yahoogroups.com

There is 1 message in this issue.

Topics in this digest:

1. Mirassou Site Development Meeting
From: S Buchholz

Message

1. Mirassou Site Development Meeting
Posted by: "S Buchholz" k1drbar@yahoo.com k1drbar
Date: Wed Nov 3, 2010 9:41 pm ((PDT))

I wanted to send out a quick copy of the notes I collected at the meeting before I forget too much detail ... sorry for the delay! My intention was not to take meeting minutes, so I did not take down the names of the presenters, but representatives were there from the SJ city council and streets & traffic departments, the ESUHSD, EESD, Mirassou Foundation and of course the developer Summerhill Homes. I'll also pass along some of the details my contact with the developer shared. I know that I wasn't the only member of this group who attended ... hopefully you can chime in with additional info I missed or correct anything I happened to get wrong ...

Before the meeting I learned that the process is being compressed somewhat due to issues with the EIR which lead to a delayed approval. I understand that the EIR was done prior to Summerhill Homes involvement with the project.

At the beginning of the meeting the city council representative pointed out that the meeting was a follow on from an earlier meeting and had two main topics for discussion: the impact of the proposed development on traffic and local schools. She noted that after these were discussed there might be more time for other discussion, but only after the two items were covered.

A representative from Summerhill Homes then gave an overview of the proposal. He had a large chart that showed what the site would look like under the current proposal. They reviewed the history from the Evergreen Visioning group, which recommended that most housing development be limited to 500 units, done mostly in small chunks, with a possibility for larger developments related to "historic" sites; with the Mirassou property considered one such site. While the EIR for the site assumed 150 homes and tens of thousands of square feet of industrial/retail, the proposal includes 105 homes and 7500 square feet of retail at the corner of Aborn Road & Ruby Avenue (Note that this does not include the winery or Mirassou home; for which the final use is being somewhat deliberately left open). The thinking is that the winery may become some sort of community center, used for non-profit or retail. Later in the meeting the Principal of EVHS indicated they had some ideas for use of this area also. The proposal included some townhomes along Ruby Avenue, with single family homes around the majority of the site.

A gentleman from the city's Streets and Traffic department discussed what the city requires from developers, and the overall process used to determine the impact a particular development will have on the traffic patterns. In the Evergreen area the city charges a \$13,000 per unit traffic impact fee. The developer can pay the city this amount, or can work with the city to define and implement improvements. I think this discussion took the majority of the time allotted to the meeting. The way I understood it, the city already has a list of improvement projects which are intended to be funded by developments, and the city works with the developer to decide which of the improvements will be done for the particular development. The gist of what I heard was that the improvements discussed for the Mirassou project were to be along Aborn, White and Capitol (but specifically not the freeway interchanges as they are not managed directly by the city).

The discussion about the impact to public education was started by representatives of the high school district. Most attendees seemed surprised to hear the anticipated impact to EVHS by the development is the addition of 5 (five) students in grades 9-12. The amount of assessment fees which can be charged are set by the state, but the developer has worked with EVHS and they have agreed to fund a homework club for the coming 3 years. Apparently the

homework club is one of the more significant casualties of the budget cuts. After the high school representatives finished the representatives from EESD took the floor. EESD is responsible for grades K-8, and the models predict an impact of an added 55 (fifty-five) students. This impact would be directly to Evergreen Elementary, and so the district has worked with the developer, who has agreed to build two classrooms at Evergreen Elementary (in addition to the mandated assessment fees).

We had to vacate the multipurpose room, which ended the meeting. It is clear that the city and the developer are open to further meetings should they be deemed necessary, but the approval is being fast tracked to anticipated final approval in December. I would recommend that people who wish to express their opinions on the development do so via the representative of from the city planning commission, Lesley Xavier (lesley.xavier@sanjoseca.gov, 408-535-7852) and via the District 8 office. I do plan to take advantage of this means to provide my input, and I've heard some very good ideas mentioned on this group and in person; I hope that those of you with input will take the time to pass it along. I always find the city representatives to be appreciative of my taking the time to provide my input.

Steve Buchholz

OBTW ... we all learned of the World Series victory by the SF Giants via all the fireworks that went off. I must say that when I heard the first few reports I thought they might have been gunfire!

Messages in this topic (1)

Yahoo! Groups Links

<*> To visit your group on the web, go to:

<http://groups.yahoo.com/group/EvergreenOpenForum/>

<*> Your email settings:

Digest Email | Traditional

<*> To change settings online go to:

<http://groups.yahoo.com/group/EvergreenOpenForum/join>
(Yahoo! ID required)

<*> To change settings via email:

EvergreenOpenForum-normal@yahoogroups.com
EvergreenOpenForum-fullfeatured@yahoogroups.com

<*> To unsubscribe from this group, send an email to:
EvergreenOpenForum-unsubscribe@yahoogroups.com

<*> Your use of Yahoo! Groups is subject to:
<http://docs.yahoo.com/info/terms/>

Xavier, Lesley

From: Vivian Wong [Vivian@esudo.com]
Sent: Wednesday, November 03, 2010 1:37 PM
To: Xavier, Lesley
Subject: Summerhill Homes Development @Aborn/Ruby

Dear Lesley~

I missed the meeting held on Monday night at Evergreen Elementary School and wanted to give my input on the project.

Will you please express to the powers that be to provide sufficient parking for the residents and businesses. Developments around this area have had extremely tight parking spaces. Please also provide decent enough greenbelt and play area for the kids. Ensure there are continuous sidewalks, to connect with existing sidewalk paths. Do not provide sidewalks that don't go anywhere! Last but not least, require aesthetically pleasant and decent trees to be planted. Not those fast growing liquid amber (which only raises the sidewalk and City doesn't repair).

Thank you for the consideration and please email me if you have further questions,
Vivian

Objections to Mirassou Mixed-Use Development and its Environmental Impact Report (EIR)

File Nos.: GP09-08-05/GPT09-08-05 and PDC10-001

PLEASE READ ADDITIONAL COMMENTS AT BOTTOM

October 31, 2010

Attention: John Davidson, Senior Planner
City of San Jose
Department of Planning Building, and Code Enforcement
200 E Santa Clara Street, 3rd Floor
San Jose, CA 95113
FAX: (408) 292-6055

RE: File Nos: _____ and _____ (Mirassou Mixed-Use Development)

Dear Mr. John Davidson,

Please accept my requests and objections for the _____ for the following reasons.

1. The data in the application, process and EIR is dated. We request that the developer's application, process and EIR must include the _____ for a fair and equitable report in the interest of the public good.
2. The application, process and EIR does not address or factor in the current national economic crisis, the city budget deficit and the state budget deficit in readjusting the impact to the City of San Jose in any financial responsibilities as a result of this development. The City of San Jose will not be in a financial position to support any financial obligations from this project for five to ten years and therefore **the developer(s) must bear the full financial responsibility of all impacts** according to the current financial crisis facts. This includes but is not limited to impacts on Schools, Roads, Traffic, Sewer, Electrical, Gas, Storm Drains, Wells, Water Table Contamination, Soil Contamination, Toxic Chemical Cleanup, Ongoing financial responsibility to maintain contaminated historic buildings. It is unfair to place this financial burden on the residents, The City of San Jose and the Schools districts, etc.
3. The application, process and EIR must address a report by the San Jose Fire Marshall on **school over crowding fire hazards** at Evergreen Valley High School and all 18 Evergreen Elementary schools. We request this be addressed.
4. The application, process or EIR should address the **Estimated Property Tax** _____ **Impact** on all residents affected by the mentioned development and its environmental financial stress impact on its affected residents.
5. A request for a 6 month minimum deferment of the December 1, 2010 Planning Commission meeting and tentative City Council Meeting of December 6, 2010. This request is made because of the November 2, 2010 elections and **we do not want to exclude the new elected officials from this** _____ or the courtesy of enough time to transition into their new position. This consideration also applies to the EESD and ESUSD board of Trustee Members.
6. A request to defer the _____ **period for comment until March 30, 2011**. This is requested in fairness to the public who are not familiar with the City planning process, engineering and scientific details of the EIR. This allows for an open, fair and equitable opportunity to study the subject matter and acquire professional counsel.
7. We object to the current "*Public Outreach Policy for Pending Land Use and Development Proposals*, _____" used in this development outreach, because it **excludes all relevant community school groups**, particularly the _____, Parent Teacher Associations (PTA), _____ Board and _____ Board. These are significant and relevant groups being seriously and negatively impacted by this residential project. So we request to the Director of the Department of Planning Building, and Code Enforcement, to immediately include these groups for this project and amend mentioned Policy 6-30 for an open and fair process by the end of November 3, 2010.

8. We object to the current "Public Outreach Policy for pending Land Use and Development Proposals, " for the following reason. **This particular policy excludes approximately 50% of all surrounding people from being notified of a project.** The policy unnecessary lacks in detail the application of Radius to a site development which in turns hides from 50% of the required public the information about developments in their neighborhoods. In this mentioned development of ~15.06 acres (~656,013 square feet) if one applies the 1,000 ft Radius notification rule, then nearly 50% of that distance is taken up by the ~456ft radius of the property itself if one were to use the center of the property as the starting point of the Radius. We therefore request a reset date to the notification process for this development. We require that the notification Radius be amended from 1,000 ft to 1.0 mile in mentioned . We request that the defined Radius starting point commence at the circumference line edge of the subject developed property when fully encompassed by a circle drawn on a map to scale. That said map is also available to the public in legal and letter size. That a said detail map be placed as a link easily searchable on the City web site with sufficient detail to identify all residence to be notified per registered mail.
9. The EIR report is lacking to address the environmental impact on the residents of Evergreen District 8 on the following studies, so we request that those reports should be included on the following:
 - a. The environmental stress on **minor school children and teachers from over class rooms** caused by increased development by the subject development, and ranging up to the maximum allowed development in District 8.
 - b. The environmental stress on **residents' due to increased traffic congestion** by the subject development up to the current maximum development planned in District 8.
 - c. The EIR report does not address the **exodus of rodents (rats, mice, etc.)** from the subject property into the surrounding residence when construction occurs. This is a continuous problem with all development of vacant properties in the past and the developers are not held accountable for driving rodents off the developed land and onto the surrounding resident's properties causing of rodents carrying disease and rabies.
 - d. The EIR report did not address the increase of **Tire Rubber Atomization** caused by the increase number of residences and commercial traffic caused by the mentioned development
10. We request that the EIR address a detail report as to the extent of the and all mentioned wells in the EIR and City wells (Alessandro & Aborn) and ponds within a 2000 ft radius being **contaminated by the multiple** mentioned in the Mirassou Appendix G DEIR. These toxic chemicals include but are not limited to

a.	b.	c.	d.	f.	g.
h.	i.	j.	k.	l.	m.
11. The EIR should address a post report after demolition, after grading, after leveling, after compacting. There is a likelihood of large volumes of concentrated contaminated soil will be unearthed. We request that the EIR address which City Official will monitor this and how will the soil be removed.
12. The EIR report does not address to specifically identify the liquid leaking into the basement of the Heritage House. Due to the multitude of toxic chemicals on the subject property it is logical that the liquid leaking into the basement of Heritage House would be obvious due diligence.(8.5)
13. The EIR Appendix G 8.3 does not address the disbursement of off the building which remains on the subject property for the remainder of their Historic existence. Nor does it identify the financial and legal responsibility to maintain such a building. Nor does the EIR make mention if any Historical buildings which remain are suitable for human entrance without risk to human health.

