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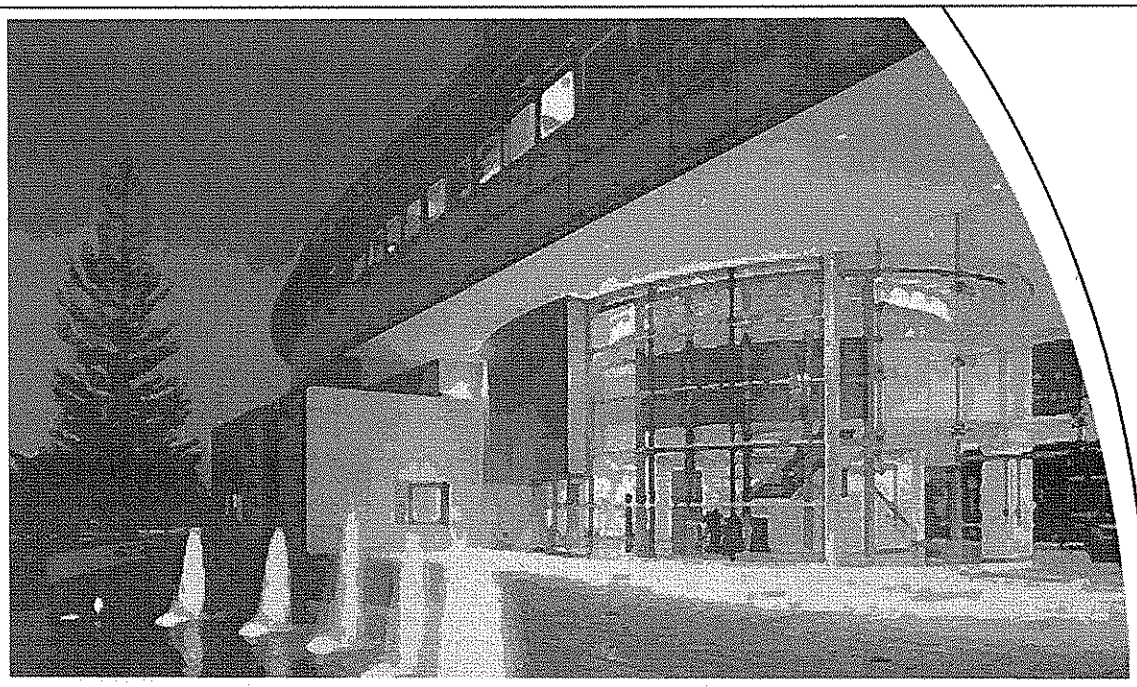
MILPITAS REDEVELOPMENT AMENDMENTS

Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1
Sixth Amendment to the Great Mall Redevelopment Plan



DRAFT ENVIRONMENTAL IMPACT REPORT

State Clearinghouse No. 2009092025

MILPITAS REDEVELOPMENT AGENCY
455 East Calaveras Boulevard
Milpitas, CA 95035
Contact: Diana Barnhart
dbarnhart@ci.milpitas.ca.gov
(408) 586-3059

Prepared By:
THE ERVIN CONSULTING GROUP
8561 Almond Bluff Court
Orangevale, CA 95662-4419
info@ervincg.com
(916) 989-0269

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1.0

INTRODUCTION

1.0 INTRODUCTION

This Chapter of the Environmental Impact Report (EIR) provides the reader with an overview of the Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 and the Sixth Amendment to the Great Mall Redevelopment Plan (proposed project or Amendments). This Chapter summarizes the project under review, the purpose, focus, and use of this EIR, a discussion of previous documents that are relevant to the proposed Amendments, and a summary of opportunities for public participation. A detailed description of the proposed Amendments is provided in Chapter 3, Project Description.

