

Commissioner Tabladillo stated she wants to make sure that the residents are safe when they go to and from work and that it has high safety standards. She wants to stress to staff that they make sure the developers work hand and hand with the Santa Clara Water District that the slope area is well protected and that no mud comes down from the slope.

Chair Williams asked staff if there is any street parking on Murphy Ranch Road. Mr. Lindsay stated that there is no available street parking on Murphy Ranch Road. Chair Williams is also concerned with the schools and the children getting to and from school safely.

Motion to adopt Resolution No. 08-068 recommending approval of the project to the City Council subject to Conditions of Approval.

M/S: Ciardella, Galang

AYES: 5

NOES: 1 (Williams)

ABSENT: 1 (Aslam Ali)

ABSTAIN: 0

**6. ZONING
AMENDMENT NO. ZA08-
009, CONDITIONAL USE
PERMIT NO. UP08-0039
AND ENVIRONMENTAL
ASSESSMENT NO. EA08-
0007**

Cindy Hom, Assistant Planner, presented a request to amend the City of Milpitas Zoning Ordinance to conditionally permit farmer's markets in the Industrial Park Zoning Districts (Section 35) and include as Special Use (Section 13) of the Milpitas Zoning Ordinance. The application request also includes a Conditional Use Permit and Environmental Assessment to allow for the establishment of a farmer's market that will be operated all year on Sundays between the hours of 7:00 a.m. to 1:00 p.m. at the India Community Center located at 525 Los Coches Street. Ms. Hom recommended to Adopt Resolution No. 08-067 recommending approval to the City Council, subject to Conditions of Approval.

Vice-Chair Mandal asked the difference between this location compared to the Sports Center location. Ms. Hom said that the Sports Center Farmer's market was adjacent to commercial retail uses and another retail building to the west side of the Sports Center. The new farmer's market is sited on a community Center which does have available parking. Also, the community center is implementing a traffic handling plan which the Sports Center did not have.

Commissioner Galang asked if the vendors would have designated parking areas. Ms. Hom stated that the vendors would have designated parking areas in the rear of the building and along Los Coches Street.

Anil Godhwani, India Community Center, 525 Los Coches Street, Milpitas, stated the farmer's market will bring the community together and they have worked with the City the past 4 months on the parking situation.

John, Pacific Coast Farmer's Market Assoc., 5056 Commercial Circle, Concord, CA, stated the goal is to make this a true community event.

Chair Williams asked how they would keep the flow going so there is not a crowd in front of the market and people not going into the street. John said the people would be coming in from different locations so there is no bottleneck what so ever.

Vice-Chair Mandal asked what ICC and PCFMA have done jointly to make this event run smoothly. Mr. Godhwani stated both organizations will have staff and volunteers helping out. They chose Sunday mornings because not that many people use the ICC facilities on Sundays.

Motion to close the public hearing.

M/S: Sandhu, Mandal

AYES: 6

NOES: 0

ABSENT: 1 (Aslam Ali)

ABSTAIN: 0

Motion to adopt Resolution No. 08-067 recommending approval of the project to the City Council subject to Conditions of Approval.

M/S: Sandhu, Mandal

AYES: 6

NOES: 0

ABSENT: 1 (Aslam Ali)

ABSTAIN: 0

**X.
ADJOURNMENT**

The meeting was adjourned at 9:17 p.m. to the next regular meeting of January 14, 2009.

Respectfully Submitted,

James Lindsay
Planning & Neighborhood
Services Director

Yvonne Andrade
Recording Secretary

RESOLUTION NO. 08-067

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, RECOMMENDING APPROVAL OF ZONING AMENDMENT NO. ZA08-0009, CONDITIONAL USE PERMIT NO. UP08-0039, AND ENVIRONMENTAL ASSESSMENT NO. EA09-0007, FARMERS' MARKET, TO AMEND SECTION 35 AND SECTION 13 OF THE MILPITAS ZONING ORDINANCE AND TO LOCATE A FARMERS' MARKET AT THE INDIA COMMUNITY CENTER LOCATED AT 525 LOS COCHES STREET.

WHEREAS, on September 16, 2008, an application was submitted by Anil Godhwani with the India Community Center, 525 Los Coches Street to amend the Milpitas Zoning Ordinance to allow farmers' markets as conditional uses in the Industrial Park Zoning District and include as a Special Use within Section 13 of the Zoning Ordinance. The Zoning Text Amendment is also accompanied with a Conditional Use Permit and Environmental Assessment to locate a farmers' market at the India Community Center located at 525 Los Coches Street (APN 86-28-052), zoned Industrial Park with the Site and Architectural Overlay (MP-S); 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 recommend to the City Council to determine that the proposed zoning text amendment is categorically exempt pursuant to Section 15061 of the CEQA Guidelines. The activity is covered by the general rule that CEQA applies only to projects, which have the potential causing a significant effect on environment. The proposed zoning amendment is a text change to the Milpitas Zoning Ordinance that will allow farmers' markets with a conditional use permit and to include as a special use within the zoning ordinance that will include review requirements and minimum performance standards to streamline reviews for future farmers' markets; and

WHEREAS, the Planning Division prepared and circulated a Supplemental Negative Declaration for the Conditional Use Permit request to establish a farmers' market at the India Community Center pursuant to Section 15162 of the California Environmental Quality Act. The proposed Farmer's Market constitutes a change to the project and to address the proposed outdoor activities that were not included in the original Mitigated Negative Declaration. The environmental assessment determined there would be no significant impacts related to this project. The document was circulated between December 5 and December 25, 2008; and

WHEREAS, on December 10, 2008, 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.

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 Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA) and determined that the proposed zoning text amendment is categorically exempt per Section 15061 of the CEQA Guidelines. The activity is covered by the general rule that CEQA applies only to projects, which have the potential causing a significant effect on environment. The proposed zoning amendment includes text changes to the Milpitas Zoning Ordinance. Furthermore, an Initial Study and Supplemental Negative Declaration was prepared and circulated for the proposed India Community Center's Farmers' Market to address the outdoor use. Based on the environmental assessment it will not generate any significant impacts with implementation of a traffic handling plan and emergency procedures already established in the India Community Center Emergency Action Plan.

Section 3. The proposed Zoning Text Amendment and request to operate a farmers' market at the India Community Center is consistent with General Plan Implementing Policies that encourage economic pursuits and business retention by attracting customers to the area.

Section 4: The proposed zoning text amendment and conditional use permit is consistent Zoning Ordinance in that the use is conditionally permit upon City Council approval and codification of the new text amendment.

Section 5: The India Community Center is suitable site for a farmers' market because the proposed use is temporary and the site is already used as quasi-public facility.

Section 6: The proposed India Community Center farmers' market will not be detrimental or injurious to property, improvements, public healthy, safety, and general welfare because it is a periodic use of the site, implementation of a traffic-handling plan to ensure safe and efficient movement of vehicle and pedestrian traffic, and the existing Emergency Action plan that provides procedures in the event of an emergency.

Section 7: As conditioned, the proposed India Community Center's farmers' market will not create nuisances and shall be operated in accordance in all federal, state, and local regulations.

Section 8: The Planning Commission of the City of Milpitas hereby approves Zoning Amendment No. ZA08-0009, Conditional Use Permit No. UP08-0039, and Environmental Assessment No. EA09-0007, Farmers' Market, 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 December 10, 2008.

