



## MILPITAS PLANNING COMMISSION AGENDA REPORT

September 28, 2016

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**APPLICATION:** **MILPITAS FARMERS MARKET CONDITIONAL USE PERMIT NO. P-UP16-0016** - A request to operate a certified Farmers Market within the Great Mall parking lot on Sundays from 6:00 a.m. until 2:00 p.m.

**RECOMMENDATION:** **Staff recommends that the Planning Commission adopt Resolution No. 16-034 approving Conditional Use Permit No. UP16-0016, subject to the attached Conditions of Approval.**

**LOCATION:**

Address/ APN: 447 Great Mall Drive (APN: 86-24-060)  
Area of the City: Transit Area Specific Plan

**PEOPLE:**

Project Applicant: Ben Palazzolo, Pacific Coast Farmers Market Association  
Agent: Douglas Mena, Pacific Coast Farmers Market Association  
Property/Business Owner: Simon Mills, LLP  
Project Planner: Krishna Kumar, Assistant Planner

**LAND USE:**

General Plan Designation: General Commercial (GNC)  
Zoning District: General Commercial (C2)  
Specific Plan: Transit Area Specific Plan  
Site Area: 1.28 acres

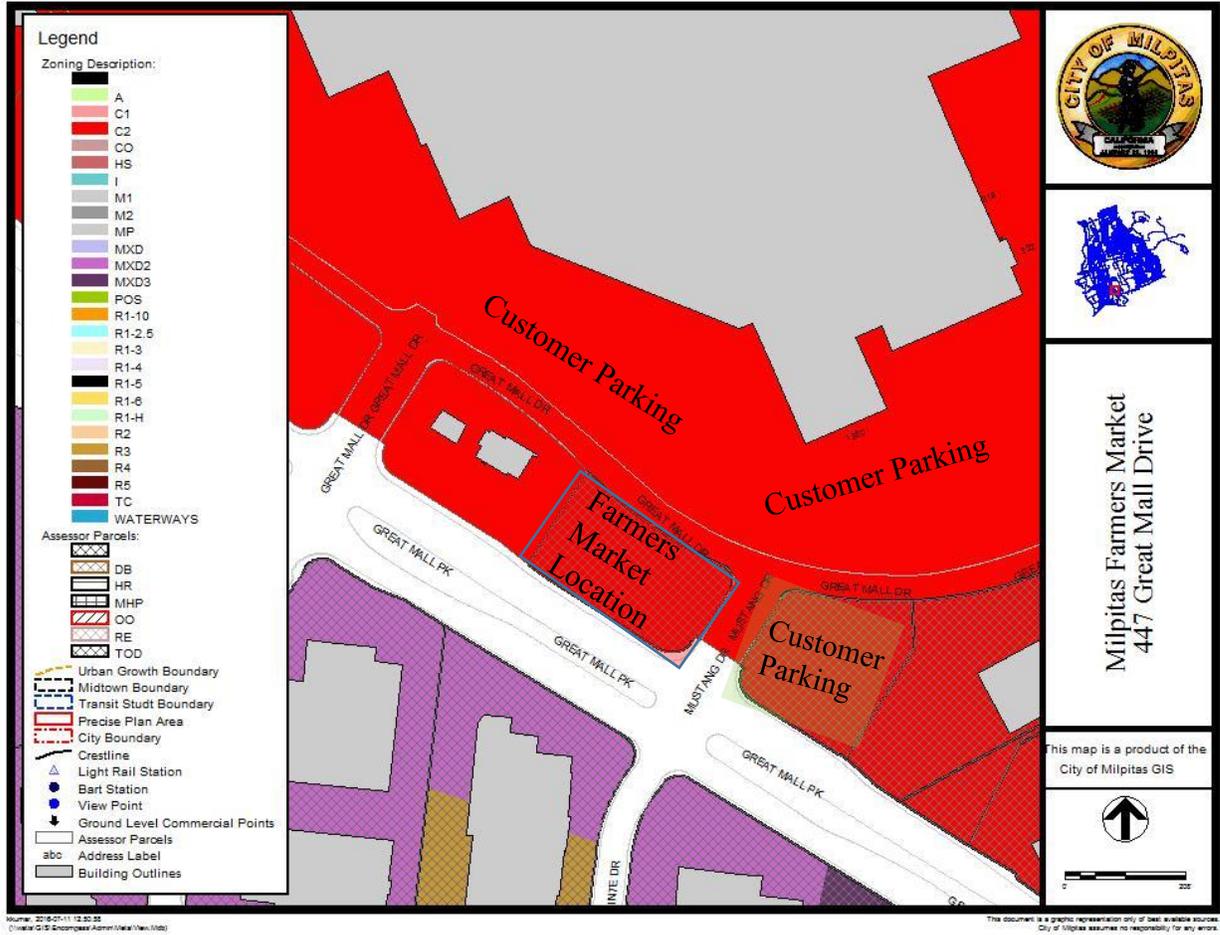
**ENVIRONMENTAL:** Categorically Exempt from further environmental pursuant to Section 15304 (Minor Alterations to Land) of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA).