PROJECT UNDER REVIEW

The City of Milpitas (City) is located in Santa Clara County, California. The City has one Merged Project Area that consists of the Milpitas Redevelopment Project Area No. 1 and the Great Mall Project Area (Existing Merged Project Area). Project Area No. 1 currently encompasses 2,230 acres, and the Milpitas Redevelopment Agency (Agency) is considering expanding its redevelopment efforts to eliminate blighting conditions in an additional area containing approximately 600 acres (Added Area). The Great Mall Project Area consists of approximately 150 acres, including two small non-contiguous sign properties. The Agency would remove the sign property located east of Interstate 680 (I-680) from the Great Mall Project and incorporate it into the proposed Project Area No. 1 Added Area.

The Agency proposes the following amendments to the Redevelopment Plan for Project Area No. 1, collectively referred to as the Thirteenth Amendment:

- Extend by 10 years the effectiveness time limit and time period to repay debt/collect tax increment of the original Project Area (Original Project Area) and Amendment Areas No. 1 and 2 (collectively, the Original Project Area and Amendment Areas No. 1 and 2 are referred to as the Amendment Areas)
- Repeal the debt establishment limit for the Amendment Areas
- Increase the tax increment limit and bonded indebtedness limit and exclude the Midtown Added Area from the tax increment limit
- Add projects and facilities to the list of eligible projects and facilities the Agency may fund
- Reinstate eminent domain over non-residential uses in the Amendment Areas
- Add territory totaling approximately 600 acres (Added Area)
- Make certain technical corrections, revise and update the various text provisions within the Redevelopment Plan to conform to the requirements of the California Community Redevelopment Law (CRL)

Those areas eligible for amendment within Project Area No. 1 are referred to as the Amendment Areas. For purposes of this EIR, the Amendment Areas and the Added Area are collectively referred to as the Analysis Area.

The Agency also proposes the following technical amendment to the Redevelopment Plan for the Great Mall Project, referred to as the Sixth Amendment:

- Delete a non-contiguous area developed with a freeway sign (Sixth Amendment Deleted Area). The area identified for deletion is within the area proposed to be added to Project Area No. 1.

Collectively, the Thirteenth Amendment and the Sixth Amendment are referred to as the Amendments, or the proposed project.

The Preliminary Report (Keyser Marston Associates, October 2009) prepared on behalf of the Agency determined that blighting conditions continue to persist in both the Amendment Areas and Added Area. Blighting conditions present in the Analysis Area include physical blighting factors and economic blighting factors. Physical blighting factors present in the Analysis Area include:

- Buildings in which it is unsafe or unhealthy for persons to live or work. These conditions may be caused by serious building code violations, serious dilapidation and deterioration caused by long-term neglect, construction that is vulnerable to serious seismic or geologic hazards, and faulty or inadequate water or sewer utilities.
- Conditions that prevent or substantially hinder the viable use or capacity of buildings or lots. These conditions include buildings of substandard design, defective or obsolete design or construction, given the present general plan, zoning or other development standards.
- The existence of subdivided lots that are in multiple ownership and whose physical development has been impaired by their irregular shapes and inadequate sizes, given present general plan and zoning standards and present market conditions (Selwyn/Shirley Area).

Economic blighting factors present in the Analysis Area include:

- Depreciated or stagnant property values
- Abnormally high business vacancies, abnormally low lease rates, or an abnormally high number of abandoned buildings (Town Center Area)
- Serious residential overcrowding that has resulted in significant public health and safety problems (Adams and Selwyn/Shirley areas)
- A high crime rate that constitutes a serious threat to the public safety and welfare (Adams and Selwyn/Shirley areas)

PURPOSE OF THE ENVIRONMENTAL IMPACT REPORT

Adoption and implementation of the Amendments would provide tools and funding to facilitate public infrastructure improvements and the rehabilitation, reconstruction, and new construction of buildings and housing in the Analysis Area that would result in physical changes to the environment, and is thus considered a "project" as defined by Section 15378 of the California Environmental Quality Act (CEQA) Guidelines. The Initial Study prepared by the Agency concluded that an environmental impact report is required to determine the Amendments' potential for resulting in significant environmental impacts.