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 December 10, 2008, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Cliff Williams				
Gunawan Ali-Santosa				
Lawrence Ciardella				
Alexander Galang				
Sudhir Mandal				
Gurdev Sandhu				
Noella Tabladillo				
Aslam Ali				

EXHIBIT 1

**CONDITIONS OF APPROVAL
ZONING AMENDMENT NO. ZA08-0009, CONDITIONAL USE PERMIT NO. UP08-0039, AND ENVIRONMENTAL ASSESSMENT NO. EA08-0007, FARMER'S MARKET**

Conditional Use Permit

1. The owner or designee shall develop the approved project in conformance with the approved plans approved by the Planning Commission on December 10, 2008, 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 Planning Commission, in accordance with the Zoning Ordinance. (P)
2. Conditional Use Permit No. UP08-0039 shall become null and void if the project is not commenced within 18 months from the date of approval. Pursuant to Section 64.04-2 of the Zoning Ordinance of the City of Milpitas, since the project requires the issuance of a building permit, the project shall not be deemed to have commenced until the date of the building permit is issued and a foundation is completed. (P)
3. Pursuant to Section 64.04-1, the owner or designee shall have the right to request an extension of Conditional Use Permit No. UP08-0039 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. (P)
4. The India Community Center farmers' market is allowed to operate all year, on Sundays between the hours of 7:00AM to 1:00PM with reasonable additional time of set up prior to opening and reasonable time of restoration and clean up after market closing. (P)
5. This use shall be conducted in compliance with all appropriate local, state and federal laws and regulations and in conformance with the approved conditional use permit. (P)
6. No music, performances or special event activities (i.e., cooking show, recipe contests, face painter) will be allowed within 200 feet of any residential property line unless specifically approved by the Planning Director. (P)
7. The volume of any permitted amplified music or sounds shall be maintained at a level that is not disruptive to neighboring businesses. (P)
8. The Market operator is responsible for leaving the parking lot area clean and litter-free after each event. (P)
9. The Market operator shall be responsible for providing recycling bins and trash receptacles and disposal of such trash as required by the County Environmental Health Services and the City. (P)

10. All foods must be produced, prepared, packaged, stored, transported, and marketed in compliance with County Environmental Health Standards. The Market operator shall maintain in good standing all necessary health permits for the operations of the Market operator and shall be responsible for requiring all vendors be in possession of necessary health permits for all products sold. (P)
11. The Market operator shall be responsible for all traffic controls during the event, including set up and tear down of equipment needed for the execution of traffic handling plan. (P)
12. City shall monitor the effectiveness of the traffic-handling plan and evaluate traffic conditions on an ongoing basis and shall work with the operator on any adjustments that may be warranted. (P)
13. The Market operator shall obtain a master business license with the City of Milpitas for participating farmers and other vendors. (P)
14. The Market operator shall enter into an indemnification agreement by which it agrees to defend, indemnify and hold harmless the City, its officers, agents and employees from any and all claims, damages, cost and other expense, including attorney fees, arising out of its approval of the conditional use permit, or environmental determination rendered in connection with the permit approval, or arising from or as a result of any actions by the Market pursuant to the conditional use permit. (P)
15. No signage is part of this approval. Any proposed signs for the India Community Center farmers' market shall conform to the City of Milpitas Sign Regulations. Any temporary signs shall in accordance with the procedures for Temporary and Promotional Signs. (P)
16. The effectiveness of the Conditional Use Permit shall not occur until 30 days after the second reading of the Zoning Ordinance adopting the text amendments allowing the Farmer's Market as a conditionally permitted use in the Industrial Park (MP) zoning districts. No Farmer's market shall operator prior to that date. (P)
17. The project shall be subject to a three-month review that shall occur after the market becomes operational. The applicant shall submit all the necessary public hearing materials and fees to the Planning Division at the time of permit review.
18. Applicant/property owner shall be responsible for the trash collection and recycling services account. Prior to any permit issuance, the applicant shall submit evidence to the City that the following minimum refuse and recycling services have been subscribed with Allied Waste Services/BFI for commercial services:
 - Maintain an adequate level of service for trash collection.
 - Maintain an adequate level of recycling collection. (E)After the applicant has started its business, the applicant shall contact Allied Waste Services/BFI commercial representative to review the adequacy of the solid waste level of services. If services are determined to be inadequate, the applicant shall increase the service to the level determined by the evaluation. For general information, contact BFI at (408) 432-1234, x-264. (E)

19. Prior to any permit issuance, applicant shall provide written statement describing agreement with the Indian Community Center (ICC) to use the recycling and garbage bins collected by Allied Waste Services. City review and approval of the agreement is required. Written statement shall include:

20. Evidence of agreement in the form of an official letter or resolution granting use of its solid waste containers provided by the Indian Community Center;

Details of how vendors shall be informed of proper recycling and garbage handling;

Description, including the amount and locations, of recycling and garbage receptacles to be provided for public use during operating hours;

Description how applicant shall maintain separate recycling and garbage services during operating hours and how materials shall be properly disposed. (E)

21. The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Contact the RWQCB for questions regarding your specific requirements at (800) 794-2482. For general information, contact the City of Milpitas at (408) 586-3329. (E)

22. Prior to start of any work within the public right of way or easement, including but not limited to traffic control and temporary sign installation, applicant shall obtain an encroachment permit from the City of Milpitas Engineering Division. (E)

23. It is the responsibility of the developer to obtain any necessary permits or approvals from affected agencies or private parties. Copies of any approvals or permits must be submitted to the City of Milpitas Engineering Division. (E)

24. Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to plan check and inspection deposit, and 2.5% building permit automation fee. (E)

(P): Planning Division

(E): Engineering Division



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: December 10, 2008

APPLICATION: **ZONING AMENDMENT NO. ZA08-0009, CONDITIONAL USE PERMIT NO. UP08-0039, AND ENVIRONMENTAL ASSESSMENT NO. EA08-0007, FARMER'S MARKET**

APPLICATION SUMMARY:

A request to amend the Milpitas Zoning Ordinance to allow farmer's markets as conditional permitted uses in the Industrial Park Zoning District and to include provisions in the Special Uses section of the Milpitas Zoning Ordinance. The application also includes a Conditional Use Permit and Environmental Assessment to locate a certified farmer's market at the India Community Center parking lot.

LOCATION: 525 Los Coches Street (APN 86-28-052)
APPLICANT: Anil Godhwani, India Community Center, 525 Los Coches Street, Milpitas, CA 95035
OWNER: Same as above

RECOMMENDATION: **Staff recommends that the Planning Commission:**

- 1. Close the public hearing following public testimony; and**
- 2. Adopt Resolution No. 08-067 recommending approval of the Zoning Text Amendment, Environmental Impact Assessment and the Conditional Use Permit to the City Council, subject to conditions of approval.**

PROJECT DATA:

General Plan/
 Zoning Designation:

Industrial Park (INP)/Industrial Park (MP)

Project Site Area: 2.44 Acres
 Building Square Footage: 36,810 square feet
 On-site Parking Spaces: 150
 Joint Parking Spaces: 155

CEQA Determination: A Negative Declaration has been prepared and circulated for this project.

PLANNER: Cindy Hom, Assistant Planner

PJ: 2405

ATTACHMENTS:

A. Project Plans

LOCATION MAP



No scale

BACKGROUND

In January 2005, the Planning Commission approved Conditional Use Permit No. UP2004-12, Site Development Permit Amendment No. SA2004-107 and Environmental Assessment No. EA2004-11 to operate a 36,810 square feet community center that includes administrative offices, fitness center, library, classrooms, youth and senior programs, after-school tutoring programs, medical services, auditorium for events and cafeteria/kitchen. In September 2007, the Planning Commission also approved a Conditional Use Permit Amendment that allowed on-site service and consumption of alcoholic beverages during scheduled events such as weddings, dinners, birthdays and anniversaries in Malavalli Auditorium/Hall.

On September 16, 2008, Anil Godhwani with the India Community Center (ICC) submitted an application to amend the Milpitas Zoning Ordinance to allow for farmer's markets in the industrial zoning district and to include as special uses of the Zoning Ordinance. The applicant is also requesting an approval of Conditional Use Permit to establish a farmer's market at the India Community parking that will be operated all year on Sundays between 7:00 AM to 1:00 PM. The application is submitted pursuant to Milpitas Municipal Code XI-10-57.02 (General Plan/Specific Plan/Zoning Amendments) and XI-10-57.03 (Conditional Use Permits).