Thank You for the opportunity to submit these requests. Please keep me informed on this development and any additional in the . We are committed to remaining engaged on these developments.

As a side note: I am an employee of the ESUHSD, a Counselor at Evergreen Valley High School and a resident of Evergreen. Our high school is currently "at capacity". As the current structure is built, there is **NO ROOM** to add additional students under the current boundaries. Our school district is in a fiscal crisis where many services have been cut or severely reduced. There just isn't room for additional students. I oppose any such development, as there is no infa-structure to support these new enrollees. Here is a situation where **BIG business** is being allowed to compromise the already reduced quality of education for their profit.

Sincerely,

X


First Last Name: Deborah Kerrick

Address: 3305 Denton Wy

San Jose, CA 95121

E-mail: jeKdeK@comcast.net

Objections to Mirassou Mixed-Use Development and its Environmental Impact Report (EIR)

File Nos.: GP09-08-05/GPT09-08-05 and PDC10-001

October 31, 2010

Attention: John Davidson, Senior Planner
City of San Jose
Department of Planning Building, and Code Enforcement
200 B Santa Clara Street, 3rd Floor
San Jose, CA 95113
FAX: (408) 292-6055
john.davidson@sanjoseca.gov

RE: File Nos: GP09-08-05/GPT09-08-05 and PDC10-001 (Mirassou Mixed-Use Development)

Dear Mr. John Davidson,

Please accept my requests and objections for the Mirassou Mixed-Use Development for the following reasons.

1. The data in the application, process and EIR is dated. We request that the developer's application, process and EIR must include the 2010 US Census Data for a fair and equitable report in the interest of the public good.
2. The application, process and EIR does not address or factor in the current national economic crisis, the city budget deficit and the state budget deficit in readjusting the impact to the City of San Jose in any financial responsibilities as a result of this development. The City of San Jose will not be in a financial position to support any financial obligations from this project for five to ten years and therefore the developer(s) must bear the full financial responsibility of all impacts according to the current financial crisis facts. This includes but is not limited to impacts on Schools, Roads, Traffic, Sewer, Electrical, Gas, Storm Drains, Wells, Water Table Contamination, Soil Contamination, Toxic Chemical Cleanup, Ongoing financial responsibility to maintain contaminated historic buildings. It is unfair to place this financial burden on the residents, The City of San Jose and the Schools districts, etc.
3. The application, process and EIR must address a report by the San Jose Fire Marshall on school over crowding fire hazards at Evergreen Valley High School and all 18 Evergreen Elementary schools. We request this be addressed.
4. The application, process or EIR should address the Estimated Property Tax Assessment Impact on all residents affected by the mentioned development and its environmental financial stress impact on its affected residents.
5. A request for a 6 month minimum deferment of the December 1, 2010 Planning Commission meeting and tentative City Council Meeting of December 6, 2010. This request is made because of the November 2, 2010 elections and we do not want to exclude the new elected officials from this process or the courtesy of enough time to transition into their new position. This consideration also applies to the BESI and ESUSD board of Trustee Members.
6. A request to defer the public review period for comment until March 30, 2011. This is requested in fairness to the public who are not familiar with the City planning process, engineering and scientific details of the EIR. This allows for an open, fair and equitable opportunity to study the subject matter and acquire professional counsel.
7. We object to the current "Public Outreach Policy for Pending Land Use and Development Proposals, Policy 6-30" used in this development outreach, because it excludes all relevant community school groups, particularly the School Site Councils, Parent Teacher Associations (PTA), EESI Board and ESUHSD Board. These are significant and relevant groups being seriously and negatively impacted by this residential project. So we request to the Director of the Department of Planning Building, and Code Enforcement, to immediately include these groups for this project and amend mentioned Policy 6-30 for an open and fair process by the end of November 3, 2010.

8. We object to the current "Public Outreach Policy for pending Land Use and Development Proposals, Policy 6-30" for the following reason. **This particular policy excludes approximately 50% of all surrounding people from being notified of a project.** The policy unnecessarily lacks in detail the application of Radius to a site development which in turns hides from 50% of the required public the information about developments in their neighborhoods. In this mentioned development of ~15.06 acres (~656,013 square feet) if one applies the 1,000 ft Radius notification rule, then nearly 50% of that distance is taken up by the ~456ft radius of the property itself if one were to use the center of the property as the starting point of the Radius. We therefore request a reset date to the notification process for this development. We require that the notification Radius be amended from 1,000 ft to 1.0 mile in mentioned Policy 6-30. We request that the defined Radius starting point commence at the circumference line edge of the subject developed property when fully encompassed by a circle drawn on a map to scale. That said map is also available to the public in legal and letter size. That a said detail map be placed as a link easily searchable on the City web site with sufficient detail to identify all residence to be notified per registered mail.
9. The EIR report is lacking to address the environmental impact on the residents of Evergreen District 8 on the following studies, so we request that those reports should be included on the following:
- The environmental stress on minor school children and teachers from over crowded class rooms caused by increased development by the subject development, and ranging up to the maximum allowed development in District 8. The EIR should address environmental stress and anxiety of Busing and Redistricting.
 - The environmental stress on residents' due to increased traffic congestion by the subject development up to the current maximum development planned in District 8.
 - The EIR report does not address the exodus of rodents (rats, mice, etc.) from the subject property into the surrounding residence when construction occurs. This is a continuous problem with all development of vacant properties in the past and the developers are not held accountable for driving rodents off the developed land and onto the surrounding resident's properties causing infestation of rodents carrying disease and rabies.
 - The EIR report did not address the increase of Tire Rubber Atomization caused by the increase number of residences and commercial traffic caused by the mentioned development
10. We request that the EIR address a detail report as to the extent of the water table and all mentioned wells in the EIR and City wells (Alessandro & Aborn) and ponds within a 2000 ft radius being contaminated by the multiple toxic chemicals mentioned in the Mirassou Appendix G DEIR. These toxic chemicals include but are not limited to
- Trichloroethylene
 - Gasoline
 - 4,4'DDT
 - 4,4'DDE
 - Arsenic
 - Mercury
 - 4,4'-DDD
 - chlordan
 - dieldrin
 - toxaphene
 - asbestos
 - lead
11. The EIR should address a post soil analysis contamination report after demolition, after grading, after leveling, after compacting. There is a likelihood of large volumes of concentrated contaminated soil will be unearthed. We request that the EIR address which City Official will monitor this and how will the soil be removed.
12. The EIR report does not address to specifically identify the liquid leaking into the basement of the Heritage House. Due to the multitude of toxic chemicals on the subject property it is logical that the liquid leaking into the basement of Heritage House would be obvious due diligence.(8.5)
13. The EIR Appendix G 8.3 does not address the disbursement of lead-base paint off the buildings which remains on the subject property for the remainder of their Historic existence. Nor does it identify who will be financially and legally responsible to maintain such a building. Nor does the EIR make mention if any Historical buildings which remain are suitable for human entrance without risk to human health.

Thank You for the opportunity to submit these requests. Please keep me informed on this development and any additional developments in the Evergreen-East Hills Development Policy. We are committed to remaining engaged on these developments.

Sincerely,

X

First Last Name: Wm. D. Grasty
 Address: 4330 Bella Medina Lane
 San Jose, CA 95127

E-mail: WmDGrasty@aol.com

****Protect Our Schools from Over-Crowding****

Protest Mirassou Residential/Commercial Development

Map of proposed Mirassou 150 Residential / Commercial Building Project with its surrounding four Evergreen Schools might be of Redistricting / Rezoning as the result of this project. What will this means to our community?



- 1 Over-crowding of our schools & Decreasing education quality
- 2 Decreasing our home property value
- 3 Worsening already unsatisfactory local traffic conditions
- 4 Decreasing public services quality (Library / Park / Environment & More)

Mirassou plan does not provide any practical solution to solve above issues
Our message to Mirassou Project Developer and Supporters is:
Kids/Education/Schools First, Profit Second!

It's time to give our voice to against Mirassou project, if it doesn't bring healthy outcome to our community and future of our children...

To register and receive timely update about Mirassou Project in Evergreen please send an email to

evergreensanjoseinfo@yahoo.com

www.evergreensanjose.info

And don't forget to sign your petition at

<http://www.petitiononline.com/nonewbld/petition.html>

Objections to Mirassou Mixed-Use Development and its Environmental Impact Report (EIR)

File Nos.: GP09-08-05/GPT09-08-05 and PDC10-001

October 31, 2010

Attention: John Davidson, Senior Planner
City of San Jose
Department of Planning Building, and Code Enforcement
200 E Santa Clara Street, 3rd Floor
San Jose, CA 95113
FAX: (408) 292-6055
john.davidson@sanjoseca.gov

RE: File Nos: GP09-08-05/GPT09-08-05 and PDC10-001 (Mirassou Mixed-Use Development)

Dear Mr. John Davidson,

Please accept my requests and objections for the Mirassou Mixed-Use Development for the following reasons.

1. The data in the application, process and EIR is dated. We request that the developer's application, process and EIR must include the 2010 US Census Data for a fair and equitable report in the interest of the public good.
2. The application, process and EIR does not address or factor in the current national economic crisis, the city budget deficit and the state budget deficit in readjusting the impact to the City of San Jose in any financial responsibilities as a result of this development. The City of San Jose will not be in a financial position to support any financial obligations from this project for five to ten years and therefore **the developer(s) must bear the full financial responsibility of all impacts** according to the current financial crisis facts. This includes but is not limited to impacts on Schools, Roads, Traffic, Sewer, Electrical, Gas, Storm Drains, Wells, Water Table Contamination, Soil Contamination, Toxic Chemical Cleanup, Ongoing financial responsibility to maintain contaminated historic buildings. It is unfair to place this financial burden on the residents, The City of San Jose and the Schools districts, etc.
3. The application, process and EIR must address a report by the San Jose Fire Marshall on **school over crowding fire hazards** at Evergreen Valley High School and all 18 Evergreen Elementary schools. We request this be addressed.
4. The application, process or EIR should address the **Estimated Property Tax Assessment Impact** on all residents affected by the mentioned development and its environmental financial stress impact on its affected residents.
5. A request for a 6 month minimum deferment of the December 1, 2010 Planning Commission meeting and tentative City Council Meeting of December 6, 2010. This request is made because of the November 2, 2010 elections and **we do not want to exclude the new elected officials from this process** or the courtesy of enough time to transition into their new position. This consideration also applies to the EESD and ESUSD board of Trustee Members.
6. A request to defer the **public review period for comment until March 30, 2011**. This is requested in fairness to the public who are not familiar with the City planning process, engineering and scientific details of the EIR. This allows for an open, fair and equitable opportunity to study the subject matter and acquire professional counsel.
7. We object to the current "*Public Outreach Policy for Pending Land Use and Development Proposals, Policy 6-30*" used in this development outreach, **because it excludes all relevant community school groups**, particularly the School Site Councils, Parent Teacher Associations (PTA), EESD Board and ESUHSD Board. These are significant and relevant groups being seriously and negatively impacted by this residential project. So we request to the Director of the Department of Planning Building, and Code Enforcement, to immediately include these groups for this project and amend mentioned Policy 6-30 for an open and fair process by the end of November 3, 2010.