According to Public Resources Code (PRC) Section 21090: "(a) An environmental impact report for a redevelopment plan may be a master environmental impact report, program environmental impact report, or a project environmental impact report. Any environmental impact report for a redevelopment plan shall specify the type of environmental impact report that is prepared for the redevelopment plan."

This EIR has been prepared by the Milpitas Redevelopment Agency, as the Lead Agency under CEQA. This EIR is a Program EIR, prepared to analyze the public and private activities or undertakings pursuant to or in furtherance of the Amendments and to evaluate the potentially significant effects of public improvements and development that may be funded by or encouraged by the elimination of barriers to development by redevelopment activities. Use of a Program EIR allows the Agency, as Lead Agency, to evaluate the potential impacts of redevelopment activities at a comprehensive level of detail, focusing on area-wide and cumulative impacts and programmatic mitigation measures. Potential direct impacts that could result in the Analysis Area from public improvements and facilities projects proposed as part of the Amendments are also considered.

This Program EIR serves as the environmental baseline for subsequent approvals as the Amendments are implemented. As individual activities pursuant to the Amendments are proposed, the Agency will examine the individual activities to determine whether their effects have been fully evaluated in this Program EIR, and if not, what additional steps should be taken. Additional environmental review for the public and private activities or undertakings pursuant to or in furtherance of the Amendments would be required if any of the conditions outlined in CEQA Guidelines Sections 15162 or 15163 were to occur. This includes identification of significant impacts from detailed site and design information that were not identified in this programmatic level EIR. Additional steps may include preparation of an Addendum or Supplement to this EIR, preparation of a Project EIR, or a Negative Declaration.

An EIR is the public document used to analyze the adverse environmental effects of a proposed project, to indicate ways to reduce or avoid possible environmental degradation, and to identify alternatives to the project that would reduce or avoid the significant adverse effects of the proposed project. The EIR must also disclose significant adverse environmental impacts that cannot be avoided; growth-inducing impacts; effects found not to be significant; and significant cumulative impacts of past, present, and reasonably anticipated future projects. An EIR is an informational document used in the local planning and decision-making process. It is not the purpose of an EIR to recommend either approval or denial of a project.

ENVIRONMENTAL IMPACT REPORT FOCUS

Redevelopment tools are used to provide infrastructure improvements and eliminate blighting conditions that are barriers to the improvement or development of properties in a project area, as designated in the City of Milpitas General Plan (General Plan). These tools are currently being used within the Existing Merged Project Area, subject to certain time limits.

With approval of the Amendments, the ability to use redevelopment tools in the Amendment Areas will be extended an additional 10 years in these eligible portions of Project Area No. 1, which will allow additional redevelopment projects and activities to occur beyond the time

period considered in previous environmental analyses. The proposed Amendments would also add new territory to Project Area No. 1, which would extend redevelopment powers within this Added Area. The minor amendment to remove 0.014 acres from the Great Mall Project Area would not result in environmental effects within the Great Mall Project Area; this acreage is only analyzed as part of the Added Area, since moving it to the Added Area extends the use of redevelopment tools for an additional time.

Collectively these areas are identified as the Analysis Area for purposes of this EIR, since they are potentially affected by the use of redevelopment powers and projects. The Analysis Area is the focus of this EIR. This EIR analyzes the physical impact of potential redevelopment activities such as infrastructure improvements and rehabilitation, and the effect of removing existing physical and economic barriers to development in the Analysis Area.