**EXECUTIVE SUMMARY**

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The applicant is requesting a Conditional Use Permit (CUP) to operate a certified Farmers Market within the Great Mall parking lot on Sundays from 6:00am until 2:00pm. The Milpitas Farmers Market was previously approved P-UP08-0042 on January 28, 2009 to operate a farmers market at the Great Mall parking lot during the months of April until the first Sunday prior to Thanksgiving. The previously approved farmers market was located on the same parcel with similar customer parking area. The Milpitas Farmers' Market is currently operating in this location on Sundays from 6:00am to 2:00pm since August 2016 via a Special Events Permit. The project is consistent with the General Plan, Zoning Ordinance and Transit Area Specific Plan and staff recommends that the Planning Commission approve the project subject to the findings and Conditions of Approval.

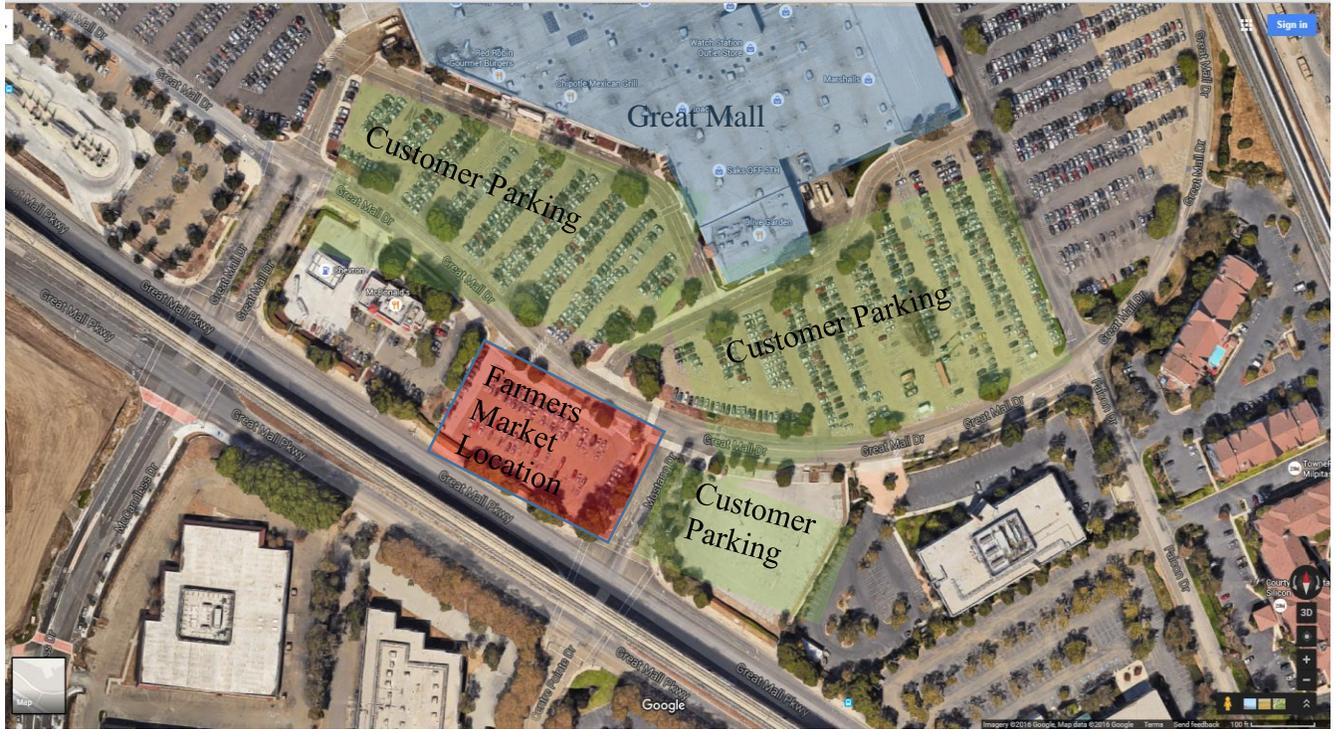
# Map 1 Project Location/ Zoning Map





**Map 2**  
**Project Site**

No scale



**Map 3:**  
**Overall Project Site**



## **BACKGROUND**

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### ***History***

On January 28, 2009, the Planning Commission approved a Conditional Use Permit (UP08-0042) to operate a certified Farmers' Market within the Great Mall parking lot on Sundays from 8:00a.m. until 1:00p.m. during the months of April until the first Sunday prior to Thanksgiving. That CUP approved the use of the same parcel as this application with similar customer parking arrangements. The Farmers Market operated from April 2009 to November 2009, when it moved to the India Community Center.

In August and September 2016, the Planning Department approved Special Event Permits No. P-MS16-0079 and P-MS16-0097 to operate a certified Farmer's Market within the Great Mall parking lot on Sundays from 6:00 a.m. until 2:00 p.m. Applicant now desires to secure authorization to operate the market at this location on a long-term basis, and thus requests a CUP.