PROJECT DESCRIPTION

Zoning Text Amendment

The applicant is proposing a zoning text amendment to the Milpitas Zoning Ordinance that will conditionally permit farmers' markets in the Industrial Parking Zoning Districts. Because a Farmer's market is a unique use and has some acute impacts to surrounding uses, the Zoning Text Amendment will also include provisions for farmers' markets in the Special Uses, Section 13 of the Milpitas Zoning Ordinance. The proposed zoning text amendment will modify Section 10-35.04 (Industrial Park, Conditional Uses) and Section 13 (Special Uses) to include farmer's markets as conditionally permitted uses, requiring the approval of a Conditional Use Permit by the Planning Commission. The Conditional Use Permit process specified in Section 57 of the Milpitas Zoning Ordinance allows the Planning Commission to review land uses which would not otherwise be permitted as a matter of right in a zoning district because of the nature, potential impact on the surrounding environment and for the determination of whether or not the proposed use is appropriate for its proposed location. The required findings in order to grant approval for a Conditional Use Permit are as follows:

1. 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;
2. The proposed use is consistent with the Milpitas General Plan; and
3. The proposed use is consistent with the Milpitas Zoning Ordinance.

Moreover, farmers' markets are conditionally permitted in other zoning districts such as Town Center, General Commercial, and Institutional Zones and have general operating and/or performance standards. Thus, it is appropriate to include farmers' markets as a special use. To streamline review of future farmers' markets, staff is recommending the following zoning provisions:

Proposed Review Requirements:

1. Scaled or fully dimension site plan that shows location, buildings, parking facilities, and site improvements.
2. Traffic Handling Plan.
3. Market Layout plan that shows location of booths, stalls, and trash receptacles. The layout plan shall demonstrate compliance with Fire and Building requirements for access and accessibility requirements.
4. Description of Market Operations and standard procedures.

Proposed Minimum Performance Standards

1. *Performances:* No music, performances or special event activities (i.e., cooking show, recipe contests, face painter) will be allowed within 200 feet of any residentially zoned property unless specifically approved by the Planning Director.
2. *Legal Compliance:* This use shall be conducted in compliance with all appropriate local, state and federal laws and regulations and in conformance with the approved use permit.
3. *Litter:* The Market operator is responsible for leaving the parking lot area clean and litter-free after each event.
4. *Trash & Recycling:* The Market operator shall be responsible for providing recycling bins and trash receptacles and disposal of such trash as required by the County Environmental Health Services and the City.
5. *Environmental Health Permit:* All foods must be produced, prepared, packaged, stored, transported, and marketed in compliance with County Environmental Health Standards. The Market shall maintain in good standing all necessary health permits for the operations of the Market and shall be responsible for requiring all vendors be in possession of necessary health permits for all products sold.
6. *Traffic Safety and Control:* The Market operator shall be responsible for all traffic controls during the event, including set up and tear down of equipment needed for the execution of traffic handling plan.
7. *Business License:* The Market operator shall obtain a master business license with the City of Milpitas for participating farmers and other vendors.
8. *Indemnification Agreement:* The Market operator shall enter into an indemnification agreement by which it agrees to defend, indemnify and hold harmless the City, its officers, agents and employees from any and all claims, damages, cost and other expense, including attorney fees, arising out of its approval of the conditional use permit, or environmental determination rendered in connection with the permit approval, or arising from or as a result of any actions by the Market operator pursuant to the conditional use permit.

Conditional Use Permit

India Community Center's Farmers' Market

The India Community Center is partnering with the Pacific Coast Farmers' Market Association (PCFMA), a nonprofit organization and the largest operator of certified farmers' markets in California. The proposed farmers' market will have between 40 to 60 vendors. The farmers' market will include Certified Agricultural Producers as well as Non-certified producers that sell fresh fruit, vegetables, fresh cut flowers, nursery items, and other specialty food items. Typically with farmers' markets they will also have entertainment such as live or amplified music. The proposed farmers' market will be located in the parking lot of the India Community Center and will be held all year on Sundays between

7:00 AM to 1:00 PM. PCFMA anticipates approximately 4,000 customers during peak season (May through September), which equates to approximately 800 customers per hour.

Parking

Currently, the India Community Center has a total of 305 off-street parking spaces as well as 120 on-street parking spaces available within reasonable walking distance to accommodate the proposed farmers’ market. Of the 305 off-street parking spaces, 150 parking spaces are on-site and 155 parking spaces are secured through off-site joint parking agreements with Kaiser Permanente located at 589 Los Coches St. and 155 S. Hillview Dr. and Smurfit Stone located at 201 Hillview Dr. Proposed booths and stalls for the farmers’ market will utilize approximately 70 parking spaces that are located on west and northwest portion of the subject site. Vendor parking will be located at the rear of the building and along the building’s street frontage on Los Coches Street. The ICC fitness center and classrooms for music and dance instruction will be in use during farmer’s market and require approximately 39 parking spaces. The parking is summarized in the Table 1:

Table 1.
Parking Summary

On-Site Parking Spaces	305
On-Street Parking	120
Total Number of Parking Spaces	305+120=425
Farmers Market Booths	-70
Producer/Vendor Parking	-60
Fitness Center and Classrooms	-39
Net Parking Available	425-169=256

The overall net parking supply of 256 parking spaces can accommodate the proposed farmers’ market and is unlikely to generate any negative parking impacts on adjacent uses. However, staff is recommending a three-month review as a condition of approval to ensure that there are no parking issues. The Milpitas Parking Ordinance does not have a parking standard for farmers’ markets because they are temporary uses. This is generally consistent with other cities that staff surveyed which includes Sunnyvale, San Jose, Mountain View, Los Gatos, and Morgan Hill. Furthermore, the ICC is located within proximity to residential use and is served by public transit and sidewalks that encourage alternative modes of transportation.

Traffic

The project will generate traffic one day a week, on Sunday mornings, which is considered a non-peak period. The applicant estimates the market will typically attract about 4,000 customers each Sunday during the peak season and approximately 2,000 during the winter season, which equate up to 800 customers per hour. The anticipated increase in traffic will be temporary since the farmer’s market is operated only once a week. The applicant has prepared a traffic-handling plan that ensures safe and efficient movement of vehicle and pedestrian traffic. The traffic-handling plan includes crossing guards, directional signage, and utilizing traffic control elements during operating hours. As conditioned, the City shall monitor the effectiveness of the traffic-handling plan and evaluate traffic conditions on an ongoing basis and shall work with the operator on any adjustments that may be warranted.

Litter

As standard operating procedures for the farmers’ market, vendors and PCFM staff will remove litter after the close of the market. Trash containers will be situated throughout the market area and will be serviced at the end of market by PCFM staff.

Noise

Farmers’ markets typically include musical performances or other forms of entertainment. The proposed location is not immediately adjacent to any residential homes and is mainly surrounded by commercial and quasi-public uses, staff does not anticipate any negative impacts but does recommend as a condition of approval that the volume shall be maintained at a level that is not disruptive to neighboring businesses.

Effectiveness of the Conditional Use Permit

Because the site requires a Zoning Text Amendment, the effectiveness of the Conditional Use Permit for the market will be the date of the effectiveness of the Zoning Amendment, which is 30 days after the second reading of the adopted zoning ordinance by the City Council. The market may not operate until the effectiveness of the conditional use permit.

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 2
General Plan Consistency

Policy	Consistency Finding
Implementing Policy 2.a-I-3 <i>Encourages economic pursuits, which will strengthen and promote development through stability and balance.</i>	Consistent. The proposed zoning amendment will allow for farmers’ markets that will encourage economic pursuits by attracting people and promotes economic and social revitalization. The proposed farmers’ market at the ICC is consistent with this policy in that it strengthens and promotes a stable development by providing a complementary use with an existing community center.
Implementing Policy 2.a-I-7 <i>Provide opportunities to expand employment, participate in partnerships with local business to facilitate communication, and promote business retention</i>	Consistent. The proposed zoning amendment and farmers’ market at the ICC will foster business retention by attracting customers from surrounding neighborhoods and other areas of the Milpitas.