This EIR discusses the following issues:

- Consistency with adopted land use plans and polices
- Air quality – both construction and operational emissions
- Greenhouse gas (GHG) emissions and climate change
- Cultural and historic resources
- Hazards and hazardous materials
- Noise – both construction and operational noise
- Public services and utilities
- Transportation and circulation

INTENDED USES OF THE ENVIRONMENTAL IMPACT REPORT

This EIR will serve as the Agency CEQA compliance document for the adoption of the Thirteenth Amendment and the Sixth Amendment by the City of Milpitas City Council (City Council), and for subsequent actions by the Agency in furtherance of the Amendments that are determined to be within the scope of this EIR. Actions required to approve the Amendments include:

- Certification of the EIR and adoption of findings of fact
- Adoption of the Milpitas Redevelopment Project Area No. 1 Thirteenth Amendment
- Adoption of the Great Mall Project Sixth Amendment

This EIR will be used by the following responsible agencies, public agencies, and boards in the approval of implementation activities under the Amendments:

- City of Milpitas City Council (City Council)
- Milpitas Redevelopment Agency (Agency)
- Milpitas Planning Commission
- All departments of the City that must approve implementation activities undertaken in accordance with the Amendments

- All other public agencies that may approve implementation activities undertaken in accordance with the Amended Plan

This EIR will be used in the adoption of and approval of any of the following redevelopment project implementation activities that may be necessary:

- Approval of Disposition and Development Agreements (DDA)
- Approval of Owner Participation Agreements (OPA)
- Approval and funding of public facilities and improvements projects
- Sale of tax increment and/or other bonds, certificates of participation and other forms of indebtedness
- Acquisition and demolition of property
- Rehabilitation of property
- Relocation of displaced occupants
- Approval of certificates of conformance
- Approval of development plans, including zoning and other variances and conditional use permits including low- and moderate-income housing units
- Issuance of permits and other approvals necessary for implementation of the Redevelopment Plan

ENVIRONMENTAL REVIEW PROCESS

As part of the environmental review process, a Notice of Preparation (NOP) was circulated by the Agency on September 9, 2009 (in accordance with CEQA Guidelines §15082) to inform responsible agencies and the public that the proposed project could have a significant effect on the environment and to solicit their comments and input. This EIR addresses substantial environmental issues raised during the NOP process, and is based on existing data and maps available for the area, a preliminary environmental evaluation (the Initial Study located in Appendix A), field inspection, and coordination with affected agencies and interested parties. The NOP is attached to this EIR as Appendix A. The NOP was circulated to interested agencies, groups, and individuals for a 30-day review period; comments received on the NOP are included in this EIR as Appendix B.

The EIR will initially be published as a Draft EIR in December 2009, and will be subject to review and comment by the public as well as by all responsible and other interested regulatory agencies and organizations during a period of 45 days. Written responses to timely comments on the Draft EIR will be prepared and may specify changes to the Draft EIR. Responses to comments, together with the Draft EIR and any changes to the Draft EIR therein specified will become the Final EIR, which will be presented to the Agency for certification as to its adequacy under CEQA prior to adoption of the Amendments by the City Council.

LEAD AGENCY CONTACTS

Lead Agency

City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035

Diana Barnhart, Economic Development Manager
Phone: 408-586-3059
dbarnhart@ci.milpitas.ca.gov

Redevelopment Consultant

Keyser Marston Associates, Inc.
500 South Grand Ave., Suite 1480
Los Angeles, CA 90071

Paul Anderson, Manager
Phone: (213) 622-8095
panderson@keysermarston.com

ENVIRONMENTAL IMPACT REPORT ORGANIZATION

This EIR is structured in a manner to allow the reader to easily track information from the Summary (Chapter 2) through the detailed Project Description (Chapter 3) and the Environmental Analysis (Chapter 6). Impacts are numbered consecutively, and where appropriate, are associated with a mitigation measure that is correspondingly numbered. This numbering system is carried over into the summary to allow easy location of the document's conclusions regarding a particular impact.

The document can be read in a number of ways depending on the reader's available time or interest in a particular issue. The briefest approach to the document involves reading only the Summary. A more detailed reading of the document involves reading of the full Project Description and Alternatives (Chapter 4), as well as the Summary. For those with an interest in a particular issue, add to the above a specific chapter or set of chapters. Finally, one can read the document in its entirety for a detailed presentation of all potential environmental effects of the proposed project and alternatives to the project.