### ***The Application***

The following is a summary of the applicant's request:

- *Conditional Use Permit:* To operate a certified Farmers Market within the Great Mall parking lot on Sundays from 6:00am until 2:00pm.

## **PROJECT DESCRIPTION**

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### ***Overview***

The project site is a flat asphalt parking lot that primarily serves the Great Mall and is located on the southwest portion of the Great Mall parking lot between McDonalds/Chevron and Mustang Drive. The parking lot is considered a periphery lot, since anyone parking there would have to cross Great Mall Drive and traverse an additional field of parking to enter the mall. There are two (2) driveway entrances that provide access to the project location; south entrance – Falcon Drive and west entrance – Mustang Drive.

The applicant seeks approval to operate a certified Farmers' Market within the parking area closest to McDonalds/Chevron. The proposed hours of operation will be on Sundays from 6:00a.m. until 2:00p.m. The market will provide approximately 80 vendor stalls. The vendor stalls are 10 feet x 10 feet in size. Prior to the market opening, each vendor will park within their parking stall and set up their booth behind their vehicle. During hours of operation, the market area will be for pedestrians only. The only time cars will be moving within the market area will be during set up time at 6:00a.m. and after the market is closed and cleaned up around 2:00p.m. The applicant will provide trash bins throughout the market area during hours of operation. The applicant has an existing agreement with the owners of the Great Mall to use the parking area. Security will be handled by two onsite market managers. The applicant has submitted a traffic control plan with regard to parking and pedestrian pathways (see *Parking* section below).