Zoning Ordinance

The proposed zoning text amendment is consistent with the Milpitas Zoning Ordinance in that it provides for an internally consistent document. The Conditional Use Permit to establish a farmers' market at the ICC is consistent with the Milpitas Zoning Ordinance in that it is a conditionally permitted in the Industrial Park Zoning Ordinance once the associated Zoning Text Amendment is codified. The proposed use at its location will not be detrimental or injurious to property, improvements or to public health, safety and general welfare because the use is temporary and occurs once a week during the non-peak morning period on Sundays. There is an adequate parking supply with on and off-street parking. The operation of the farmers' market will also include the implementation of a traffic-handling plan to ensure safe pedestrian and vehicle traffic movement. In event of an emergency, there is existing Emergency Action Plan will cover the operations of the farmers' market in conjunction with the ICC community center.

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 proposed zoning text amendment is categorically exempt pursuant to Section 15061 of the CEQA Guidelines. The activity is covered by the general rule that CEQA applies only to projects, which have the potential causing a significant effect on environment. The proposed zoning amending is text change to the Milpitas Zoning Ordinance.

However, an Initial Study and Supplemental Negative Declaration was prepared and circulated for the proposed farmers' market at the ICC Community Center parking lot pursuant to Section 15162 of the California Environmental Quality Act. The proposed Farmer's Market constitutes a change to the project and to address the proposed outdoor activities that were not included in the original MND. The environmental assessment determined there would be no significant impacts related to this project. Further discussion of potential impacts is included in the attached Environmental Assessment (EA08-0009). The twenty-day public review period is being held from December 5, 2008 to December 25, 2008. Any additional comments received will be presented at the City Council hearing.

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 proposed zoning text amendment will conditionally permit farmers' markets in the Industrial Park Zone and provides for an internally consistent document. Furthermore, the proposed farmers' market at the India Community Center is consistent with the General Plan in that it encourages economic pursuits and business retention by attracting customers to the area. The farmer's market is also consistent with the zoning in that the use is conditionally permitted upon city council approval of the associated zoning amendment and codification of the new ordinance. The proposed ICC farmers' market will not be detrimental or injurious because the use is temporary and occurs every Sunday morning between 7:00AM to 1:00PM. The project will not negatively impact public health, safety, and general welfare standards because there is a Traffic-Handling Plan that ensures safe and efficient movement of pedestrian and vehicle traffic during the event and an Emergency Action Plan that ensures safety procedures are in place in an event of emergency or accidental release from a surrounding industrial business.

MEMORANDUM

Planning Division



Date: December 10, 2008
To: Planning Commission
Through: James Lindsay, Planning Director
From: Cindy Hom, Assistant Planner
Subject: Item 6: India Community Center Farmers' Market

This memo contains modifications to the ICC Farmers' Market Project Staff Report and Resolution. Please be advised of the following:

- Correction No. 1: Page 8, Environmental Review – The revision pertains to the dates for the public review period for the Initial Study and Supplement Negative Declaration. The text should be revised to state **December 9, 2008 to December 29, 2008**.
- Correction No. 2: The staff report recommended a three-month review as condition of approval that was not included on the Planning Resolution. Revised Resolution is attached.

RESOLUTION NO. 08-067

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, RECOMMENDING APPROVAL OF ZONING AMENDMENT NO. ZA08-0009, CONDITIONAL USE PERMIT NO. UP08-0039, AND ENVIRONMENTAL ASSESSMENT NO. EA09-0007, FARMERS' MARKET, TO AMEND SECTION 35 AND SECTION 13 OF THE MILPITAS ZONING ORDINANCE AND TO LOCATE A FARMERS' MARKET AT THE INDIA COMMUNITY CENTER LOCATED AT 525 LOS COCHES STREET.

WHEREAS, on September 16, 2008, an application was submitted by Anil Godhwani with the India Community Center, 525 Los Coches Street to amend the Milpitas Zoning Ordinance to allow farmers' markets as conditional uses in the Industrial Park Zoning District and include as a Special Use within Section 13 of the Zoning Ordinance. The Zoning Text Amendment is also accompanied with a Conditional Use Permit and Environmental Assessment to locate a farmers' market at the India Community Center located at 525 Los Coches Street (APN 86-28-052), zoned Industrial Park with the Site and Architectural Overlay (MP-S); 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 recommend to the City Council to determine that the proposed zoning text amendment is categorically exempt pursuant to Section 15061 of the CEQA Guidelines. The activity is covered by the general rule that CEQA applies only to projects, which have the potential causing a significant effect on environment. The proposed zoning amendment is a text change to the Milpitas Zoning Ordinance that will allow farmers' markets with a conditional use permit and to include as a special use within the zoning ordinance that will include review requirements and minimum performance standards to streamline reviews for future farmers' markets; and

WHEREAS, the Planning Division prepared and circulated a Supplemental Negative Declaration for the Conditional Use Permit request to establish a farmers' market at the India Community Center pursuant to Section 15162 of the California Environmental Quality Act. The proposed Farmer's Market constitutes a change to the project and to address the proposed outdoor activities that were not included in the original Mitigated Negative Declaration. The environmental assessment determined there would be no significant impacts related to this project. The document was circulated between December 5 and December 25, 2008; and

WHEREAS, on December 10, 2008, 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.

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 Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA) and determined that the proposed zoning text amendment is categorically exempt per Section 15061 of the CEQA Guidelines. The activity is covered by the general rule that CEQA applies only to projects, which have the potential causing a significant effect on environment. The proposed zoning amendment includes text changes to the Milpitas Zoning Ordinance. Furthermore, an Initial Study and Supplemental Negative Declaration was prepared and circulated for the proposed India Community Center's Farmers' Market to address the outdoor use. Based on the environmental assessment it will not generate any significant impacts with implementation of a traffic handling plan and emergency procedures already established in the India Community Center Emergency Action Plan.

Section 3. The proposed Zoning Text Amendment and request to operate a farmers' market at the India Community Center is consistent with General Plan Implementing Policies that encourage economic pursuits and business retention by attracting customers to the area.

Section 4: The proposed zoning text amendment and conditional use permit is consistent Zoning Ordinance in that the use is conditionally permit upon City Council approval and codification of the new text amendment.

Section 5: The India Community Center is suitable site for a farmers' market because the proposed use is temporary and the site is already used as quasi-public facility.

Section 6: The proposed India Community Center farmers' market will not be detrimental or injurious to property, improvements, public healthy, safety, and general welfare because it is a periodic use of the site, implementation of a traffic-handling plan to ensure safe and efficient movement of vehicle and pedestrian traffic, and the existing Emergency Action plan that provides procedures in the event of an emergency.

Section 7: As conditioned, the proposed India Community Center's farmers' market will not create nuisances and shall be operated in accordance in all federal, state, and local regulations.

Section 8: The Planning Commission of the City of Milpitas hereby approves Zoning Amendment No. ZA08-0009, Conditional Use Permit No. UP08-0039, and Environmental Assessment No. EA09-0009, Farmers' Market, 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 December 10, 2008.

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 December 10, 2008, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Cliff Williams				
Gunawan Ali-Santosa				
Lawrence Ciardella				
Alexander Galang				
Sudhir Mandal				
Gurdev Sandhu				
Noella Tabladillo				
Aslam Ali				

EXHIBIT 1

CONDITIONS OF APPROVAL
ZONING AMENDMENT NO. ZA08-0009, CONDITIONAL USE PERMIT NO. UP08-0039, AND ENVIRONMENTAL ASSESSMENT NO. EA08-0007, FARMER'S MARKET

Conditional Use Permit

1. The owner or designee shall develop the approved project in conformance with the approved plans approved by the Planning Commission on December 10, 2008, 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 Planning Commission, in accordance with the Zoning Ordinance. (P)