8. We object to the current "Public Outreach Policy for pending Land Use and Development Proposals, Policy 6-30" for the following reason. This particular policy excludes approximately 50% of all surrounding people from being notified of a project. The policy unnecessary lacks in detail the application of Radius to a site development which in turns hides from 50% of the required public the information about developments in their neighborhoods. In this mentioned development of ~15.06 acres (~656,013 square feet) if one applies the 1,000 ft Radius notification rule, then nearly 50% of that distance is taken up by the ~456ft radius of the property itself if one were to use the center of the property as the starting point of the Radius. We therefore request a reset date to the notification process for this development. We require that the notification Radius be amended from 1,000 ft to 1.0 mile in mentioned Policy 6-30. We request that the defined Radius starting point commence at the circumference line edge of the subject developed property when fully encompassed by a circle drawn on a map to scale. That said map is also available to the public in legal and letter size. That a said detail map be placed as a link easily searchable on the City web site with sufficient detail to identify all residence to be notified per registered mail.
9. The EIR report is lacking to address the environmental impact on the residents of Evergreen District 8 on the following studies, so we request that those reports should be included on the following:
 - a. The environmental stress on minor school children and teachers from over crowded class rooms caused by increased development by the subject development, and ranging up to the maximum allowed development in District 8.
 - b. The environmental stress on residents' due to increased traffic congestion by the subject development up to the current maximum development planned in District 8.
 - c. The EIR report does not address the exodus of rodents (rats, mice, etc.) from the subject property into the surrounding residence when construction occurs. This is a continuous problem with all development of vacant properties in the past and the developers are not held accountable for driving rodents off the developed land and onto the surrounding resident's properties causing infestation of rodents carrying disease and rabies.
 - d. The EIR report did not address the increase of Tire Rubber Atomization caused by the increase number of residences and commercial traffic caused by the mentioned development
10. We request that the EIR address a detail report as to the extent of the water table and all mentioned wells in the EIR and City wells (Alessandro & Aborn) and ponds within a 2000 ft radius being contaminated by the multiple toxic chemicals mentioned in the Mirassou Appendix G DEIR. These toxic chemicals include but are not limited to

a. <u>Trichloroethylene</u>	b. <u>Gasoline</u>	c. <u>4,4'DDT</u>	d. <u>4,4'DDE</u>	f. <u>Arsenic</u>	g. <u>Mercury</u>
h. <u>4,4'-DDD</u>	i. <u>chlordan</u>	j. <u>dieldrin</u>	k. <u>toxaphene</u>	l. <u>asbestos</u>	m. <u>lead</u>
11. The EIR should address a post soil analysis contamination report after demolition, after grading, after leveling, after compacting. There is a likelihood of large volumes of concentrated contaminated soil will be unearthed. We request that the EIR address which City Official will monitor this and how will the soil be removed.
12. The EIR report does not address to specifically identify the liquid leaking into the basement of the Heritage House. Due to the multitude of toxic chemicals on the subject property it is logical that the liquid leaking into the basement of Heritage House would be obvious due diligence.(8.5)
13. The EIR Appendix G 8.3 does not address the disbursement of lead-base paint off the building which remains on the subject property for the remainder of their Historic existence. Nor does it identify the financial and legal responsibility to maintain such a building. Nor does the EIR make mention if any Historical buildings which remain are suitable for human entrance without risk to human health.

Thank You for the opportunity to submit these requests. Please keep me informed on this development and any additional developments in the Evergreen-East Hills Development Policy. We are committed to remaining engaged on these developments.

Sincerely,
 X 

First Last Name: Hector H. Flores
 Address: 3079 OLIVEWOOD PL
 San Jose, CA 95148

E-mail: hhflores34@sbcglobal.net

Objections to Mirassou Mixed-Use Development and its Environmental Impact Report (EIR)

File Nos.: GP09-08-05/GPT09-08-05 and PDC10-001

October 31, 2010

Attention: John Davidson, Senior Planner
City of San Jose
Department of Planning Building, and Code Enforcement
200 E. Santa Clara Street, 3rd Floor
San Jose, CA 95113
FAX: (408) 292-6055
john.davidson@sanjoseca.gov

RE: File Nos: GP09-08-05/GPT09-08-05 and PDC10-001 (Mirassou Mixed-Use Development)

Dear Mr. John Davidson,

Please accept my requests and objections for the Mirassou Mixed-Use Development for the following reasons.

1. The data in the application, process and EIR is dated. We request that the developer's application, process and EIR must include the 2010 US Census Data for a fair and equitable report in the interest of the public good.
2. The application, process and EIR does not address or factor in the current national economic crisis, the city budget deficit and the state budget deficit in readjusting the impact to the City of San Jose in any financial responsibilities as a result of this development. The City of San Jose will not be in a financial position to support any financial obligations from this project for five to ten years and therefore **the developer(s) must bear the full financial responsibility of all impacts** according to the current financial crisis facts. This includes but is not limited to impacts on Schools, Roads, Traffic, Sewer, Electrical, Gas, Storm Drains, Wells, Water Table Contamination, Soil Contamination, Toxic Chemical Cleanup, Ongoing financial responsibility to maintain contaminated historic buildings. It is unfair to place this financial burden on the residents, The City of San Jose and the Schools districts, etc.
3. The application, process and EIR must address a report by the San Jose Fire Marshall on **school over crowding fire hazards** at Evergreen Valley High School and all 18 Evergreen Elementary schools. We request this be addressed.
4. The application, process or EIR should address the **Estimated Property Tax Assessment Impact** on all residents affected by the mentioned development and its environmental financial stress impact on its affected residents.
5. A request for a 6 month minimum deferment of the December 1, 2010 Planning Commission meeting and tentative City Council Meeting of December 6, 2010. This request is made because of the November 2, 2010 elections and **we do not want to exclude the new elected officials from this process** or the courtesy of enough time to transition into their new position. This consideration also applies to the EESD and ESUSD board of Trustee Members.
6. A request to defer **the public review period for comment until March 30, 2011**. This is requested in fairness to the public who are not familiar with the City planning process, engineering and scientific details of the EIR. This allows for an open, fair and equitable opportunity to study the subject matter and acquire professional counsel.
7. We object to the current "*Public Outreach Policy for Pending Land Use and Development Proposals, Policy 6-30*" used in this development outreach, **because it excludes all relevant community school groups**, particularly the School Site Councils, Parent Teacher Associations (PTA), EESD Board and ESUHSD Board. These are significant and relevant groups being seriously and negatively impacted by this residential project. So we request to the Director of the Department of Planning Building, and Code Enforcement, to immediately include these groups for this project and amend mentioned Policy 6-30 for an open and fair process by the end of November 3, 2010.

8. We object to the current "Public Outreach Policy for pending Land Use and Development Proposals, Policy 6-30" for the following reason. **This particular policy excludes approximately 50% of all surrounding people from being notified of a project.** The policy unnecessarily lacks in detail the application of Radius to a site development which in turns hides from 50% of the required public the information about developments in their neighborhoods. In this mentioned development of ~15.06 acres (~656,013 square feet) if one applies the 1,000 ft Radius notification rule, then nearly 50% of that distance is taken up by the ~456ft radius of the property itself if one were to use the center of the property as the starting point of the Radius. We therefore request a reset date to the notification process for this development. We require that the notification Radius be amended from 1,000 ft to 1.0 mile in mentioned Policy 6-30. We request that the defined Radius starting point commence at the circumference line edge of the subject developed property when fully encompassed by a circle drawn on a map to scale. That said map is also available to the public in legal and letter size. That a said detail map be placed as a link easily searchable on the City web site with sufficient detail to identify all residence to be notified per registered mail.
9. The EIR report is lacking to address the environmental impact on the residents of Evergreen District 8 on the following studies, so we request that those reports should be included on the following:
 - a. The environmental **stress on minor school children and teachers from over crowded class rooms** caused by increased development by the subject development, and ranging up to the maximum allowed development in District 8. The EIR should address environmental stress and anxiety of Busing and Redistricting.
 - b. The environmental **stress on residents' due to increased traffic congestion** by the subject development up to the current maximum development planned in District 8.
 - c. The EIR report does not address the **exodus of rodents (rats, mice, etc.)** from the subject property into the surrounding residence when construction occurs. This is a continuous problem with all development of vacant properties in the past and the developers are not held accountable for driving rodents off the developed land and onto the surrounding resident's properties causing infestation of rodents carrying disease and rabies.
 - d. The EIR report did not address the increase of **Tire Rubber Atomization** caused by the increase number of residences and commercial traffic caused by the mentioned development
10. We request that the EIR address a detail report as to the extent of the water table and all mentioned wells in the EIR and City wells (Alessandro & Aborn) and ponds within a 2000 ft radius being **contaminated by the multiple toxic chemicals** mentioned in the Mirassou Appendix G DEIR. These toxic chemicals include but are not limited to

a. <u>Trichloroethylene</u>	b. <u>Gasoline</u>	c. <u>4,4'DDT</u>	d. <u>4,4'DDE</u>	f. <u>Arsenic</u>	g. <u>Mercury</u>
h. <u>4,4'-DDD</u>	i. <u>chlordane</u>	j. <u>dieldrin</u>	k. <u>toxaphene</u>	l. <u>asbestos</u>	m. <u>lead</u>
11. The EIR should address a post soil analysis contamination report after demolition, after grading, after leveling, after compacting. There is a likelihood of large volumes of concentrated contaminated soil will be unearthed. We request that the EIR address which City Official will monitor this and how will the soil be removed.
12. The EIR report does not address to specifically identify the liquid leaking into the basement of the Heritage House. Due to the multitude of toxic chemicals on the subject property it is logical that the liquid leaking into the basement of Heritage House would be obvious due diligence.(8.5)
13. The EIR Appendix G 8.3 does not address the disbursement of lead-base paint off the buildings which remains on the subject property for the remainder of their Historic existence. Nor does it identify who will be financially and legally responsible to maintain such a building. Nor does the EIR make mention if any Historical buildings which remain are suitable for human entrance without risk to human health.

Thank You for the opportunity to submit these requests. Please keep me informed on this development and any additional developments in the Evergreen-East Hills Development Policy. We are committed to remaining engaged on these developments.