### ***Location and Context***

The property is zoned General Commercial (C2) and is within the Transit Area Specific Plan. The abutting properties include Multi Family Residential (R3) to the north, Mixed Use (MXD 2) to the west, Single-Family Residential (R1-10) and Industrial (M2) to the east, and Mixed Use (MXD3) to the south.

**Table 1: Zoning and Land Use Summary**

	<b>General Plan</b>	<b>Zone</b>	<b>Uses</b>
Subject Site	General Commercial (GNC)	General Commercial (C2)	Great Mall
North	Multi Family Residential High Density (MFH)	Multi Family Residential (R3)	Residential
South	Boulevard Very High Density Mixed Use (BVMU)	Mixed Use (MXD 3)	Proposed VTA Substation / BART Station
East	Multi Family Residential High Density (MFH)	Single-Family Residential (R1-10) and Industrial (M2)	Residential/ Industrial
West	Residential Retail High Density Mixed Use (RRMU)	Mixed Use (MXD2)	Industrial Building

**PROJECT ANALYSIS**

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***General Plan and Zoning Conformance***

General Plan

The project conforms to the intent of the General Commercial (GNC) General Plan Land Use designation in that it is a commercial venture. The project also complies with Land Use policy 2.a.I-10 and 2.a.I-3, as set forth in Table 1 below.

Zoning Ordinance

The project complies with the development standards set forth in the Zoning Ordinance. The project does not propose the addition of any permanent structures to the proposed site. The nature of the project site remains unaltered, but due to the addition of the Farmers Market use, the project is required to meet the current parking requirement (discussed below).

***Access, Circulation, Parking, and Safety***

There are two (2) driveway entrances that provide access to the site; south entrance – Falcon Drive and west entrance – Mustang Drive. As stated above, the Farmers’ Market Event Area will be for pedestrians only during the market hours. The Farmers’ market area adjacent to Great Mall Drive and Mustang Drive will be closed to vehicle traffic during the hours of the market operation. In the two hours proper to the Markets’ opening (from 6:00-8:00 a.m.) and in the hour after the Market’s close (1:00-2:00 p.m.) vehicles operated by vendors, producers, and staff will be permitted in this area to allow for set up, and one hour after closing for tear down. Both entrances to the market will be blocked using barricades and cones with “Road Closed” signs. A sign will be placed along Mustang Drive warning drivers of pedestrians crossing. Two additional “pedestrians crossing” signs will be placed along Great Mall Drive, one on the grassy area next to the McDonalds restaurant, and one on the opposite side walk of the parking lot to the right of Mustang Drive. Two “No Farmers Market Parking” signs will be placed at the entrance to the Chevron gas station and the McDonalds restaurant. To ensure pedestrian safety a crossing guard will be