2. Conditional Use Permit No. UP08-0039 shall become null and void if the project is not commenced within 18 months from the date of approval. Pursuant to Section 64.04-2 of the Zoning Ordinance of the City of Milpitas, since the project requires the issuance of a building permit, the project shall not be deemed to have commenced until the date of the building permit is issued and a foundation is completed. (P)
3. Pursuant to Section 64.04-1, the owner or designee shall have the right to request an extension of Conditional Use Permit No. UP08-0039 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. (P)
4. The India Community Center farmers' market is allowed to operate all year, on Sundays between the hours of 7:00AM to 1:00PM with reasonable additional time of set up prior to opening and reasonable time of restoration and clean up after market closing. (P)
5. This use shall be conducted in compliance with all appropriate local, state and federal laws and regulations and in conformance with the approved conditional use permit. (P)
6. No music, performances or special event activities (i.e., cooking show, recipe contests, face painter) will be allowed within 200 feet of any residential property line unless specifically approved by the Planning Director. (P)
7. The volume of any permitted amplified music or sounds shall be maintained at a level that is not disruptive to neighboring businesses. (P)
8. The Market operator is responsible for leaving the parking lot area clean and litter-free after each event. (P)
9. The Market operator shall be responsible for providing recycling bins and trash receptacles and disposal of such trash as required by the County Environmental Health Services and the City. (P)

10. All foods must be produced, prepared, packaged, stored, transported, and marketed in compliance with County Environmental Health Standards. The Market operator shall maintain in good standing all necessary health permits for the operations of the Market operator and shall be responsible for requiring all vendors be in possession of necessary health permits for all products sold. (P)
11. The Market operator shall be responsible for all traffic controls during the event, including set up and tear down of equipment needed for the execution of traffic handling plan. (P)
12. City shall monitor the effectiveness of the traffic-handling plan and evaluate traffic conditions on an ongoing basis and shall work with the operator on any adjustments that may be warranted. (P)
13. The Market operator shall obtain a master business license with the City of Milpitas for participating farmers and other vendors. (P)
14. The Market operator shall enter into an indemnification agreement by which it agrees to defend, indemnify and hold harmless the City, its officers, agents and employees from any and all claims, damages, cost and other expense, including attorney fees, arising out of its approval of the conditional use permit, or environmental determination rendered in connection with the permit approval, or arising from or as a result of any actions by the Market pursuant to the conditional use permit. (P)
15. No signage is part of this approval. Any proposed signs for the India Community Center farmers' market shall conform to the City of Milpitas Sign Regulations. Any temporary signs shall in accordance with the procedures for Temporary and Promotional Signs. (P)
16. The effectiveness of the Conditional Use Permit shall not occur until 30 days after the second reading of the Zoning Ordinance adopting the text amendments allowing the Farmer's Market as a conditionally permitted use in the Industrial Park (MP) zoning districts. No Farmer's market shall operator prior to that date. (P)
17. The project shall be subject to a three-month review that shall occur after the market becomes operational. The applicant shall submit all the necessary public hearing materials and fees to the Planning Division at the time of permit review.
- ~~17.~~18. Applicant/property owner shall be responsible for the trash collection and recycling services account. Prior to any permit issuance, the applicant shall submit evidence to the City that the following minimum refuse and recycling services have been subscribed with Allied Waste Services/BFI for commercial services:
 - Maintain an adequate level of service for trash collection.
 - Maintain an adequate level of recycling collection. (E)After the applicant has started its business, the applicant shall contact Allied Waste Services/BFI commercial representative to review the adequacy of the solid waste level of services. If services are determined to be inadequate, the applicant shall increase the service to the level determined by the evaluation. For general information, contact BFI at (408) 432-1234, x-264. (E)
- ~~18.~~19. Prior to any permit issuance, applicant shall provide written statement describing agreement with the Indian Community Center (ICC) to use the recycling and garbage bins

collected by Allied Waste Services. City review and approval of the agreement is required. Written statement shall include:

19:20. Evidence of agreement in the form of an official letter or resolution granting use of its solid waste containers provided by the Indian Community Center;

Details of how vendors shall be informed of proper recycling and garbage handling;

Description, including the amount and locations, of recycling and garbage receptacles to be provided for public use during operating hours;

Description how applicant shall maintain separate recycling and garbage services during operating hours and how materials shall be properly disposed. (E)

20:21. The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Contact the RWQCB for questions regarding your specific requirements at (800) 794-2482. For general information, contact the City of Milpitas at (408) 586-3329. (E)

21:22. Prior to start of any work within the public right of way or easement, including but not limited to traffic control and temporary sign installation, applicant shall obtain an encroachment permit from the City of Milpitas Engineering Division. (E)

22:23. It is the responsibility of the developer to obtain any necessary permits or approvals from affected agencies or private parties. Copies of any approvals or permits must be submitted to the City of Milpitas Engineering Division. (E)

23:24. Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to plan check and inspection deposit, and 2.5% building permit automation fee. (E)

