



## MILPITAS PLANNING COMMISSION AGENDA REPORT

### PUBLIC HEARING

Meeting Date: June 22, 2011

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**APPLICATION:** Site Development Permit No. SD11-0003: Electronic Freeway Orientated Sign

**APPLICATION SUMMARY:** A public hearing for a Site Development Permit to replace an existing freeway oriented sign for off-site advertising

**LOCATION:** 1700 Barber Lane (APN: 086-03-096)

**APPLICANT:** Milpitas Auto Properties, LLC

**OWNER:** City of Milpitas

**RECOMMENDATION:** Staff recommends that the Planning Commission adopt Resolution No. 11-024 recommending approval of project to the City Council.

**PROJECT DATA:**

General Plan/

Zoning Designation: N/A – Right of way property

CEQA Determination: The off-site advertising display adjacent to Interstate 880 is exempt pursuant to Section 15162 of CEQA guidelines in that the project is consistent with the findings within the prior certified Supplemental EIR (SCH#2006082087)

**PLANNER:** Sheldon S. Ah Sing, Senior Planner

**PJ:** 2523

**ATTACHMENTS:**

- A. Resolution No. 11-024
- B. Parcel Map
- C. Sign Design

# LOCATION MAP



## **BACKGROUND**

There has been an interest by the city and private entities to erect off site advertising displays or digital billboards, also known as “changeable copy or static copy freeway signs” along Interstates 880 and 680. These signs will promote economic development, expand the communication of community services and provide a source of revenue for the city.

In November 2006, the City certified an Environmental Impact Report that summarized and identified the impacts of locating three new signs along Interstate 680 and Interstate 880 for the purposes of offsite advertising. Of those signs, two of them would be capable of transmitting electronic changeable media.

The City’s Municipal Code includes a process for off-site advertising displays adjacent to interstate highways and state routes. The Code creates specific criteria to ensure that the erection of such off-site advertising displays in the city does not create visual clutter or create other operational impacts on surrounding uses, and to promote the public health, safety and general welfare. The provisions are consistent with state and federal laws that govern such signs and with the accepted standards of the Outdoor Advertising Association of America.

This application for the Site Development Permit and the Lease Agreement are submitted pursuant to the Municipal Code ordinance [Title XI, Chapter 10, Section 24.05(G)]. The Lease Agreement is included for reference and will be considered by the City Council. The Planning Commission will make a recommendation on the Site Development Permit to the City Council.

## **PROJECT DESCRIPTION**

### ***Discussion***

The project includes two components. First, a Site Development Permit is submitted to consider the design and compliance of the sign with the zoning ordinance regulations. Second, a Lease Agreement between the City and Milpitas Auto Properties, LLC proposes to identify the timeframe for responsibilities, obligations and shared benefits of erecting an off-site advertising display.

### ***Site Development Permit***

The applicant proposes an off-site advertising display on the City owned parcel adjacent to southbound Interstate 880 at the Montague Expressway. In summary, the provisions and development standards are as follows:

### **Review Process**

Two sign vendors were chosen by the city through a competitive selection process. Each sign vendor will enter into an agreement with the city regarding the location, construction, maintenance and define the public benefit of the signs. The design of the signs requires consideration of a Site Development Permit by the Planning Commission and the City Council. It is the intent that the signs by the two vendors are compatible in design, but not necessarily identical. The City approved an off-site advertising sign at the Piercey Toyota site in 2010 and construction is to begin soon.

Zoning Development Standards

*Maximum Height*

The overall height of the sign shall not exceed seventy (70) feet.

*Distance between other off-site advertising displays.*

No off-site advertising display shall be placed within one-thousand (1,000) feet from another advertising display on the same side of any portion of the interstate.

*Maximum sign area*

The maximum sign area shall not exceed one-thousand, two-hundred (1,200) square feet on each side. Ancillary fixed signs or logos may be permitted on the sign's supporting structure that would not count towards the maximum allowed sign area.

*Illumination*

The two-sided displays would use LED technology. Light intensity would be in compliance with state laws. An automatic dimming device or light sensors must be integrated into the sign and illumination must be designed to reduce glare or casting on adjacent properties.

I-880/Montague Sign Location and Design

This application considers only one sign location. The sign is proposed to be located within the City owned parcel shown on the attached site plan that is the location of the current Great Mall freeway sign. The exact location will be established when construction drawings are submitted to the City and to the California Department of Transportation (Caltrans). A condition of approval will maintain that the sign remain clear of any easements.