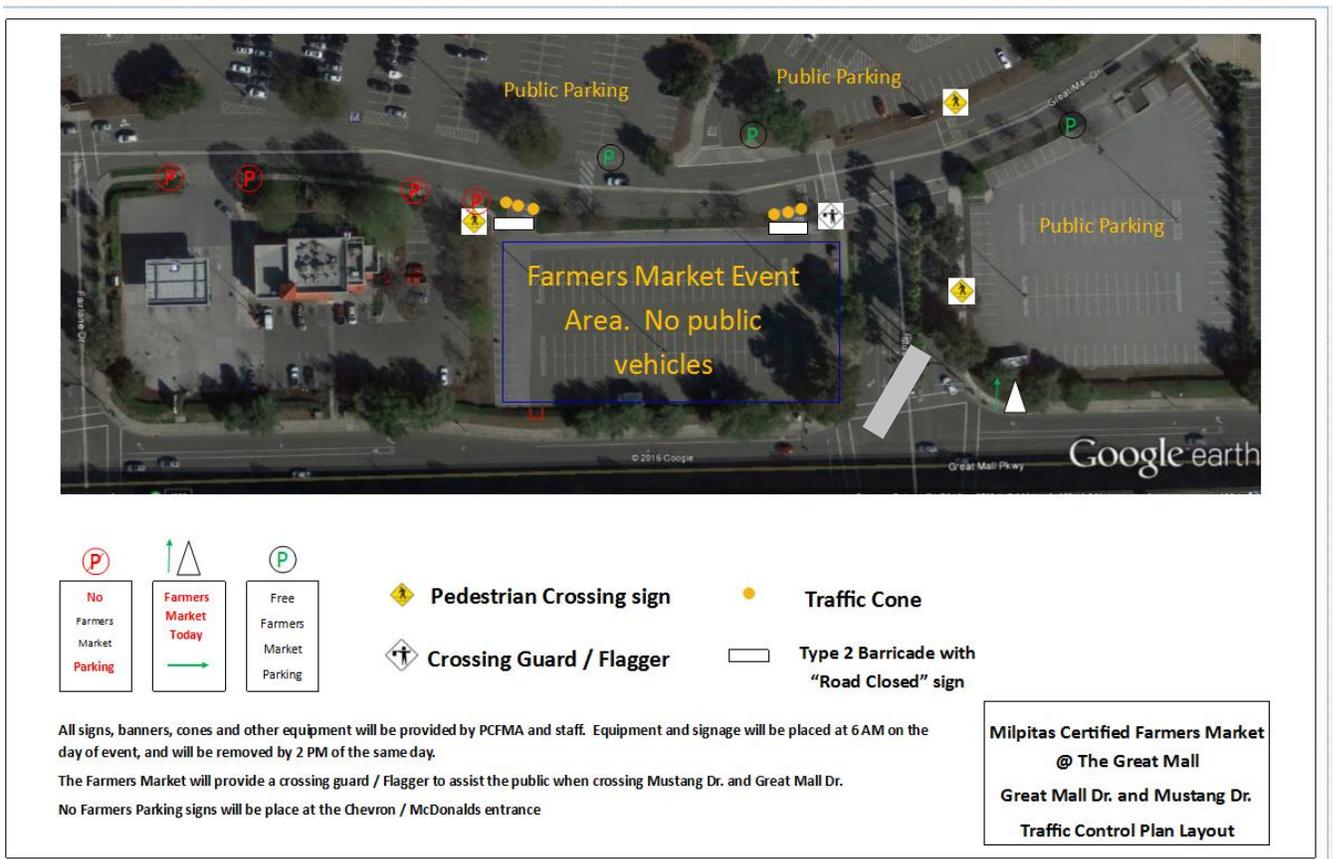
made available to monitor the foot traffic from the parking lots across from the market and across Mustang Drive.

**Parking**

The project proposal is a certified Farmers’ Market operating once a week on Sundays, and is located on an existing parking lot that serves the Great Mall. The various parking lots around mall have over 5,000 spaces to support the site. It is expected that the market would operate during an off-peak period for the mall. It is possible that there could be an increase in patrons coming to the mall during the period that the market is operating, but the parking facilities and roadways would have sufficient capacity to accommodate the influx as they are designed for weekday AM/PM peak traffic and parking demand.

The market is a weekly use. Its traffic flow plan (shown below) demonstrates how traffic will operate while the Great Mall parking area is temporarily occupied each week by the market. The traffic control plan has been reviewed and approved by staff, who have assessed it with an eye to providing for the safe operation that will decrease potential hazards.

**Pedestrian Safety/Parking**



**FINDINGS**

A finding is a statement of fact relating to the information that the Planning Commission has considered in making a decision. Findings shall identify the rationale behind the decision to take a certain action.