(P): Planning Division

(E): Engineering Division

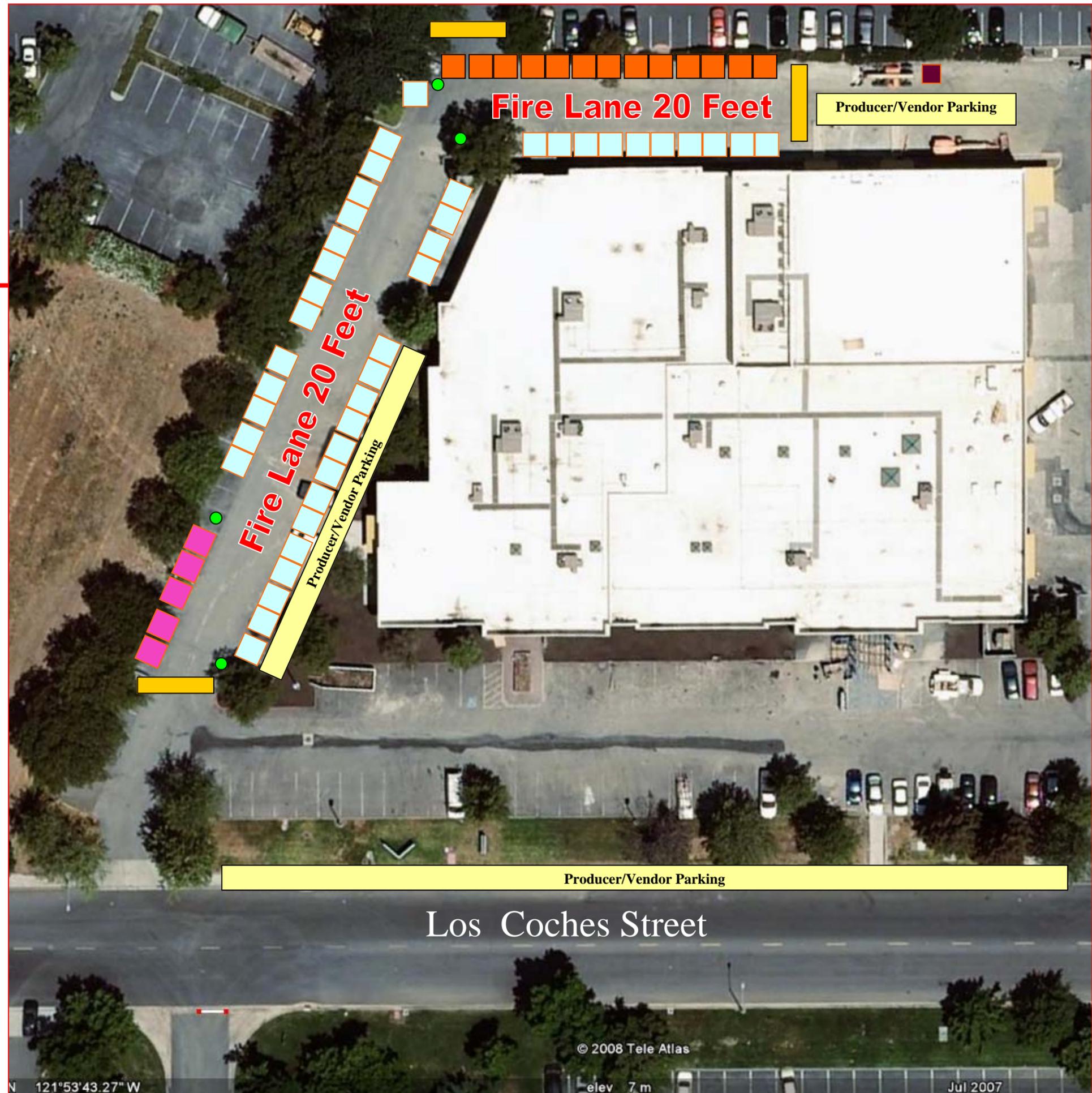
Milpitas Farmers' Market

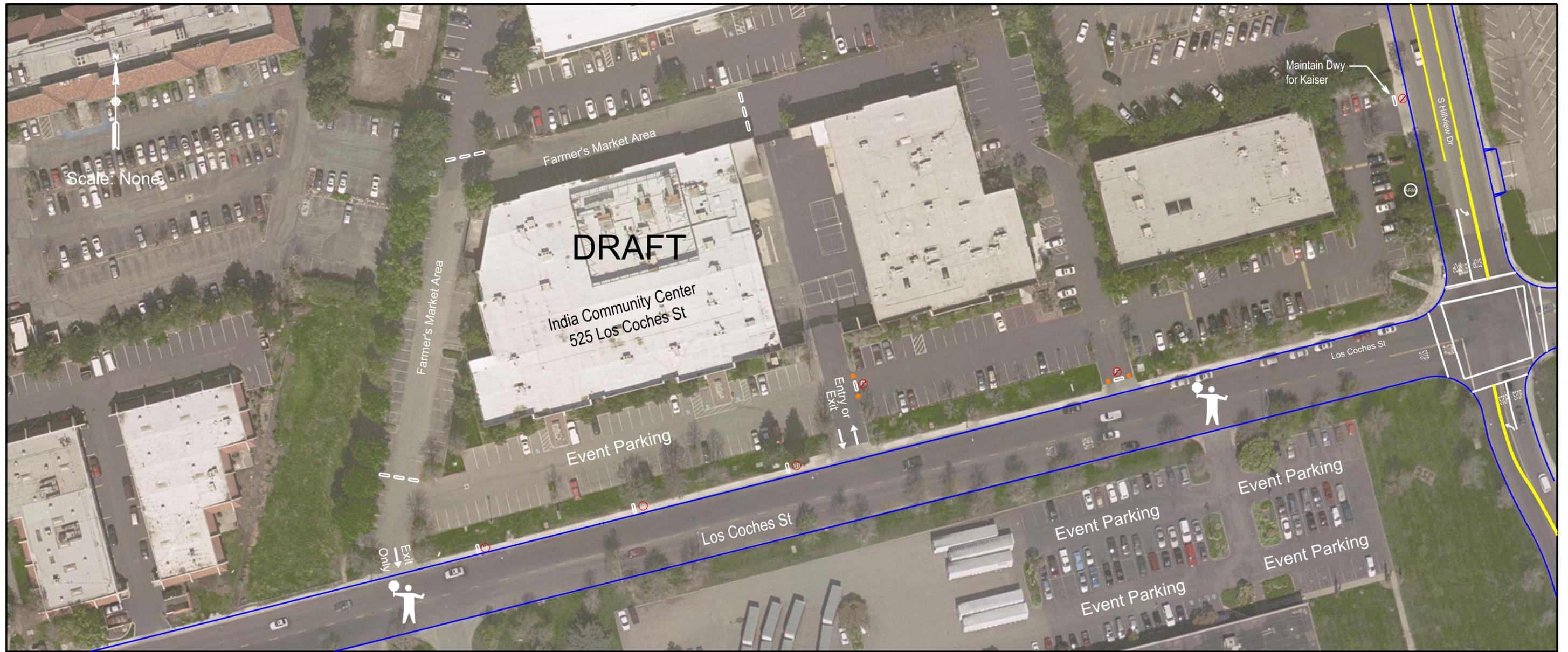
Proposed Site Plan

September 3, 2008

525 Los Coches St., Milpitas, CA 95035

-  =10 feet x10 feet stall
-  =8 feet x 10 feet stall
-  =Road block
-  =Cooking Booth (10 feet x 10 feet)
-  =Portable bathrooms
-  =Trash Can





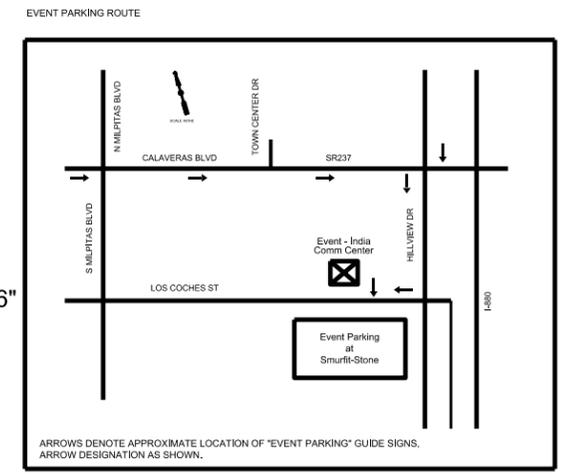
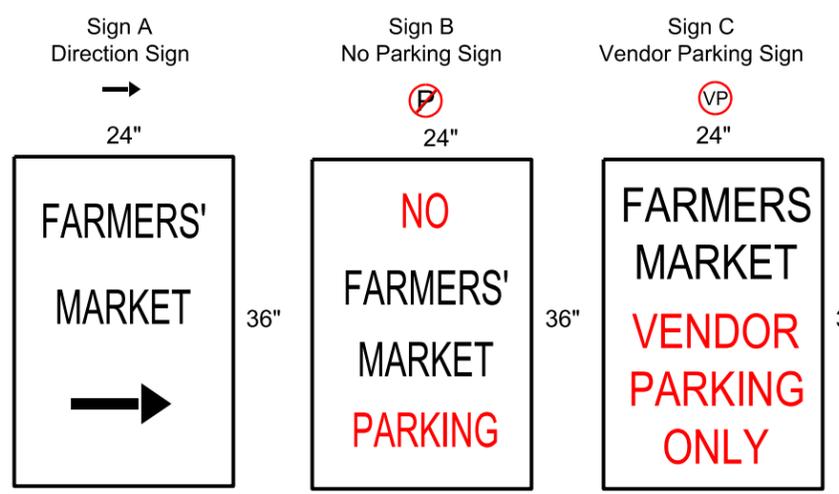
Notes

- Farmer's Market Staff shall procure, install, and remove Traffic Control Elements for each Event.
- Farmer's Market Staff shall provide two flaggers for the first month's events to guide Pedestrians from Parking Areas to the Event. The City shall evaluate the on-going use of flaggers for future events at that time.
- Traffic Control Elements shall be in place by 7AM each Event day.
- Traffic Control Elements shall be removed by 2PM each Event day.
- Event Schedule:
 - Every Sunday, 9AM to 1PM

Notes

- ▬ Type II Barricade with Sign Noted. See Details this Sheet
- Traffic Cone.
- 🚧 Flagger

DRAFT



Record Drawings PROJECT ENGINEER: _____ DATE: _____ DESIGNER: _____ DATE: _____ PUBLIC WORKS INSPECTOR: _____ DATE: _____ PUBLIC IMPROVEMENTS INITIALLY ACCEPTED BY THE CITY COUNCIL ON: _____		Submittal Log <table border="1"> <thead> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>DATE</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>		NO.	DESCRIPTION	DATE										Revisions <table border="1"> <thead> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>DATE</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>		NO.	DESCRIPTION	DATE										Milpitas Farmers' Market at the India Community Center 525 Los Coches St Way Finding & Parking Plan		RECOMMENDED FOR BIDDING BY: _____ DATE: _____ APPROVED FOR BIDDING BY: _____ DATE: _____		PROJECT NO. _____ CIP NO. _____ SHEET NO. _____ 1 of 1	
NO.	DESCRIPTION	DATE																																	
NO.	DESCRIPTION	DATE																																	

TGO

Solutions

P.O. Box 3046, Fremont, CA 94539 • Phone/Fax: (510) 438-0732

December 4, 2008

Ms. Cindy Hom
Assistant City Planner
Planning & Zoning
Milpitas City Hall
455 East Calaveras Blvd.
Milpitas, CA 95035

Dear Ms. Hom

RE: Addendum to the Emergency Action Plan (EAP) for the India Community Center located at 525 Los Coches St. Milpitas, CA, 95035

This cover letter constitutes an addendum to the Emergency Action Plan (EAP) for the India Community Center submitted on November 11, 2006. While all elements of that plan remain unchanged, there is an additional use of the outdoor parking area for a weekly Farmers Market. The Farmers Market will operate once a week on Sunday mornings.