The main support column of the sign is 50 feet tall. The total display area is 356 square feet for each side (12 feet by 25 feet) and includes three logo signs on the support column. The structure is metallic silver in color. At the top of the support column "City of Milpitas" is displayed and "Great Mall" is positioned along side the three logo signs. Refer to the project plans for detailed information.

Illumination of the sign is by Light Emitting Diodes (LED) technology. As required by the Code, the sign will include automatic dimming circuitry or light sensors to reduce glare or casting on adjacent properties. The light intensity will be consistent with state and federal laws.

*Lease Agreement Deal Points*

The deal terms concerning the Lease Agreement will be made available under separate cover prior to the Planning Commission meeting.

**ADOPTED PLANS AND ORDINANCES CONSISTENCY**

*General Plan*

The table below outlines the project's consistency with applicable General Plan Guiding Principles and Implementing Policies:

**Table 1**  
**General Plan Consistency**

<b>Policy</b>	<b>Consistency Finding</b>
<i>2.a-I-3 Encourage economic pursuits which will strengthen and promote development through stability and balance.</i>	<b>Consistent.</b> The proposed development agreement and sign promote and balances economic development by creating a medium for local businesses to advertise and ensures quality identification.
<i>2.a-I-4 Publicize the position of Milpitas as a place to carry on compatible industrial and commercial activities with special emphasis directed toward the advantages of the City’s location to both industrial and commercial use.</i>	<b>Consistent.</b> The proposed development agreement and sign allow the City to position itself for appropriate identification for businesses and projects a positive quality image for Milpitas.
<i>2.a-I-7 Provide opportunities to expand employment, participate in partnerships with local business to facilitate communication, and promote business retention.</i>	<b>Consistent.</b> The proposed development agreement and sign provide a partnership and provides an opportunity to promote businesses.

***Zoning Ordinance***

The proposed sign is consistent with the zoning ordinance regarding development and operational standards. The design, scale, size and materials of the sign as depicted in the project plans are consistent with the requirements of the sign ordinance. The sign complements the architectural design, materials and color of the Toyota automobile dealership sign approved by the Planning Commission and City Council in 2010. When reviewed during the plan checking stages, the lighting will be consistent with ordinance standards. At that time, the sign’s exact location will be considered for any potential impacts to vehicular or pedestrian traffic.

The development of the sign will result in a public benefit to the city outweighing any adverse impacts that may be caused by the displays. The proposed display will present a positive image of the City of Milpitas and increase its visibility and presence to the traveling public, thereby informing travelers of amenities and products available in the redevelopment project area. The proposed display will also provide opportunities for advertising or information regarding community events and programs.

**ENVIRONMENTAL REVIEW**

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Staff determined that the project is exempt pursuant to Section 15162 in that project is consistent with the findings within the prior certified Supplemental EIR (SCH#2006082087). The Supplemental EIR identified the approximate locations of the freeway signs and their potential impacts on the environment. No

new information or changes in the scope of the proposal necessitates further environmental analysis. The certified Supplemental EIR is adequate to address the freeway signs. All applicable mitigation measures identified in the Supplemental EIR will apply to future projects involving such signs have been integrated to the extent possible in the proposed ordinance. These include the size, angle, light emissions, design, noise and other operating and development factors associated with the signs.

**PUBLIC COMMENT/OUTREACH**

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public.

**CONCLUSION**

The City has expressed a desire to allow off-site advertising displays to promote economic development. Through prior certification of an EIR and through the concurrent processing of an amendment to the city's sign ordinance, the city has considered the potential visual impacts of these displays. Specific provisions and development and operational standards ensure compatibility with surrounding uses and acknowledge that the public benefits outweigh adverse impacts. The proposed sign is consistent with the provisions of the sign ordinance.

**RECOMMENDATION**

**STAFF RECOMMENDS** that the Planning Commission close the public hearing and adopt Resolution No. 11-024, recommending approval of the project to the City Council.