Sincerely,
X

First Last Name: Wm. D. Grasty
 Address: 4330 Bella Madeira Lane
 San Jose, CA 95127

E-mail: WmDGrasty@aol.com

Objections to Mirassou Mixed-Use Development and its Environmental Impact Report (EIR)

File Nos.: GP09-08-05/GPT09-08-05 and PDC10-001

November 1, 2010

Attention: John Davidson, Senior Planner
City of San Jose
Department of Planning Building, and Code Enforcement
200 E Santa Clara Street, 3rd Floor
San Jose, CA 95113
FAX: (408) 292-6055
john.davidson@sanjoseca.gov

RE: File Nos: GP09-08-05/GPT09-08-05 and PDC10-001 (Mirassou Mixed-Use Development)

Dear Mr. John Davidson,

Please accept my requests and objections for the Mirassou Mixed-Use Development for the following reasons.

1. The data in the application, process and EIR is dated. We request that the developer's application, process and EIR must include the 2010 US Census Data for a fair and equitable report in the interest of the public good.
2. The application, process and EIR does not address or factor in the current national economic crisis, the city budget deficit and the state budget deficit in readjusting the impact to the City of San Jose in any financial responsibilities as a result of this development. The City of San Jose will not be in a financial position to support any financial obligations from this project for five to ten years and therefore the developer(s) must bear the full financial responsibility of all impacts according to the current financial crisis facts. This includes but is not limited to impacts on Schools, Roads, Traffic, Sewer, Electrical, Gas, Storm Drains, Wells, Water Table Contamination, Soil Contamination, Toxic Chemical Cleanup, Ongoing financial responsibility to maintain contaminated historic buildings. It is unfair to place this financial burden on the residents, The City of San Jose and the Schools districts, etc.
3. The application, process and EIR must address a report by the San Jose Fire Marshall on school over crowding fire hazards at Evergreen Valley High School and all 18 Evergreen Elementary schools. We request this be addressed.
4. The application, process or EIR should address the Estimated Property Tax Assessment Impact on all residents affected by the mentioned development and its environmental financial stress impact on its affected residents.
5. A request for a 6 month minimum deferment of the December 1, 2010 Planning Commission meeting and tentative City Council Meeting of December 6, 2010. This request is made because of the November 2, 2010 elections and **we do not want to exclude the new elected officials from this process** or the courtesy of enough time to transition into their new position. This consideration also applies to the EESD and ESUSD board of Trustee Members.
6. A request to defer the public review period for comment until March 30, 2011. This is requested in fairness to the public who are not familiar with the City planning process, engineering and scientific details of the EIR. This allows for an open, fair and equitable opportunity to study the subject matter and acquire professional counsel.
7. We object to the current " *Public Outreach Policy for Pending Land Use and Development Proposals, Policy 6-30*" used in this development outreach, because it excludes all relevant community school groups, particularly the School Site Councils, Parent Teacher Associations (PTA), EESD Board and ESUHSD Board. These are significant and relevant groups being seriously and negatively impacted by this residential project. So we request to the Director of the Department of Planning Building, and Code Enforcement, to immediately include these groups for this project and amend mentioned Policy 6-30 for an open and fair process by the end of November 3, 2010.

8. We object to the current "Public Outreach Policy for pending Land Use and Development Proposals, Policy 6-30" for the following reason. **This particular policy excludes approximately 50% of all surrounding people from being notified of a project.** The policy unnecessarily lacks in detail the application of Radius to a site development which in turns hides from 50% of the required public the information about developments in their neighborhoods. In this mentioned development of ~15.06 acres (~656,013 square feet) if one applies the 1,000 ft Radius notification rule, then nearly 50% of that distance is taken up by the ~456ft radius of the property itself if one were to use the center of the property as the starting point of the Radius. We therefore request a reset date to the notification process for this development. We require that the notification Radius be amended from 1,000 ft to 1.0 mile in mentioned Policy 6-30. We request that the defined Radius starting point commence at the circumference line edge of the subject developed property when fully encompassed by a circle drawn on a map to scale. That said map is also available to the public in legal and letter size. That a said detail map be placed as a link easily searchable on the City web site with sufficient detail to identify all residence to be notified per registered mail.
9. The EIR report is lacking to address the environmental impact on the residents of Evergreen District 8 on the following studies, so we request that those reports should be included on the following:
 - a. The environmental stress on **minor school children and teachers from over crowded class rooms** caused by increased development by the subject development, and ranging up to the maximum allowed development in District 8. The EIR should address environmental stress and anxiety of Busing and Redistricting.
 - b. The environmental stress on residents' due to **increased traffic congestion** by the subject development up to the current maximum development planned in District 8.
 - c. The EIR report does not address the **exodus of rodents (rats, mice, etc.)** from the subject property into the surrounding residence when construction occurs. This is a continuous problem with all development of vacant properties in the past and the developers are not held accountable for driving rodents off the developed land and onto the surrounding resident's properties causing infestation of rodents carrying disease and rabies.
 - d. The EIR report did not address the increase of **Tire Rubber Atomization** caused by the increase number of residences and commercial traffic caused by the mentioned development
10. We request that the EIR address a detail report as to the extent of the water table and all mentioned wells in the EIR and City wells (Alessandro & Aborn) and ponds within a 2000 ft radius being **contaminated by the multiple toxic chemicals** mentioned in the Mirassou Appendix G DEIR. These toxic chemicals include but are not limited to
 - a. Trichloroethylene b. Gasoline c. 4,4'DDT d. 4,4'DDE f. Arsenic g. Mercury
 - h. 4,4'-DDD i. chlordane j. dieldrin k. toxaphene l. asbestos m. lead
11. The EIR should address a post soil analysis contamination report after demolition, after grading, after leveling, after compacting. There is a likelihood of large volumes of concentrated contaminated soil will be unearthed. We request that the EIR address which City Official will monitor this and how will the soil be removed.
12. We take serious objection to the formula for school Impact fees presented by Dr. Rana ESTSD as historically inaccurate and therefore its formula is incorrect and unsuitable for current residential projects.
13. We take serious objection to the formula for the school Impact fees presented by Kathy Games Assit. Superintendent ESTSD as historically inaccurate and therefore its formula is incorrect and unsuitable for current residential projects.

Thank You for the opportunity to submit these requests. Please keep me informed on this development and any additional developments in the Evergreen-East Hills Development Policy. We are committed to remaining engaged on these developments.

Sincerely,

M. A. Mata

Full Name: Marcelo Mota

Address: 3141 Heritage Valley Drive

San Jose, CA 95148

E-mail: marcelo.mota@sbcglobal.net

Objections to Mirassou Mixed-Use Development and its Environmental Impact Report (EIR)

File Nos.: GP09-08-05/GPT09-08-05 and PDC10-001

October 31, 2010

Attention: John Davidson, Senior Planner
City of San Jose
Department of Planning Building, and Code Enforcement
200 E Santa Clara Street, 3rd Floor
San Jose, CA 95113
FAX: (408) 292-6055
john.davidson@sanjoseca.gov

RE: File Nos: GP09-08-05/GPT09-08-05 and PDC10-001 (Mirassou Mixed-Use Development)

Dear Mr. John Davidson,

Please accept my requests and objections for the Mirassou Mixed-Use Development for the following reasons.

1. The data in the application, process and EIR is dated. We request that the developer's application, process and EIR must include the 2010 US Census Data for a fair and equitable report in the interest of the public good.
2. The application, process and EIR does not address or factor in the current national economic crisis, the city budget deficit and the state budget deficit in readjusting the impact to the City of San Jose in any financial responsibilities as a result of this development. The City of San Jose will not be in a financial position to support any financial obligations from this project for five to ten years and therefore the developer(s) must bear the full financial responsibility of all impacts according to the current financial crisis facts. This includes but is not limited to impacts on Schools, Roads, Traffic, Sewer, Electrical, Gas, Storm Drains, Wells, Water Table Contamination, Soil Contamination, Toxic Chemical Cleanup, Ongoing financial responsibility to maintain contaminated historic buildings. It is unfair to place this financial burden on the residents, The City of San Jose and the Schools districts, etc.
3. The application, process and EIR must address a report by the San Jose Fire Marshall on **school over crowding fire hazards** at Evergreen Valley High School and all 18 Evergreen Elementary schools. We request this be addressed.
4. The application, process or EIR should address the **Estimated Property Tax Assessment Impact** on all residents affected by the mentioned development and its environmental financial stress impact on its affected residents.
5. A request for a 6 month minimum deferment of the December 1, 2010 Planning Commission meeting and tentative City Council Meeting of December 6, 2010. This request is made because of the November 2, 2010 elections and **we do not want to exclude the new elected officials from this process** or the courtesy of enough time to transition into their new position. This consideration also applies to the EESD and ESUSD board of Trustee Members.
6. A request to defer the **public review period for comment until March 30, 2011**. This is requested in fairness to the public who are not familiar with the City planning process, engineering and scientific details of the EIR. This allows for an open, fair and equitable opportunity to study the subject matter and acquire professional counsel.
7. We object to the current "Public Outreach Policy for Pending Land Use and Development Proposals, Policy 6-30" used in this development outreach, **because it excludes all relevant community school groups**, particularly the School Site Councils, Parent Teacher Associations (PTA), EESD Board and ESUHSD Board. These are significant and relevant groups being seriously and negatively impacted by this residential project. So we request to the Director of the Department of Planning Building, and Code Enforcement, to immediately include these groups for this project and amend mentioned Policy 6-30 for an open and fair process by the end of November 3, 2010.

8. We object to the current "Public Outreach Policy for pending Land Use and Development Proposals, Policy 6-30" for the following reason. **This particular policy excludes approximately 50% of all surrounding people from being notified of a project.** The policy unnecessary lacks in detail the application of Radius to a site development which in turns hides from 50% of the required public the information about developments in their neighborhoods. In this mentioned development of ~15.06 acres (~656,013 square feet) if one applies the 1,000 ft Radius notification rule, then nearly 50% of that distance is taken up by the ~456ft radius of the property itself if one were to use the center of the property as the starting point of the Radius. We therefore request a reset date to the notification process for this development. We require that the notification Radius be amended from 1,000 ft to 1.0 mile in mentioned Policy 6-30. We request that the defined Radius starting point commence at the circumference line edge of the subject developed property when fully encompassed by a circle drawn on a map to scale. That said map is also available to the public in legal and letter size. That a said detail map be placed as a link easily searchable on the City web site with sufficient detail to identify all residence to be notified per registered mail.
9. The EIR report is lacking to address the environmental impact on the residents of Evergreen District 8 on the following studies, so we request that those reports should be included on the following:
 - a. The environmental **stress on minor school children and teachers from over crowded class rooms** caused by increased development by the subject development, and ranging up to the maximum allowed development in District 8. The EIR should address environmental stress and anxiety of Busing and Redistricting.
 - b. The environmental **stress on residents' due to increased traffic congestion** by the subject development up to the current maximum development planned in District 8.
 - c. The EIR report does not address the **exodus of rodents (rats, mice, etc.)** from the subject property into the surrounding residence when construction occurs. This is a continuous problem with all development of vacant properties in the past and the developers are not held accountable for driving rodents off the developed land and onto the surrounding resident's properties causing infestation of rodents carrying disease and rabies.
 - d. The EIR report did not address the increase of **Tire Rubber Atomization** caused by the increase number of residences and commercial traffic caused by the mentioned development
10. We request that the EIR address a detail report as to the extent of the water table and all mentioned wells in the EIR and City wells (Alessandro & Aborn) and ponds within a 2000 ft radius being **contaminated by the multiple toxic chemicals** mentioned in the Mirassou Appendix G DEIR. These toxic chemicals include but are not limited to