There is sufficient parking for the farmers market on site and in the adjacent areas including on-street parking. In addition, there will be volunteers that will serve as parking attendants to ensure orderly parking and to assist with keeping the flow of cars.

The personnel identified in the EAP will continue to be the Emergency Response Coordinators for farmers market as well. The fire system, the communication system, chemical monitoring and sensor/alarm system that are described in the EAP are all applicable to covering the farmers market.

It is anticipated that the total number of people, both inside and outside the building, during the farmers market will be significantly less than when the multipurpose auditorium is in use. Additionally, the parking attendants will ensure that the priority parking is on the same side of the street as ICC. The India Community Center has 152 spaces on site and we have forged relationships with close by organizations for extra parking during the operational hours of the Farmers Market. Smurfit Stone at 201 S Hillview Drive, Milpitas has offered 105 spaces and Kaiser Permanente at 589 Los Coches St., Milpitas has offered 50 spaces. Consequently, the Smurfit Stone parking area is where people will be directed to in case of a fire – either inside or outside the building.

In case of a Hazardous Materials Release, or severe weather, ICC will serve as the Shelter in Place for the users of the farmers market. All other elements of the EAP including Earthquake Emergency Plan, Medical Emergency Plan and Hospital Routes are applicable to the Farmers Market.

Should you have any questions or comments, please feel free to contact us at (510) 438-0732.

Sincerely,



Harish Goyal, P.E.
Principal Engineer



Pacific Coast Farmers' Market Association

A non-profit community services organization

Milpitas Certified Farmers' Market proposal 2008 – November 19, 2008

Operations Philosophy:

PCFMA is dedicated to being a professional organization that provides a consistently high-quality service to its consumers, its sponsors and its producers. This philosophy is captured in the formal rules and procedures that PCFMA employs, as well as in the manner and attitude of all PCFMA employees.

Each On-Site Market Manager is CPR/First Aid qualified and has experience working with large groups of people. Prior to the first day of the market the manager will have met with the appropriate emergency response agencies to discuss emergency procedures and the movement of emergency response vehicles should an actual emergency occur. Each Market Manager is equipped with a cellular phone and the contact number of the appropriate dispatcher for each market we operate. She/he is also equipped with: a portable bullhorn to expedite and control the movement of vehicles or people, a fire extinguisher and a first aid kit should an emergency condition exist.

Estimated attendance:

Producers:

The proposed site plan allows for a maximum of sixty selling areas. We expect up to forty five producers to occupy the sixty spaces, there may be periods throughout the year that only fifteen producers will be selling at the market due to weather or crop availability. In the past four producers have requested three selling areas and the site plan had allowed the market manager to accommodate the request. Each market day the on-site market manager will assign selling locations to the preapproved producers, one of our goals is to have a neat and orderly alignment of the producers.

Customers:

We anticipate the daily estimated "crowd count" to be 4000 customers in peak season, May through September. Each customer on average spends 20-30 minutes in the market which equates to 800 customers /hour. Typically the crowd count drops by 50% in the winter months.

February 27, 2007

MEMORANDUM

To: Farooq Abbasi, India Community Center

From: Doug Daugherty, ENVIRON International Corporation

Cc: Clare Owen, Milpitas Fire Department

Subject: Update to Revised Risk Assessment Report

In December 2004, ENVIRON prepared a Revised Risk Assessment Report (RRAR) for the proposed India Community Center (ICC) at 525/535 Los Coches Street, Milpitas, California. The focus of the RRAR was on neighboring businesses that may store chemicals which could have off-site consequences if catastrophically released, including chemicals that are acutely toxic, exist in a form that readily allows off-site transport (after release) and are used/stored in sufficient quantities to cause offsite impacts. It is our understanding the City of Milpitas has requested an updated analysis of facilities in Milpitas that contain toxic gases to determine if the conclusions reached in the RRAR continue to be valid.

Based on conversations with Milpitas Fire Department Hazardous Materials Environmental Services (HMES), ENVIRON further understands that this update is to consist of a review of Fire Department files for 6 identified facilities that store hazardous materials, including toxic gases near the ICC site. In an e-mail dated January 18, 2007¹, the following six facilities in Milpitas were identified by HMES, the first three of which were evaluated in the original RRAR:

1. Sipex, 233 Hillview Dr.
2. Linear Technology, 275 S. Hillview Dr.
3. Headway Technologies, 463 S. Milpitas Blvd.
4. Nanogram, 165 Topaz St.
5. JDS Uniphase, 345 Los Coches St.
6. Magic Technologies, 463 S. Milpitas Blvd.

On February 1, 2007, ENVIRON conducted file reviews for the six facilities at the Milpitas Fire Department. In general, ENVIRON reviewed the current Hazardous Materials Business Plan, annual Hazardous Materials Inspection Reports, and incident reports (if present) in each facility's file as previously performed in the RRAR. During the file reviews, ENVIRON focused on the type and quantity of toxic gases stored at each facility, as well as any history of hazardous material incidents at these facilities. For each

¹ E-mail from Clare Owen, Milpitas Fire Department Hazardous Materials Environmental Services to Doug Daugherty, ENVIRON, dated January 18, 2007.

of the six facilities identified by the HMES, the following information is summarized below:

- A brief summary of the analysis of that facility in the RRAR, if applicable,
- The toxic gas present at the facility and quantity of that gas in the largest container, where different than that presented in the RRAR (Note that for compounds where California Accidental Release Program {CalARP} thresholds exist, all quantities reported in the file materials are well below the CalARP applicability thresholds),
- Comparison to the types and quantities of toxic gases modeled in the RRAR,
- Recommendation of HMES as to what toxic gases to model², and
- Where applicable, results of modeling offsite impacts using the same methods as used in the RRAR. As described in the RRAR, ENVIRON modeled distances to the air concentration Immediately Dangerous to Life and Health (IDLH), 1/10 IDLH, and the United States Environmental Protection Agency (USEPA) Risk Management Plan (RMP)/CalARP toxic endpoint (TEP).

Based on increasing distance from the ICC, the results are as follows:

1. Sipex, 233 Hillview Dr. (0.25 miles from ICC)

For this facility, offsite impacts were previously evaluated by request of HMES (as shown in the attached Updated Table 6). For compounds presented in the RRAR (as shown in Table 3 of the RRAR), Milpitas Fire Department records indicate that Sipex continued to store these compounds in the same quantities. In addition to those compounds presented in the RRAR, Sipex added storage of boron trifluoride (2 lbs). In the RRAR analysis, 5 lbs. of boron trifluoride was present at Linear Technologies and the HMES did not request offsite evaluation for this compound. As the distance from Sipex and Linear Technology to the ICC are similar, and the quantity of boron trifluoride is less than that previous evaluated at Linear Technology, HMES did not request offsite evaluation of the boron trifluoride for this update to the RRAR.

2. Linear Technology, 275 S. Hillview Dr. (0.25 miles from ICC)

For this facility, offsite impacts were previously evaluated by request of HMES (as shown in the attached Updated Table 6). For compounds presented in the RRAR (as shown in Table 4 of the RRAR), Milpitas Fire Department records indicate that Linear Technologies continued to store these compounds in the same quantities. In addition to those presented in the RRAR, Linear Technologies added storage of the following chemicals: arsine (<0.1%) in hydrogen (for a total of 0.00001 lbs arsine), nitrogen trifluoride (18.2 lbs), and trichlorosilane (229.8 lbs). None of these compounds were identified in the previous analysis. HMES requested offsite evaluation for arsine in hydrogen only if the amount in the largest container was of

² Voicemail from Clare Owen, Milpitas Fire Department Hazardous Materials Environmental Services to Michael Keinath, ENVIRON, on February 16, 2007.

concern. According to Milpitas Fire Department records, the amount contained at this site in the largest container is 0.00001 lbs. Assuming this quantity is released over 10 minutes (per USEPA methods), this quantity is 10,000 times lower than that necessary for the air concentration to be 1/10 the IDLH at 0.1 miles (the minimum distance typically determined using USEPA methods). Therefore, this amount of arsine was not significant to warrant further evaluation.