***Conditional Use Permit (Section XI-10-57.04(F)(1))***

- a. *The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.*

The proposed Farmers’ Market will serve the community, and, as designed, have no detrimental or injurious impacts on the property or improvements in the vicinity of the property. Rather, it will provide a community benefit by offering farm-fresh produce and goods to consumers and will give customers living in the neighborhood greater and easier access to purchases they would have previously had to travel out of the neighborhood to find. The operation of the Farmers’ Market will be in compliance with all local, state, and federal regulations.

- b. *The proposed use must be consistent with the Milpitas General Plan*

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

**Table 1: General Plan Consistency**

Policy	Consistency Finding
<i>2.a-I-10: Foster community pride and growth through beautification of existing and future development.</i>	Consistent. The Farmers’ Market will foster community pride by enlivening an underutilized parking lot with a vibrant market that will bring the community together.
<i>2.a-I-3: Encourage Economic pursuits which will strengthen and promote development through stability and balance.</i>	Consistent. The Farmers’ Market will strengthen and promote development by offering residents a nearby source of fresh, healthy food and handmade goods. This is particularly welcome in a neighborhood not overly served by grocery stores.

- c. *The proposed use must be consistent with the Milpitas Zoning Ordinance.*

The proposed farmers market conforms to the Milpitas Zoning Ordinance in that the use is a conditionally permitted use in the C2 General Commercial Zoning district, per Milpitas Municipal Code Table XI-10-5.02-1.

- d. *The proposed use must be consistent with the Transit Area Specific Plan.*

The table below outlines the project’s consistency with the goals and implementation policies of the Transit Area Specific Plan.

**Table 2: Milpitas Transit Area Specific Plan Consistency**

<b>Policy</b>	<b>Consistency Finding</b>
<p><i>TASP Policy No. 4.77: Encourage the addition of new tenants to strengthen sales, and consolidates existing retail tenants.</i></p>	<p><b>Consistent.</b> The addition of the Farmers’ Market as a new tenant will serve the surrounding high density residential developments in the Transit Area Specific Plan and may strengthen sales by drawing customers to the existing retailers at the Great Mall.</p>

**ENVIRONMENTAL REVIEW**

Categorically Exempt from further environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15304 (Minor Alterations to Land) of the Guidelines for the Implementation of CEQA, as there is no new construction, does not involve the removal of healthy, mature, scenic trees, and is a temporary use on a weekly basis.

**PUBLIC COMMENT/OUTREACH**

Staff provided public notice the application in accordance with City and State public noticing requirements. As of the time of writing this report, there have been two public comments. The first comment was a phone call from a concerned citizen who is in opposition to the project as he is concerned about public safety of pedestrians crossing the crosswalk from the customer parking towards the Farmers Market area. Per them the Farmers Market customers do not use the crosswalk, there is no crowd control and he almost hit a distracted pedestrian crossing the street walking towards the Farmers Market from the customer parking lot area.

In addition, staff received an email in support of the project. *(See Attachment C)*

A notice was published in the Milpitas Post on September 16, 2016. In addition, 3,684 notices were sent to owners and occupants within 1,000 feet of the project site. A public notice was also provided on the project site, on the City’s Website, [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov), and posted at City Hall.

**CONCLUSION**

The project proposal is consistent with the Milpitas General Plan and Zoning Ordinance. The Farmers’ Market is locating directly across from existing residential and the Transit Area Specific Plan area. Staff’s believes that the market will serve the existing residents and shoppers of Milpitas and will provide a walkable opportunity for the new High Density Residential homes that are permitted in the Transit Area Specific Plan.

## **RECOMMENDATION**

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**STAFF RECOMMENDS THAT** the Planning Commission:

1. Open and Close Public Hearing
2. Adopt Resolution 16-034 approving Conditional Use Permit No. UP16-0016 to operate a certified Farmers' Market within the Great Mall parking lot on Sundays from 6:00am until 2:00pm., subject to the findings and Conditions of Approval.

## **ATTACHMENTS**

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A: Resolution 16-034

B: Project Plans

C: Letter of Support