a. <u>Trichloroethylene</u>	b. <u>Gasoline</u>	c. <u>4,4'DDT</u>	d. <u>4,4'DDE</u>	f. <u>Arsenic</u>	g. <u>Mercury</u>
h. <u>4,4'-DDD</u>	i. <u>chlordane</u>	j. <u>dieldrin</u>	k. <u>toxaphene</u>	l. <u>asbestos</u>	m. <u>lead</u>
11. The EIR should address a post soil analysis contamination report after demolition, after grading, after leveling, after compacting. There is a likelihood of large volumes of concentrated contaminated soil will be unearthed. We request that the EIR address which City Official will monitor this and how will the soil be removed.
12. The EIR report does not address to specifically identify the liquid leaking into the basement of the Heritage House. Due to the multitude of toxic chemicals on the subject property it is logical that the liquid leaking into the basement of Heritage House would be obvious due diligence.(8.5)
13. The EIR Appendix G 8.3 does not address the disbursement of lead-base paint off the buildings which remains on the subject property for the remainder of their Historic existence. Nor does it identify who will be financially and legally responsible to maintain such a building. Nor does the EIR make mention if any Historical buildings which remain are suitable for human entrance without risk to human health.

Thank You for the opportunity to submit these requests. Please keep me informed on this development and any additional developments in the Evergreen-East Hills Development Policy. We are committed to remaining engaged on these developments.

Sincerely,

X



First Last Name: Cherrie Nguyen
 Address: 3072 Florence Park Dr.
 San Jose, CA 95135

E-mail: cnuyen108@yahoo.com

Objections to Mirassou Mixed-Use Development and its Environmental Impact Report (EIR)

File Nos.: GP09-08-05/GPT09-08-05 and PDC10-001

October 31, 2010

Attention: John Davidson, Senior Planner
City of San Jose
Department of Planning Building, and Code Enforcement
200 E Santa Clara Street, 3rd Floor
San Jose, CA 95113
FAX: (408) 292-6055
john.davidson@sanjoseca.gov

RE: File Nos: GP09-08-05/GPT09-08-05 and PDC10-001 (Mirassou Mixed-Use Development)

Dear Mr. John Davidson,

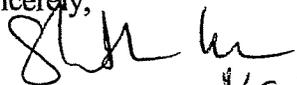
Please accept my requests and objections for the Mirassou Mixed-Use Development for the following reasons.

1. The data in the application, process and EIR is dated. We request that the developer's application, process and EIR must include the 2010 US Census Data for a fair and equitable report in the interest of the public good.
2. The application, process and EIR does not address or factor in the current national economic crisis, the city budget deficit and the state budget deficit in readjusting the impact to the City of San Jose in any financial responsibilities as a result of this development. The City of San Jose will not be in a financial position to support any financial obligations from this project for five to ten years and therefore **the developer(s) must bear the full financial responsibility of all impacts** according to the current financial crisis facts. This includes but is not limited to impacts on Schools, Roads, Traffic, Sewer, Electrical, Gas, Storm Drains, Wells, Water Table Contamination, Soil Contamination, Toxic Chemical Cleanup, Ongoing financial responsibility to maintain contaminated historic buildings. It is unfair to place this financial burden on the residents, The City of San Jose and the Schools districts, etc.
3. The application, process and EIR must address a report by the San Jose Fire Marshall on **school over crowding fire hazards** at Evergreen Valley High School and all 18 Evergreen Elementary schools. We request this be addressed.
4. The application, process or EIR should address the **Estimated Property Tax Assessment Impact** on all residents affected by the mentioned development and its environmental financial stress impact on its affected residents.
5. A request for a 6 month minimum deferment of the December 1, 2010 Planning Commission meeting and tentative City Council Meeting of December 6, 2010. This request is made because of the November 2, 2010 elections and **we do not want to exclude the new elected officials from this process** or the courtesy of enough time to transition into their new position. This consideration also applies to the EESD and ESUSD board of Trustee Members.
6. A request to defer the **public review period for comment until March 30, 2011**. This is requested in fairness to the public who are not familiar with the City planning process, engineering and scientific details of the EIR. This allows for an open, fair and equitable opportunity to study the subject matter and acquire professional counsel.
7. We object to the current "*Public Outreach Policy for Pending Land Use and Development Proposals, Policy 6-30*" used in this development outreach, **because it excludes all relevant community school groups**, particularly the School Site Councils, Parent Teacher Associations (PTA), EESD Board and ESUHSD Board. These are significant and relevant groups being seriously and negatively impacted by this residential project. So we request to the Director of the Department of Planning Building, and Code Enforcement, to immediately include these groups for this project and amend mentioned Policy 6-30 for an open and fair process by the end of November 3, 2010.

8. We object to the current "Public Outreach Policy for pending Land Use and Development Proposals, Policy 6-30" for the following reason. **This particular policy excludes approximately 50% of all surrounding people from being notified of a project.** The policy unnecessary lacks in detail the application of Radius to a site development which in turns hides from 50% of the required public the information about developments in their neighborhoods. In this mentioned development of ~15.06 acres (~656,013 square feet) if one applies the 1,000 ft Radius notification rule, then nearly 50% of that distance is taken up by the ~456ft radius of the property itself if one were to use the center of the property as the starting point of the Radius. We therefore request a reset date to the notification process for this development. We require that the notification Radius be amended from 1,000 ft to 1.0 mile in mentioned Policy 6-30. We request that the defined Radius starting point commence at the circumference line edge of the subject developed property when fully encompassed by a circle drawn on a map to scale. That said map is also available to the public in legal and letter size. That a said detail map be placed as a link easily searchable on the City web site with sufficient detail to identify all residence to be notified per registered mail.
9. The EIR report is lacking to address the environmental impact on the residents of Evergreen District 8 on the following studies, so we request that those reports should be included on the following:
 - a. The environmental **stress on minor school children and teachers from over crowded class rooms** caused by increased development by the subject development, and ranging up to the maximum allowed development in District 8. The EIR should address environmental stress and anxiety of Busing and Redistricting.
 - b. The environmental **stress on residents' due to increased traffic congestion** by the subject development up to the current maximum development planned in District 8.
 - c. The EIR report does not address the **exodus of rodents (rats, mice, etc.)** from the subject property into the surrounding residence when construction occurs. This is a continuous problem with all development of vacant properties in the past and the developers are not held accountable for driving rodents off the developed land and onto the surrounding resident's properties causing infestation of rodents carrying disease and rabies.
 - d. The EIR report did not address the increase of **Tire Rubber Atomization** caused by the increase number of residences and commercial traffic caused by the mentioned development
10. We request that the EIR address a detail report as to the extent of the water table and all mentioned wells in the EIR and City wells (Alessandro & Aborn) and ponds within a 2000 ft radius being **contaminated by the multiple toxic chemicals** mentioned in the Mirassou Appendix G DEIR. These toxic chemicals include but are not limited to

a. <u>Trichloroethylene</u>	b. <u>Gasoline</u>	c. <u>4,4'DDT</u>	d. <u>4,4'DDE</u>	f. <u>Arsenic</u>	g. <u>Mercury</u>
h. <u>4,4'-DDD</u>	i. <u>chlordane</u>	j. <u>dieldrin</u>	k. <u>toxaphene</u>	l. <u>asbestos</u>	m. <u>lead</u>
11. The EIR should address a post soil analysis contamination report after demolition, after grading, after leveling, after compacting. There is a likelihood of large volumes of concentrated contaminated soil will be unearthed. We request that the EIR address which City Official will monitor this and how will the soil be removed.
12. The EIR report does not address to specifically identify the liquid leaking into the basement of the Heritage House. Due to the multitude of toxic chemicals on the subject property it is logical that the liquid leaking into the basement of Heritage House would be obvious due diligence.(8.5)
13. The EIR Appendix G 8.3 does not address the disbursement of lead-base paint off the buildings which remains on the subject property for the remainder of their Historic existence. Nor does it identify who will be financially and legally responsible to maintain such a building. Nor does the EIR make mention if any Historical buildings which remain are suitable for human entrance without risk to human health.

Thank You for the opportunity to submit these requests. Please keep me informed on this development and any additional developments in the Evergreen-East Hills Development Policy. We are committed to remaining engaged on these developments.

Sincerely,
 X 
 First Last Name: Kenkre
 Address: 3055 ROSATO CT
 San Jose, CA SJ, CA: 95135
 E-mail: Sham@kenkre.com

Objections to Mirassou Mixed-Use Development and its Environmental Impact Report (EIR)

File Nos.: GP09-08-05/GPT09-08-05 and PDC10-001

October 31, 2010

Attention: John Davidson, Senior Planner
City of San Jose
Department of Planning Building, and Code Enforcement
200 E Santa Clara Street, 3rd Floor
San Jose, CA 95113
FAX: (408) 292-6055
john.davidson@sanjoseca.gov

RE: File Nos: GP09-08-05/GPT09-08-05 and PDC10-001 (Mirassou Mixed-Use Development)

Dear Mr. John Davidson,

Please accept my requests and objections for the Mirassou Mixed-Use Development for the following reasons.

1. The data in the application, process and EIR is dated. We request that the developer's application, process and EIR must include the 2010 US Census Data for a fair and equitable report in the interest of the public good.
2. The application, process and EIR does not address or factor in the current national economic crisis, the city budget deficit and the state budget deficit in readjusting the impact to the City of San Jose in any financial responsibilities as a result of this development. The City of San Jose will not be in a financial position to support any financial obligations from this project for five to ten years and therefore the developer(s) must bear the full financial responsibility of all impacts according to the current financial crisis facts. This includes but is not limited to impacts on Schools, Roads, Traffic, Sewer, Electrical, Gas, Storm Drains, Wells, Water Table Contamination, Soil Contamination, Toxic Chemical Cleanup, Ongoing financial responsibility to maintain contaminated historic buildings. It is unfair to place this financial burden on the residents, The City of San Jose and the Schools districts, etc.
3. The application, process and EIR must address a report by the San Jose Fire Marshall on **school over crowding fire hazards** at Evergreen Valley High School and all 18 Evergreen Elementary schools. We request this be addressed.
4. The application, process or EIR should address the **Estimated Property Tax Assessment Impact** on all residents affected by the mentioned development and its environmental financial stress impact on its affected residents.
5. A request for a 6 month minimum deferment of the December 1, 2010 Planning Commission meeting and tentative City Council Meeting of December 6, 2010. This request is made because of the November 2, 2010 elections and **we do not want to exclude the new elected officials from this process** or the courtesy of enough time to transition into their new position. This consideration also applies to the EESD and ESUSD board of Trustee Members.
6. A request to defer the public review period for comment until March 30, 2011. This is requested in fairness to the public who are not familiar with the City planning process, engineering and scientific details of the EIR. This allows for an open, fair and equitable opportunity to study the subject matter and acquire professional counsel.
7. We object to the current "*Public Outreach Policy for Pending Land Use and Development Proposals, Policy 6-30*" used in this development outreach, **because it excludes all relevant community school groups**, particularly the School Site Councils, Parent Teacher Associations (PTA), EESD Board and ESUHSD Board. These are significant and relevant groups being seriously and negatively impacted by this residential project. So we request to the Director of the Department of Planning Building, and Code Enforcement, to immediately include these groups for this project and amend mentioned Policy 6-30 for an open and fair process by the end of November 3, 2010.