3. Headway Technologies, 463 S. Milpitas Blvd. (0.3 miles from ICC)

This facility was previously evaluated in the RRAR but offsite impacts analysis was not requested by HMES. Since the RRAR, Headway Technologies reduced the largest container amount for boron trichloride from 250 cu ft to 125 cu ft (37.9 lbs) and for chlorine from 250 cu ft to 205 cu ft (38 lbs). Since the quantities have all decreased, HMES did not request further evaluation for this update.

4. Nanogram, 165 Topaz St. (0.4 miles from ICC)

This facility was not previously evaluated for offsite impacts in the RRAR. Milpitas Fire Department records indicate that this facility stores the following chemicals, with the quantity stored in the largest container shown: anhydrous ammonia (15 lbs), boron trichloride (2.2 lbs), phosphine (2.2 lbs), and silane (1.7 lbs). As shown in the attached Updated Table 6, offsite impacts for larger quantities of anhydrous ammonia (50 lbs), boron trichloride (5 lbs), and phosphine (2.4 lbs) were evaluated for Sipex and Linear Technologies, both of which are closer to the ICC than Nanogram, therefore the offsite impacts for the compounds at Nanogram were not requested by HMES. Additionally, HMES did not request an offsite impact analysis for silane.

5. JDS Uniphase, 345 Los Coches St. (0.3 miles from ICC)

This facility was not previously evaluated for offsite impacts in the RRAR. Milpitas Fire Department records indicate that this facility stores the following chemicals, with the quantity stored in the largest container shown: diborane (5%) in nitrogen (0.9 lbs), phosphine (5%) in nitrogen (0.9 lbs), and silane (1.8 lbs). As shown in the Updated Table 6, offsite impacts for similar quantities of diborane and phosphine were evaluated for Sipex, which is closer to the ICC than JDS Uniphase, therefore their offsite impacts were not requested by HMES. HMES did not request an offsite impact analysis for silane.

6. Magic Technologies, 463 S. Milpitas Blvd. (0.4 miles from ICC)

This facility was not previously evaluated for offsite impacts in the RRAR. Milpitas Fire Department records indicate that this facility stores the following chemicals, with the quantity stored in the largest container shown: anhydrous ammonia (11 lbs), boron trichloride (100 lbs), carbon monoxide (43.9 lbs), chlorine (46.3 lbs), fluorine (1%) in neon/krypton (for a total of 0.2 lbs fluorine), hexafluorobutadiene (201.6 lbs), and silane (4.1 lbs). As shown in the Updated Table 6, offsite impacts for larger

quantities of anhydrous ammonia (50 lbs) and chlorine (150 lbs) were evaluated for Sipex, which is closer to the ICC than Magic, therefore their offsite impacts were not requested by HMES. In the RRAR, the same quantity of fluorine (0.2 lbs) was reported at Headway Technologies (closer to the ICC than Magic); however, HMES did not request offsite evaluation for this compound in the initial RRAR or this update. Smaller quantities of boron trichloride (5 lbs) were evaluated for Linear Technologies (closer to the ICC than Magic) and HMES did not request offsite evaluation for this compound from Magic. In the RRAR, carbon monoxide, hexafluorobutadiene and silane were not listed as present. HMES requested offsite impact of carbon monoxide. Based on the same methodologies used in the RRAR, results of the evaluation (see attached Updated Table 6) show the distance to the 1/10 IDLH for carbon monoxide is 0.3 miles. Therefore, under the worst-case scenario the proposed ICC site is not located within the distance to 1/10 IDLH.

Summary and Conclusions

As described in the RRAR, the distance to the IDLH and either the TEP and/or 1/10 the IDLH using a worst-case release scenario of the above updated list of toxic gases was evaluated. As summarized above, the only compounds HMES requested further analysis was arsine at Linear Technologies and carbon monoxide at Magic Technologies, both of which did not impact the ICC site. In addition, chemical quantities previously evaluated in the RRAR either remained the same or decreased, therefore the conclusions reached in the RRAR are still valid.

We thank you for the opportunity to work with you in completing this assignment. If you have any questions or need further information, please feel free to contact me at 510-420-2513 or ddaugherty@environcorp.com.

Attachments:

- Updated Table 6 of RRAR
- Revised Risk Assessment Report (RRAR); Proposed India Community Center, 525/535 Los Coches Street, Milpitas, California, dated December 13, 2004.

Attachments

Attachment A

Updated Table 6 of RRAR

UPDATED TABLE 6
Distances to the IDLH, TEP, & 1/10 IDLH for Catastrophic Release Scenario
for Toxic Gases of Concern¹ Stored in the Vicinity of the Proposed India Community Center (ICC) Site

Facility	Approximate Distance and Direction from Proposed ICC Site ²	Chemical	Amount of Toxic Chemical in Largest Container (lbs)	Release Rate (lbs/min) ³	IDLH (mg/L)	TEP (mg/L)	1/10 IDLH (mg/L)	Distance to IDLH ^{4,5} (miles)	Distance to TEP (miles)	Distance to 1/10 IDLH (miles)
McCabe's Quality Foods 1029 Montague Expressway	~1.6 miles to the S	Anhydrous Ammonia ^{6,7}	2,960	296	0.209	0.14	0.0209	0.8	1.0	2.6
Sipex Corporation 233 S. Hillview Drive	0.25 miles to the SSE	Anhydrous Ammonia ^{6,7}	50	5	0.209	0.14	0.0209	0.1	0.1	0.3
		Arsine	1.1	0.11	0.010	0.0019	0.001	<0.1	0.1	0.2
		Chlorine ⁷	150	15	0.029	0.0087	0.0029	0.5	0.8	1.5
		Diborane	0.9	0.09	0.017	0.0011	0.0017	<0.1	0.1	0.1
		Phosphine	1.0	0.1	0.069	0.0035	0.0069	<0.1	0.1	0.1
Linear Technology 275 S. Hillview Drive	0.25 miles to the SSE	Boron Trichloride	5	0.5	0.120	0.0096	0.0120	0.1	0.3	0.3
		Hydrogen Bromide	68.5	6.85	0.099	NE	0.0099	0.3	--	1.0
		Phosphine	2.4	0.24	0.069	0.0035	0.0069	<0.1	0.2	0.1
		Tungsten Hexafluoride	44.4	4.44	0.365	NE	0.0365	0.2	--	0.5
Magic Technologies ⁸ 463 S. Milpitas Blvd.	0.4 miles to the SSW	Carbon Monoxide	43.9	4.39	1.372	NE	0.1372	<0.1	--	0.3

Notes:

Distance to toxic endpoints based on USEPA 1999.

BOLD indicates that the distance to the toxic endpoint is greater than the distance to the proposed ICC site.

¹ Chosen in conjunction with the Milpitas Fire Department.

² Distance based on center of properties.

³ Assumes worst-case catastrophic release in which all of the toxic chemical is released from the largest container in 10 minutes.

⁴ Assumes rural landscape.

⁵ ENVIRON understands that the planning department only requires the distance to the IDLH for planning purposes and decisions.

We further understand that the FD would also like to see distances to either the RMP/CalARP toxic endpoint (TEP) or 1/10 the IDLH for Fire Department planning purposes.

⁶ Assumes anhydrous ammonia is liquefied under pressure.

⁷ Distances for anhydrous ammonia and chlorine based on chemical-specific dispersion models provided in USEPA 1999.

⁸ Magic Technologies added per request from the Milpitas Fire Department Hazardous Materials Environmental Services Division in February 2007

NE = not established

Reference:

USEPA. 1999. *Risk Management Program Guidance for Offsite Consequence Analysis*. Office of Solid Waste and Emergency Response. EPA 550-B-99-009. April 1999.