*Attachments:*

- A. Resolution No. 11-024
- B. Parcel Map
- C. Sign Design

**RESOLUTION NO. 11-024**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE A REAL PROPERTY LEASE AGREEMENT AND SITE DEVELOPMENT PERMIT NO. SD11-0003, OFF-SITE ADVERTISING DISPLAY, TO ALLOW THE ERECTION OF A FREESTANDING OFF-SITE ADVERTISING DISPLAY LOCATED ON A CITY-OWNED PARCEL BETWEEN BARBER LANE DRIVE AND THE INTERSTATE 880 FREEWAY IN MILPITAS, CALIFORNIA**

**WHEREAS**, on May 5, 2011, an application was submitted by Milpitas Auto Properties, LLC, for a real property lease agreement between the City of Milpitas and Milpitas Auto Properties, LLC, and site development approval for the erection and operation of a freestanding off-site advertising display. The property proposed for lease is located on a parcel of land bordered on its eastern and western boundaries by the Interstate 880 Freeway and Barber Lane, respectively, which is sometimes described as Assessor's Parcel No. 086-03-096. The subject parcel is located in the right of way; and

**WHEREAS**, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project is categorically exempt; and

**WHEREAS**, on June 22, 2011, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties, as to the proposed application and its conformity with the requirements of Milpitas Municipal Code § XI-10-24.05.G (Off-Site Advertising Displays Adjacent to Interstate Highways and State Routes).

**NOW THEREFORE**, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

**Section 1:** The recitals set forth above are true and correct and incorporated herein by reference.

**Section 2:** The project is exempt from further environmental review pursuant to Section 15162 of CEQA guidelines in that the project is consistent with the findings within the prior certified Supplemental EIR (SCH#2006082087). The Supplemental EIR identified the locations of freeway signs and their potential impacts on the environment. No new information or changes in the scope of the proposal necessitates further environmental analysis. The certified Supplemental EIR is adequate to address the freeway signs. All applicable mitigation measures identified in the Supplemental EIR will apply to future projects involving such signs have been integrated to the extent possible in the proposed ordinance. These include the size, angle, light emissions, design, noise and other operating and development factors associated with the signs.

**Section 3:** The proposed display will not create a hazard to vehicular or pedestrian traffic, and measures have been taken to reduce potential impacts upon the existing visual

character of the site and surrounding in that the displays are angled away from neighboring properties and will include automatic dimming devices to ensure the appropriate glare level.

**Section 4:** All advertising on the off-site advertising display will conform with the Outdoor Advertising Act in the California Business and Professions Code and other applicable state and federal rules and regulations.

**Section 5:** The development of the off-site advertising display will result in a public benefit to the City outweighing any adverse impacts that might be caused by the advertising display. The proposed display will present a positive image of the City of Milpitas and increase its visibility and presence to the traveling public, thereby informing travelers of amenities and products available in the redevelopment project area. The proposed display will also provide opportunities for advertising or information regarding community events and programs..

**Section 6:** The development of the off-site advertising display will promote economic development within the City in that the signs provide for additional commercial corridor communication, thereby advertising the availability of goods and services within the redevelopment project area.

**Section 7:** The design, including lighting, scale, size and materials, of the off-site advertising display is consistent with the intent of the design criteria of the off-site advertising display provisions in that the sign is consistent with the height, size, and lighting and is compatible in design and appearance to the commercial, office and retail structures in the surrounding area.

**Section 8:** The development and location of the proposed off-site advertising display is consistent with the goals of the Milpitas General Plan in that the sign:

- a. provides a partnership with local business entities and provides an opportunity to promote economic activity within the City.
- b. allows the City to position itself for appropriate identification for businesses and projects a positive quality image for Milpitas.
- c. promotes and balances economic development by creating a medium for local businesses within the redevelopment project area to advertise and ensures quality identification.

**Section 9:** The Planning Commission of the City of Milpitas hereby recommends approval of a Real Property Lease Agreement and Site Development Permit No. SD11-0003, Off-site advertising display, subject to the above Findings, and Conditions of Approval attached hereto as Exhibit 1.

**PASSED AND ADOPTED** at a regular meeting of the Planning Commission of the City of Milpitas on June 22, 2011.

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Chair

**TO WIT:**

**I HEREBY CERTIFY** that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on June 22, 2011, and carried by the following roll call vote:

<b>COMMISSIONER</b>	<b>AYES</b>	<b>NOES</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Lawrence Ciardella				
Sudhir Mandal				
Zeya Mohsin				
Gurdev Sandhu				
Steve Tao				
Noella Tabladillo				
Mark Tiernan				
John Luk				

**EXHIBIT 1**

**CONDITIONS OF APPROVAL**

**Site Development Permit No. SD11-0003**

A request for an off-site advertising display

Parcel Between Interstate 880 and Barber Lane(APN: 086-03-096)