8. We object to the current "Public Outreach Policy for pending Land Use and Development Proposals, Policy 6-30" for the following reason. **This particular policy excludes approximately 50% of all surrounding people from being notified of a project.** The policy unnecessarily lacks in detail the application of Radius to a site development which in turns hides from 50% of the required public the information about developments in their neighborhoods. In this mentioned development of ~15.06 acres (~656,013 square feet) if one applies the 1,000 ft Radius notification rule, then nearly 50% of that distance is taken up by the ~456ft radius of the property itself if one were to use the center of the property as the starting point of the Radius. We therefore request a reset date to the notification process for this development. We require that the notification Radius be amended from 1,000 ft to 1.0 mile in mentioned Policy 6-30. We request that the defined Radius starting point commence at the circumference line edge of the subject developed property when fully encompassed by a circle drawn on a map to scale. That said map is also available to the public in legal and letter size. That a said detail map be placed as a link easily searchable on the City web site with sufficient detail to identify all residence to be notified per registered mail.
9. The EIR report is lacking to address the environmental impact on the residents of Evergreen District 8 on the following studies, so we request that those reports should be included on the following:
 - a. The environmental stress on **minor school children and teachers from over crowded class rooms** caused by increased development by the subject development, and ranging up to the maximum allowed development in District 8. The EIR should address environmental stress and anxiety of Busing and Redistricting.
 - b. The environmental stress on residents' due to increased traffic congestion by the subject development up to the current maximum development planned in District 8.
 - c. The EIR report does not address the exodus of rodents (rats, mice, etc.) from the subject property into the surrounding residence when construction occurs. This is a continuous problem with all development of vacant properties in the past and the developers are not held accountable for driving rodents off the developed land and onto the surrounding resident's properties causing infestation of rodents carrying disease and rabies.
 - d. The EIR report did not address the increase of **Tire Rubber Atomization** caused by the increase number of residences and commercial traffic caused by the mentioned development
10. We request that the EIR address a detail report as to the extent of the water table and all mentioned wells in the EIR and City wells (Alessandro & Aborn) and ponds within a 2000 ft radius being **contaminated by the multiple toxic chemicals** mentioned in the Mirassou Appendix G DEIR. These toxic chemicals include but are not limited to
 - a. Trichloroethylene
 - b. Gasoline
 - c. 4,4'DDT
 - d. 4,4'DDE
 - f. Arsenic
 - g. Mercury
 - h. 4,4'-DDD
 - i. chlordane
 - j. dieldrin
 - k. toxaphene
 - l. asbestos
 - m. lead
11. The EIR should address a post soil analysis contamination report after demolition, after grading, after leveling, after compacting. There is a likelihood of large volumes of concentrated contaminated soil will be unearthed. We request that the EIR address which City Official will monitor this and how will the soil be removed.
12. The EIR report does not address to specifically identify the liquid leaking into the basement of the Heritage House. Due to the multitude of toxic chemicals on the subject property it is logical that the liquid leaking into the basement of Heritage House would be obvious due diligence.(8.5)
13. The EIR Appendix G 8.3 does not address the disbursement of lead-base paint off the buildings which remains on the subject property for the remainder of their Historic existence. Nor does it identify who will be financially and legally responsible to maintain such a building. Nor does the EIR make mention if any Historical buildings which remain are suitable for human entrance without risk to human health.

Thank You for the opportunity to submit these requests. Please keep me informed on this development and any additional developments in the Evergreen-East Hills Development Policy. We are committed to remaining engaged on these developments.

Sincerely,
X



First Last Name: Jihong MA
 Address: 3103 Florence Park Dr.
 San Jose, CA 95135

E-mail: jihongma@yahoo.com

Objections to Mirassou Mixed-Use Development and its Environmental Impact Report (EIR)

File Nos.: GP09-08-05/GPT09-08-05 and PDC10-001

October 31, 2010

Attention: John Davidson, Senior Planner
City of San Jose
Department of Planning Building, and Code Enforcement
200 E Santa Clara Street, 3rd Floor
San Jose, CA 95113
FAX: (408) 292-6055
john.davidson@sanjoseca.gov

RE: File Nos: GP09-08-05/GPT09-08-05 and PDC10-001 (Mirassou Mixed-Use Development)

Dear Mr. John Davidson,

Please accept my requests and objections for the Mirassou Mixed-Use Development for the following reasons.

1. The data in the application, process and EIR is dated. We request that the developer's application, process and EIR must include the 2010 US Census Data for a fair and equitable report in the interest of the public good.
2. The application, process and EIR does not address or factor in the current national economic crisis, the city budget deficit and the state budget deficit in readjusting the impact to the City of San Jose in any financial responsibilities as a result of this development. The City of San Jose will not be in a financial position to support any financial obligations from this project for five to ten years and therefore the developer(s) must bear the full financial responsibility of all impacts according to the current financial crisis facts. This includes but is not limited to impacts on Schools, Roads, Traffic, Sewer, Electrical, Gas, Storm Drains, Wells, Water Table Contamination, Soil Contamination, Toxic Chemical Cleanup, Ongoing financial responsibility to maintain contaminated historic buildings. It is unfair to place this financial burden on the residents, The City of San Jose and the Schools districts, etc.
3. The application, process and EIR must address a report by the San Jose Fire Marshall on **school over crowding fire hazards** at Evergreen Valley High School and all 18 Evergreen Elementary schools. We request this be addressed.
4. The application, process or EIR should address the **Estimated Property Tax Assessment Impact** on all residents affected by the mentioned development and its environmental financial stress impact on its affected residents.
5. A request for a 6 month minimum deferment of the December 1, 2010 Planning Commission meeting and tentative City Council Meeting of December 6, 2010. This request is made because of the November 2, 2010 elections and **we do not want to exclude the new elected officials from this process** or the courtesy of enough time to transition into their new position. This consideration also applies to the EESD and ESUSD board of Trustee Members.
6. A request to defer the **public review period for comment until March 30, 2011**. This is requested in fairness to the public who are not familiar with the City planning process, engineering and scientific details of the EIR. This allows for an open, fair and equitable opportunity to study the subject matter and acquire professional counsel.
7. We object to the current " *Public Outreach Policy for Pending Land Use and Development Proposals, Policy 6-30*" used in this development outreach, because it **excludes all relevant community school groups**, particularly the School Site Councils, Parent Teacher Associations (PTA), EESD Board and ESUHSD Board. These are significant and relevant groups being seriously and negatively impacted by this residential project. So we request to the Director of the Department of Planning Building, and Code Enforcement, to immediately include these groups for this project and amend mentioned Policy 6-30 for an open and fair process by the end of November 3, 2010.

8. We object to the current "Public Outreach Policy for pending Land Use and Development Proposals, Policy 6-30" for the following reason. This particular policy excludes approximately 50% of all surrounding people from being notified of a project. The policy unnecessary lacks in detail the application of Radius to a site development which in turns hides from 50% of the required public the information about developments in their neighborhoods. In this mentioned development of ~15.06 acres (~656,013 square feet) if one applies the 1,000 ft Radius notification rule, then nearly 50% of that distance is taken up by the ~456ft radius of the property itself if one were to use the center of the property as the starting point of the Radius. We therefore request a reset date to the notification process for this development. We require that the notification Radius be amended from 1,000 ft to 1.0 mile in mentioned Policy 6-30. We request that the defined Radius starting point commence at the circumference line edge of the subject developed property when fully encompassed by a circle drawn on a map to scale. That said map is also available to the public in legal and letter size. That a said detail map be placed as a link easily searchable on the City web site with sufficient detail to identify all residence to be notified per registered mail.

9. The EIR report is lacking to address the environmental impact on the residents of Evergreen District 8 on the following studies, so we request that those reports should be included on the following:
 - a. The environmental stress on minor school children and teachers from over crowded class rooms caused by increased development by the subject development, and ranging up to the maximum allowed development in District 8.
 - b. The environmental stress on residents' due to increased traffic congestion by the subject development up to the current maximum development planned in District 8.
 - c. The EIR report does not address the exodus of rodents (rats, mice, etc.) from the subject property into the surrounding residence when construction occurs. This is a continuous problem with all development of vacant properties in the past and the developers are not held accountable for driving rodents off the developed land and onto the surrounding resident's properties causing infestation of rodents carrying disease and rabies.
 - d. The EIR report did not address the increase of Tire Rubber Atomization caused by the increase number of residences and commercial traffic caused by the mentioned development

10. We request that the EIR address a detail report as to the extent of the water table and all mentioned wells in the EIR and City wells (Alessandro & Aborn) and ponds within a 2000 ft radius being contaminated by the multiple toxic chemicals mentioned in the Mirassou Appendix G DEIR. These toxic chemicals include but are not limited to

a. <u>Trichloroethylene</u>	b. <u>Gasoline</u>	c. <u>4,4'-DDT</u>	d. <u>4,4'-DDE</u>	f. <u>Arsenic</u>	g. <u>Mercury</u>
h. <u>4,4'-DDD</u>	i. <u>chlordan</u>	j. <u>dieldrin</u>	k. <u>toxaphene</u>	l. <u>asbestos</u>	m. <u>lead</u>

11. The EIR should address a post soil analysis contamination report after demolition, after grading, after leveling, after compacting. There is a likelihood of large volumes of concentrated contaminated soil will be unearthed. We request that the EIR address which City Official will monitor this and how will the soil be removed.

12. The EIR report does not address to specifically identify the liquid leaking into the basement of the Heritage House. Due to the multitude of toxic chemicals on the subject property it is logical that the liquid leaking into the basement of Heritage House would be obvious due diligence.(8.5)

13. The EIR Appendix G 8.3 does not address the disbursement of lead-base paint off the building which remains on the subject property for the remainder of their Historic existence. Nor does it identify the financial and legal responsibility to maintain such a building. Nor does the EIR make mention if any Historical buildings which remain are suitable for human entrance without risk to human health.

Thank You for the opportunity to submit these requests. Please keep me informed on this development and any additional developments in the Evergreen-East Hills Development Policy. We are committed to remaining engaged on these developments.

Sincerely,
X

First Last Name: Javier Rodriguez
 Address: 4770 Quimby Road
 San Jose, CA 95148

E-mail: Javier.Rodriguez@ergosoup.com

Objections to Mirassou Mixed-Use Development and its Environmental Impact Report (EIR)

File Nos.: GP09-08-05/GPT09-08-05 and PDC10-001

October 31, 2010

Attention: John Davidson, Senior Planner
City of San Jose
Department of Planning Building, and Code Enforcement
200 E Santa Clara Street, 3rd Floor
San Jose, CA 95113
FAX: (408) 292-6055
john.davidson@sanjoseca.gov

RE: File Nos: GP09-08-05/GPT09-08-05 and PDC10-001 (Mirassou Mixed-Use Development)

Dear Mr. John Davidson,

Please accept my requests and objections for the Mirassou Mixed-Use Development for the following reasons.

1. The data in the application, process and EIR is dated. We request that the developer's application, process and EIR must include the 2010 US Census Data for a fair and equitable report in the interest of the public good.
2. The application, process and EIR does not address or factor in the current national economic crisis, the city budget deficit and the state budget deficit in readjusting the impact to the City of San Jose in any financial responsibilities as a result of this development. The City of San Jose will not be in a financial position to support any financial obligations from this project for five to ten years and therefore **the developer(s) must bear the full financial responsibility of all impacts** according to the current financial crisis facts. This includes but is not limited to impacts on Schools, Roads, Traffic, Sewer, Electrical, Gas, Storm Drains, Wells, Water Table Contamination, Soil Contamination, Toxic Chemical Cleanup, Ongoing financial responsibility to maintain contaminated historic buildings. It is unfair to place this financial burden on the residents, The City of San Jose and the Schools districts, etc.
3. The application, process and EIR must address a report by the San Jose Fire Marshall on **school over crowding fire hazards** at Evergreen Valley High School and all 18 Evergreen Elementary schools. We request this be addressed.
4. The application, process or EIR should address the **Estimated Property Tax Assessment Impact** on all residents affected by the mentioned development and its environmental financial stress impact on its affected residents.
5. A request for a 6 month minimum deferment of the December 1, 2010 Planning Commission meeting and tentative City Council Meeting of December 6, 2010. This request is made because of the November 2, 2010 elections and **we do not want to exclude the new elected officials from this process** or the courtesy of enough time to transition into their new position. This consideration also applies to the EESD and ESUSD board of Trustee Members.
6. A request to defer the **public review period for comment until March 30, 2011**. This is requested in fairness to the public who are not familiar with the City planning process, engineering and scientific details of the EIR. This allows for an open, fair and equitable opportunity to study the subject matter and acquire professional counsel.
7. We object to the current " *Public Outreach Policy for Pending Land Use and Development Proposals, Policy 6-30*" used in this development outreach, **because it excludes all relevant community school groups**, particularly the School Site Councils, Parent Teacher Associations (PTA), EESD Board and ESUHSD Board. These are significant and relevant groups being seriously and negatively impacted by this residential project. So we request to the Director of the Department of Planning Building, and Code Enforcement, to immediately include these groups for this project and amend mentioned Policy 6-30 for an open and fair process by the end of November 3, 2010.

8. We object to the current "Public Outreach Policy for pending Land Use and Development Proposals, Policy 6-30" for the following reason. **This particular policy excludes approximately 50% of all surrounding people from being notified of a project.** The policy unnecessary lacks in detail the application of Radius to a site development which in turns hides from 50% of the required public the information about developments in their neighborhoods. In this mentioned development of ~15.06 acres (~656,013 square feet) if one applies the 1,000 ft Radius notification rule, then nearly 50% of that distance is taken up by the ~456ft radius of the property itself if one were to use the center of the property as the starting point of the Radius. We therefore request a reset date to the notification process for this development. We require that the notification Radius be amended from 1,000 ft to 1.0 mile in mentioned Policy 6-30. We request that the defined Radius starting point commence at the circumference line edge of the subject developed property when fully encompassed by a circle drawn on a map to scale. That said map is also available to the public in legal and letter size. That a said detail map be placed as a link easily searchable on the City web site with sufficient detail to identify all residence to be notified per registered mail.

9. The EIR report is lacking to address the environmental impact on the residents of Evergreen District 8 on the following studies, so we request that those reports should be included on the following:
 - a. The environmental **stress on minor school children and teachers from over crowded class rooms** caused by increased development by the subject development, and ranging up to the maximum allowed development in District 8.
 - b. The environmental **stress on residents' due to increased traffic congestion** by the subject development up to the current maximum development planned in District 8.
 - c. The EIR report does not address the **exodus of rodents (rats, mice, etc.)** from the subject property into the surrounding residence when construction occurs. This is a continuous problem with all development of vacant properties in the past and the developers are not held accountable for driving rodents off the developed land and onto the surrounding resident's properties causing infestation of rodents carrying disease and rabies.
 - d. The EIR report did not address the increase of **Tire Rubber Atomization** caused by the increase number of residences and commercial traffic caused by the mentioned development

10. We request that the EIR address a detail report as to the extent of the water table and all mentioned wells in the EIR and City wells (Alessandro & Aborn) and ponds within a 2000 ft radius being **contaminated by the multiple toxic chemicals** mentioned in the Mirassou Appendix G DEIR. These toxic chemicals include but are not limited to

a. <u>Trichloroethylene</u>	b. <u>Gasoline</u>	c. <u>4,4'DDT</u>	d. <u>4,4'DDE</u>	f. <u>Arsenic</u>	g. <u>Mercury</u>
h. <u>4,4'-DDD</u>	i. <u>chlordane</u>	j. <u>dieldrin</u>	k. <u>toxaphene</u>	l. <u>asbestos</u>	m. <u>lead</u>

11. The EIR should address a post soil analysis contamination report after demolition, after grading, after leveling, after compacting. There is a likelihood of large volumes of concentrated contaminated soil will be unearthed. We request that the EIR address which City Official will monitor this and how will the soil be removed.

12. The EIR report does not address to specifically identify the liquid leaking into the basement of the Heritage House. Due to the multitude of toxic chemicals on the subject property it is logical that the liquid leaking into the basement of Heritage House would be obvious due diligence.(8.5)

13. The EIR Appendix G 8.3 does not address the disbursement of lead-base paint off the building which remains on the subject property for the remainder of their Historic existence. Nor does it identify the financial and legal responsibility to maintain such a building. Nor does the EIR make mention if any Historical buildings which remain are suitable for human entrance without risk to human health.

Thank You for the opportunity to submit these requests. Please keep me informed on this development and any additional developments in the Evergreen-East Hills Development Policy. We are committed to remaining engaged on these developments.

Sincerely,

X 

First Last Name: Ming Wang
 Address: 3180 Apperson Ridge Dr
 San Jose, CA 95148

E-mail: AMYMINGWANG@HOTMAIL.COM

Xavier, Lesley

From: Jim Hogan [jim@tela-inc.com]
Sent: Thursday, July 15, 2010 3:13 PM
To: 'Jim Hogan'; District8; Xavier, Lesley
Cc: ruthie@pacbell.net; summer_babies@comcast.net; Steven@LRwine.com; 'Graham Etchells'
Subject: RE: Historical preservation of the Mirassou Winery

Sorry now I got Lesley's email correct.

Jim Hogan
485 Alberto Way Suite 115
Los Gatos, CA 95032
Cell: +1-408-406-1158
Office: +1-408-558-6308
Main: +1-408-558-6300
Jim@tela-inc.com

From: Jim Hogan [mailto:jim@tela-inc.com]
Sent: Thursday, July 15, 2010 3:08 PM
To: 'district8@sanjoseca.gov'; 'Lesley.xavier@sjca.gov'
Cc: ruthie@pacbell.net; 'summer_babies@comcast.net'; 'Steven@LRwine.com'; 'Graham Etchells'
Subject: Historical preservation of the Mirassou Winery

Hello Rose and Lesley,

My friend, district 8 resident and fellow Overfelt high school alumni Ruth Medina forwarded me and Beckie the attached article.

We all grew up in the area and recall the beautiful vineyards and orchards that were all located in the Evergreen foothills. We saw Mirassou Winery produce some outstanding product in the subsequent years. After the family moved we all have enjoyed private events at the winery.

I have also had the opportunity to be part of the community working with SummerHill before in Los Gatos. The preservation of Heinz laboratory is an important part of pre-silicon technology history. The Heinz Open Space Preserve that abuts the development is a great open space in our increasing urban landscape.

It seems San Jose has a similar opportunity to create a like venue in Evergreen.

Our purposes is try to understand the City's intent for the facility. Our agenda is straight forward. We would like to see the winery (at least the tasting room, aging facilities, some grape vines and house) preserved, maintained and offered too both private and nonprofit organizations to host events. We as group have experience in creation and management of private for profit and nonprofit organizations.

We have contacted the developer and they have referred us to you both. We understand the developer is petitioning for a change to the general use plan for the area. We would like to get involved.

I am not going to be in the USA from June 30 through August 8 and will miss the community meeting in Evergreen. I was hoping that we all could have a meeting so we can gain some understanding if this something that we can add value to.

Thanks

Jim Hogan
485 Alberto Way Suite 115
Los Gatos, CA 95032
Cell: +1-408-406-1158
Office: +1-408-558-6308
Main: +1-408-558-6300
Jim@tela-inc.com

Hoping to hit a housing market on the rebound, SummerHill Homes is laying the groundwork to build 100 houses on the historical Mirassou Winery site in Evergreen.

The Palo Alto builder picked up the option from the Mirassou estate on the 15-acre site in September after Trumark Properties abandoned its three-year effort to develop the Aborn Road property. The Santa Clara County Assessor has valued the property at a little more than \$2 million. SummerHill President Robert Freed hopes to obtain a general plan amendment changing the property from public park/open space to mixed-use commercial and residential by autumn so he can begin construction next year.

"If we start in spring 2011, we'll have houses built in either late 2011 or early 2012," Freed said. That should be enough time for the lackluster housing market to gain traction. Freed said he believes the market "hit the floor" late last summer, and he's seen a 2 percent to 3 percent uptick in prices since then.

Denser housing proposed

In a reversal of a trend toward denser multifamily housing, SummerHill plans to build 100 single-family homes on the land whose owners, the Mirassou family, began bottling wine after Prohibition was repealed in 1933. The project includes a mixed-use component with about 20 housing units, or flats, above 10,000 to 20,000 square feet of a ground-floor retail development. The plan also calls for 25,000 square feet of office space to be built.

Even in the midst of a rough market, Freed called the project a "great opportunity."

"There are very few single-family detached communities in San Jose right now," he noted.

City project manager Lesley Xavier said SummerHill's project is currently one of the largest housing developments under consideration in San Jose.

Since the late 1990s, the property has been watched by several developers, all of whom have been stymied by the city and neighborhood's efforts to first solve traffic congestion before approving development.

Xavier said the city first addressed problems in 2003 and then updated the Evergreen East Hills Development Policy in 2009. The entire area, once covered in orchards and vineyards, stretches from

the east hills west to U.S. Highway 101, north to Story Road and south to Hellyer Road.