**General Conditions**

1. The owner or designee shall develop the approved project in conformance with the approved plans approved by the City Council, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the City Council, in accordance with the Zoning Ordinance. **(P)**

SD11-0003 shall become null and void if the project is not commenced within two (2) years from the date of approval. Pursuant to Section 64.06(B) of the Zoning Ordinance of the City of Milpitas:

- a. Completes a foundation associated with the project; or
  - b. Dedicates any land or easement as required from the zoning action; or
  - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
2. Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of SD11-0003 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. **(P)**
  3. Prior to the issuance of building permits, the owner or designee shall include within the four first pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the project. **(P)**
  4. Prior to issuance of a building permit, the applicant shall confirm that the sign is located outside any easements. **(E)**
  5. Prior to issuance of a building permit, the applicant shall confirm that the sign location complies with fire regulations regarding access and circulation. **(F)**

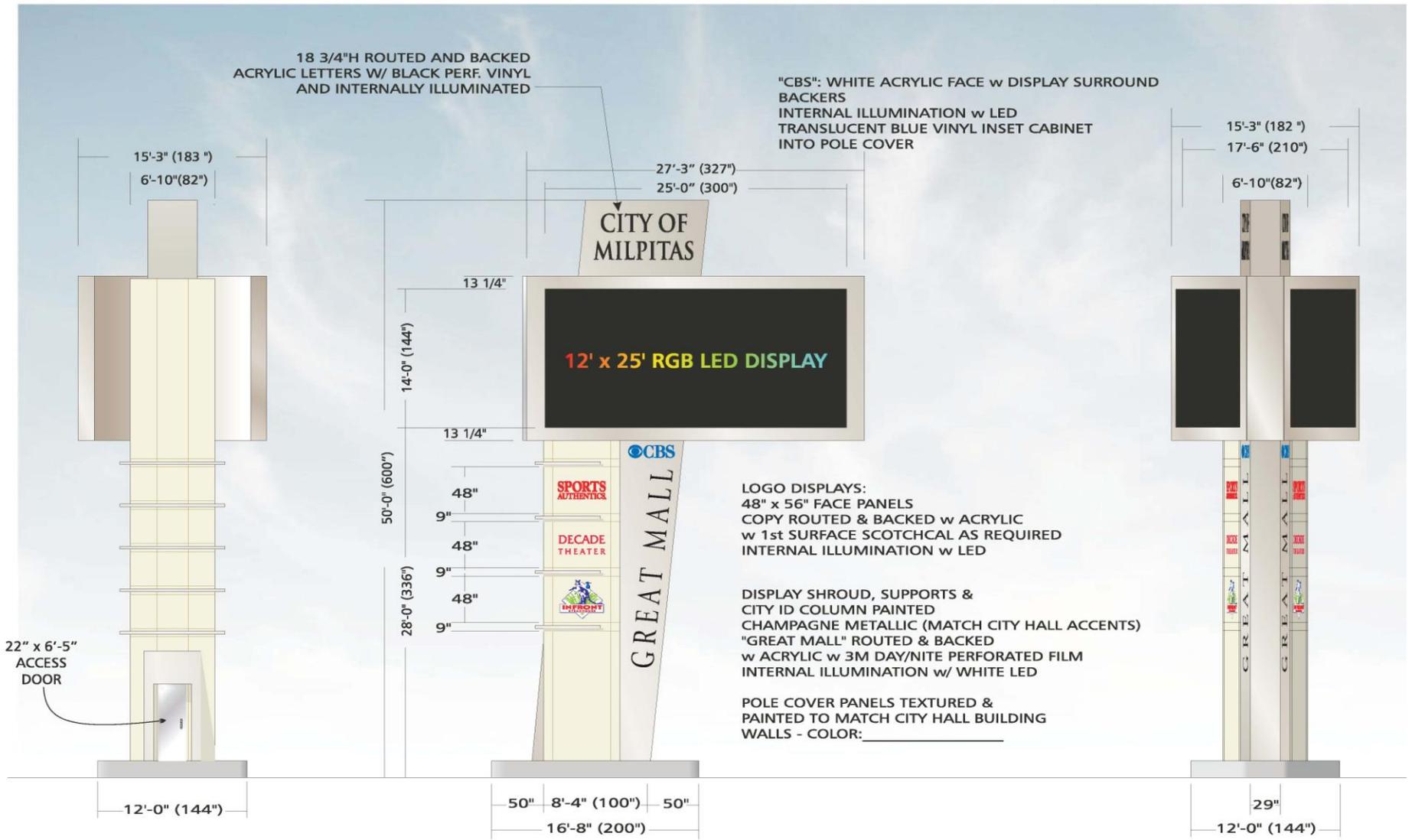
**(P)** = Planning

**(B)** = Building

**(E)** = Engineering

**(F)** = Fire Prevention



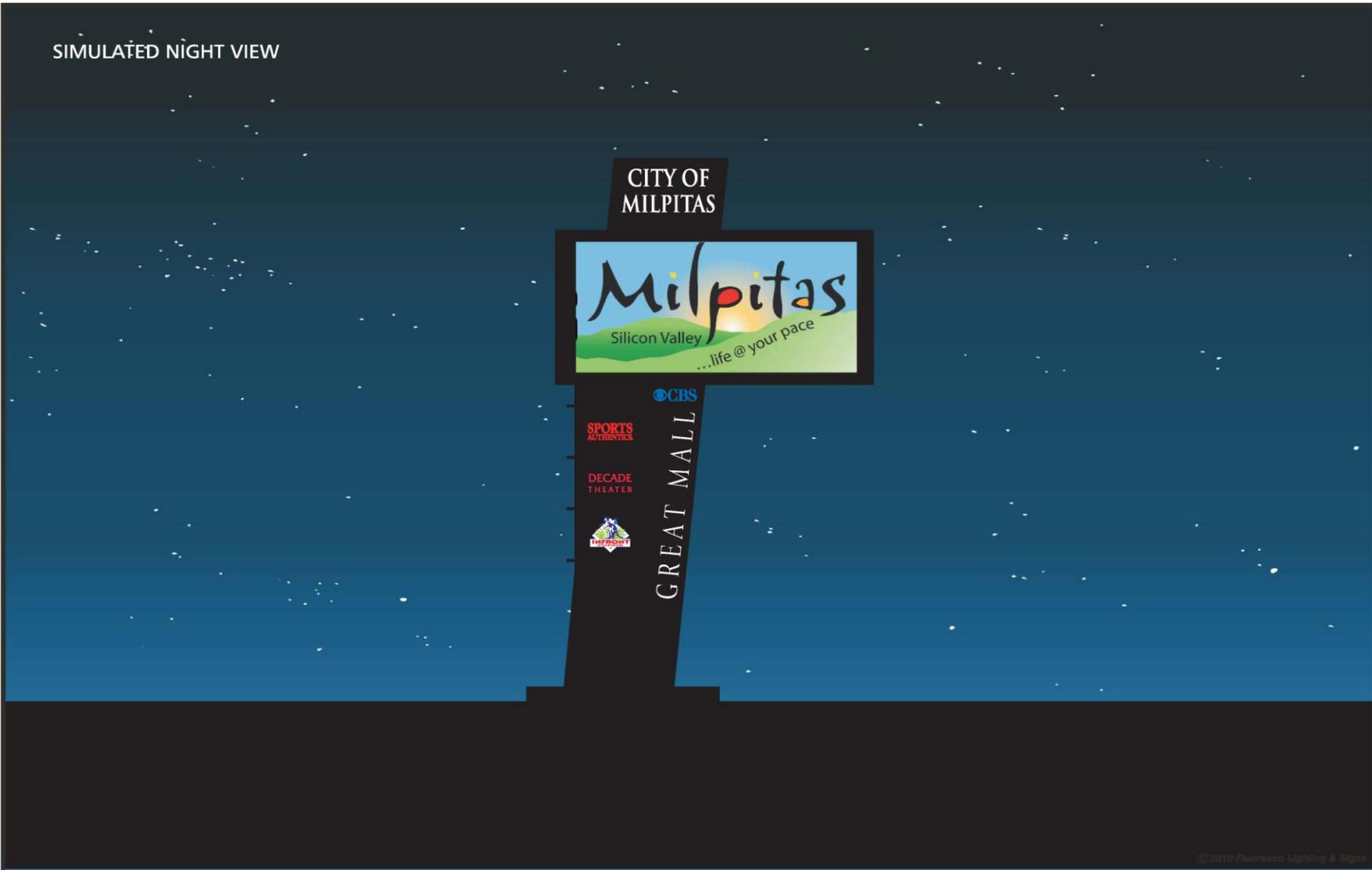


SCALE: 1/8" = 1' 0"

880 @ Montague



SIMULATED NIGHT VIEW



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