Xavier said the city plans to circulate a draft environmental impact report by May to give the community a chance to comment on SummerHill's project.

Mirassou family still owners

An issue that could raise questions is the long history of the property. The land is still owned by the Mirassou family, one of California's first winemaking families who arrived in California in 1854 when Pierre Pellier sailed from France with grape cuttings to plant in the new world.

But it is now under the control of a trustee, appointed to handle the sale of the estate, according to land use attorney Andrew Faber of Berliner Cohen.

While the historical aspects make the property appealing, it's also very challenging, Freed said. If SummerHill gets approval to build houses, it must restore the Peter Mirassou house, built in 1924, and the 12,000-square-foot winery warehouse constructed in 1937. But how the house, designated as a historic city landmark in 2005, will be used is undecided.

Joe Head, also of SummerHill, said it will take "hundreds of thousands of dollars" to restore the industrial warehouse and the 1,500-square-foot house.

"We can and will restore it to be a completely safe, seismically modern building," he said. "But there's still a question of what we will do with it when it's done."

As well as how to pay for its upkeep and preservation.

Historic consultant Bonnie Bamburg, who is very familiar with the Mirassou family, said the property is covered with structures built during the second half of the 20th century, but only the house and warehouse have historical significance.

"I have a lot of respect for what the Mirassou family has done for winery in the state of California," she said. "The house where Peter Mirassou lived gives us a sense of our wine heritage."

Peter Mirassou's descendant, Edmund Mirassou, worked tirelessly to promote California wines at a time when only French wines were held in esteem. Bamburg said Edmund persuaded President Lyndon Johnson in 1967 to stop serving French wines and serve only American wines in the White House, a policy still in practice today.

The Mirassous stopped producing wine at the property several years ago and sold the label to E&J Gallo Winery in 2002. Daniel Mirassou, a member of the fifth generation, said in 2007 that he could no longer afford to operate a winery in the Santa Clara Valley. He moved his winemaking operation to the Livermore Valley in 2005, using the name La Rochelle, which is the port in France from which his ancestors sailed.

Regardless of the fact that wine is no longer made on the property, Freed said its history will give the development a unique identity.

"You do enjoy a sense of place. Some locations give more opportunity for that than others," he said

Mirassou Winery

3000 Aborn Road

San Jose, CA 95135

La Rochelle Winery 925.243.6442 Steven@LRwine.com

SummerHill Project lead Vince Cantore 1-925-244-7532

San Jose City Project Manager Lesley Xavier 1-408-535-7852 email Lesley.xavier@sjca.gov

Evergreen Community Round Table, District 8 Rose Herrera, first Thursday 7 to 9pm at the Evergreen Branch Library in the Community Room

District 8 Rose Herrera (408) 535-4908 email district8@sanjoseca.gov

Xavier, Lesley

From: Arvind Kumar [chhprahiya@yahoo.com]
Sent: Saturday, January 09, 2010 8:02 AM
To: Xavier, Lesley
Cc: Mace, Bonnie
Subject: [Fwd: [D8C_RoundTable] Fwd: Comments on the Mirassou proposal form the D8 Roundtable [1 Attachment]]

As part of the sustainability aspect of this new development, make this a showcase for sustainable landscaping promoting water conservation, runoff prevention, habitat creation, and a sense of place.

Use California native plants prominently in the landscape and label key plants with durable labels. This will be especially meaningful and attractive around the historic buildings.

Use the services of a qualified landscape designer and installer that specializes in native plant landscaping. Insist on this because many landscape designers are simply not knowledgeable about native plants and their horticultural needs.

Promote this aspect of the development so it becomes a place worth visiting from far and wide.

- Arvind Kumar

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

Subject:[D8C_RoundTable] Fwd: Comments on the Mirassou proposal form the D8 Roundtable [1 Attachment]

Date:Fri, 08 Jan 2010 18:18:51 -0500

From:BGGoldMace@aol.com

To:D8C_RoundTable@yahoogroups.com

References:<11096630.1262964367168.JavaMail.root@elwamui-karabash.atl.sa.earthlink.net>
<8CC5E9C971E4AF8-6818-3FB2@webmail-d005.sysops.aol.com>
<02839363BA87B447B34ECE391D0DC6540D7EEAC5@ex01.sjcity.net>

[Attachment(s) from BGGoldMace@aol.com included below]

Hi All,

At last night's D8CRT meeting, we had a discussion with Summerhill Homes' representatives regarding potential development of the Mirassou site on Aborn and Ruby. Below is a summary of the notes taken by Planning Dept. project manager Lesley Xavier. If you have any additional comments or feedback about proposed Mirassou development, please forward them to Lesley.Xavier@sanjoseca.gov. She will incorporate all of our comments into the staff report that will be given to Planning Commissioners and City Council members. Joe Head and Vince Cantore from Summerhill Homes have promised to come back to the D8CRT in March or April with an update report on the Mirassou project plans. Thanks.

-Bonnie Mace (D8CRT President)

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

From: Xavier, Lesley <Lesley.Xavier@sanjoseca.gov>

To: Mace, Bonnie <bgoldmace@aol.com>; webmaster@d8crt.org; info@d8crt.org

Cc: Malutta, Jennifer <jennifer.malutta@sanjoseca.gov>; Enderby, Mike <Mike.Enderby@sanjoseca.gov>;

Cantore, Vince <VCantore@shhomes.com>

Sent: Fri, Jan 8, 2010 10:18 am

Subject: Comments on the Mirassou proposal form the D8 Roundtable

Please see attached.

Lesley Xavier

Lesley Xavier, Planner II

Planning Division

Planning, Building and Code Enforcement

City of San José

200 E. Santa Clara Street, 3rd Flr, Tower

San Jose, CA 95113

Tel: (408) 535-7852 FAX: (408) 292-6055

Please visit our website at: <http://www.sanjoseca.gov/planning>

Interested in being informed about Planning, Development, and Land Use Issues in San Jose?

You can subscribe to e-mail notifications on the issues that interest you by going to:

www.sanjoseca.gov/development/subscription/email_updates.asp.

Attachment(s) from BGoldMace@aol.com

1 of 1 File(s)



District 8 Community Roundtable Notes 1-7-10.doc

Your email settings: Individual Email|Traditional

[Change settings via the Web](#) (Yahoo! ID required)

[Change settings via email: Switch delivery to Daily Digest](#) | [Switch to Fully Featured](#)

[Visit Your Group](#) | [Yahoo! Groups Terms of Use](#) | [Unsubscribe](#)

--
- Arvind Kumar
Board Member, [California Native Plant Society](#)

11/18/2010

Not a CNPS member? Join today to protect native plant habitats and the environment

DISTRICT 8 COMMUNITY ROUNDTABLE
JANUARY 7, 2010

A presentation was made to the Roundtable by Vince Cantore of SummerHill Homes regarding the proposed development of the Mirassou Winery site on Aborn Road. There is currently a General Plan Amendment (File No. GP09-08-05 and GPT09-08-05) on file with the City of San Jose to change the San Jose 2020 General Plan Land Use/Transportation Diagram land use designation for the subject 15 acre site from Village Center and Public Park and Open Space to a newly created designation in the Evergreen Specific Plan of Mixed Use, as well as, associated text amendments to the Specific Plan. The requested mix of uses include up to 150 units of residential, up to 65,000 square feet of commercial/retail, up to 25,000 square feet of office, and historic preservation. A subsequent Planned Development Zoning for the site is anticipated to be submitted within the next few months.

The following are comments and questions that were made by those in attendance at the Roundtable:

- 1) Evergreen does not have a core or central area large enough to hold community events. The historic building could be a restaurant that would have the space to hold such events and possibly even weddings, business association meetings, etc.
- 2) The exterior of the historic building should be maintained as such who ever the end user may be.
- 3) The 137 units shown on the conceptual site plan are not enough. We need more residents to draw people to the retail in to the Village Square. How will this project draw people into the Village Square to support the existing retail and the proposed new retail? What are you going to do different than what Shapell has done with the existing commercial in the Village Square?
- 4) Make sure there is sufficient area for a park.
- 5) Will the covered patio area of the winery building be saved? (The applicant indicated that this structure is in disrepair and it would be removed)
- 6) What school will the new children of the development attend? (The applicant indicated that they have contacted the school district and that at this time the new children would attend Evergreen Elementary, Chaboya Middle School, and Evergreen High School)
- 7) What degrees of freedom are you working with? What is in the infeasible space, for example underground parking beyond the retail component? (e.g. what are the design constraints of the site?)

- 8) What is the strategy for public space, usage and access? Examples of this include walking spaces through the development, mass transit or carpool parking, common space (this would be the true draw even more than iconic retail), sub-terrain use such as for disaster recovery.
- 9) What is the strategy both support local business? Example could be enabling a business service centers to support local residents both in and outside the development, residential floor plans that accommodate home-based businesses.
- 10) What is the sustainability policy or strategy for the project?
- 11) Many of those in attendance stated that the reuse and rehabilitation of the historic building was a positive aspect of the project.
- 12) Evergreen needs a community center in this area.
- 13) How will construction phasing happen? (The applicant indicated that the new residential and the rehabilitation of the historic structure will occur at once and the commercial would be developed as the market improves.)
- 14) What will the construction timeline be? (The applicant indicated that it would be about 18 to 24 months and that the site was large enough to do a majority of the staging on site.)
- 15) What is the sustainability of the new units once built? Won't they impact water, sewer, police and fire services?
- 16) Can you predict how long it will take to occupy the new residential units? (Applicant indicated approximately 2 years.)
- 17) Does the project anticipate affordable housing? (Applicant stated no) The Evergreen community could use some affordable housing.
- 18) The community needs green space, community space.
- 19) Do we need all of these uses in this area? The area needs more jobs so that less residents need to commute out of the area and we need more parks.
- 20) All residents should benefit from the use of the historic building. It should be something that gives the area a presence and promotes community activity.
- 21) The historic building should be a destination.
- 22) There is a concern about additional traffic and whether or not there is enough electricity to serve more residents.
- 23) New housing will equal more traffic impacts.

- 24) When designing the site keep in mind the beauty of the hills above Evergreen and the openness of the existing development. The new project should be in character with this.
- 25) There is not enough access through, in, and out of the site. There should be more access points. The design creates a wall along the southern boundary.
- 26) The site needs more space for kids to play.
- 27) There is too much retail for having just one access point.
- 28) The density is too high and should be cut in half.
- 29) There is not enough space in the schools to support more housing, there is also not enough restaurants and retail.
- 30) Connectivity is a big issue, and this site does not provide connectivity to the adjacent neighborhood.
- 31) How will new residents of the site access existing parks? There should at least be convenient pedestrian access between the site, existing neighborhoods and parks and the commercial area.
- 32) The applicant should hold a design workshop to work through the issues.

Lesley Xavier

Project Manager
Planning Division
Planning, Building and Code Enforcement
City of San José
200 E. Santa Clara Street, 3rd Flr, Tower
San Jose, CA 95113
Tel: (408) 535-7852 FAX: (408) 292-6055