CEQA requires that each EIR contain areas of description and analysis. The following list identifies areas of particular interest and the corresponding chapters in this EIR:

Required Description and Analysis	Chapter of the EIR
Summary (Guidelines §15123)	Chapter 2
Description of Project (Guidelines §15124)	Chapter 3
Alternatives to the Proposed Project	Chapter 4
Land Use and Planning	Chapter 5
Environmental Setting and Environmental Impacts (Guidelines §15126 and §15143) a) Significant Environmental Effects b) Effects That Cannot be Avoided c) Mitigation Measures	Chapter 6
Growth Inducing Impacts (Guidelines §15126)	Chapter 7
Cumulative Impacts	Chapter 7
Unavoidable Significant Environmental Effects (Guidelines §15126)	Chapter 7

DOCUMENTS INCORPORATED BY REFERENCE

Section 15150 of the CEQA Guidelines allows incorporation by reference of "...all or portions of another document which is a matter of public record or is generally available to the public." Incorporation by reference is used principally as a means of reducing the size of EIRs. This EIR relies, in part, on policies, regulations, data, environmental evaluations, mitigation measures and other components of City documents recently prepared by either the Agency or the City for areas located within the Analysis Area or in its vicinity. The following documents incorporated by reference are available for review at the City of Milpitas, 455 East Calaveras Boulevard, Milpitas, CA 95035.

City of Milpitas. (1954). *Milpitas Municipal Code*. As amended through 8/18/2009.

City of Milpitas. (1976). *Subdivision Ordinance of Milpitas*. Milpitas Municipal Code Title XI. As amended through 8/4/2009.

City of Milpitas. (1994). *City of Milpitas General Plan*. Revised 3/19/2002.

City of Milpitas. (2002). *Midtown Milpitas Specific Plan EIR*. Draft EIR dated October 2001. Final EIR dated January 2002.

City of Milpitas. (2008). *Milpitas Transit Area Specific Plan EIR*. Draft EIR dated October 2007. Final EIR dated May 2008.

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2.0

SUMMARY OF IMPACTS AND MITIGATION MEASURES

Milpitas Redevelopment Amendments

CHAPTER 2

SUMMARY

2.0 SUMMARY OF IMPACTS AND MITIGATION MEASURES

INTRODUCTION

This Chapter of the Environmental Impact Report (EIR) briefly describes the Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 and the Sixth Amendment to the Great Mall Redevelopment Project (proposed project or Amendments) under consideration, alternatives to the Amendments, areas of known controversy, and direct and indirect project impacts. All impacts and mitigation measures that were identified during the course of this environmental analysis are presented in Table 2.0-1.

SUMMARY OF THE PROJECT DESCRIPTION

PROJECT LOCATION

The City of Milpitas (City) is located in Santa Clara County (County), California. The City has one Merged Project Area that consists of Milpitas Redevelopment Project Area No. 1 (Project Area No. 1) and the Great Mall Project Area (Great Mall). Project Area No. 1 is located in the central portion of the City, including the original Downtown area and the City's primary industrial area. The Great Mall consists of approximately 150 acres encompassing the Great Mall of the Bay Area shopping center complex, bounded by Great Mall Parkway, Montague Expressway, South Main Street, and the Union Pacific Railroad (UPRR) tracks, as well as two small non-contiguous sign properties.

The Milpitas Redevelopment Agency (Agency) is considering expanding its redevelopment efforts in Project Area No. 1 to eliminate blighting conditions in an additional area containing approximately 600 gross acres (Added Area). The Added Area would incorporate the sign property along Interstate 680 (I-680) south of Calaveras Boulevard containing 0.014 acres that would be removed from the Great Mall Project as a part of the proposed Amendments.

Those areas eligible for amendment within Project Area No. 1, referred to as the Amendment Areas, and the Added Area are collectively referred to as the Analysis Area for purposes of this EIR.

PROJECT DESCRIPTION SUMMARY

The Agency proposes the following amendments to the Redevelopment Plan for Project Area No. 1, collectively referred to as the Thirteenth Amendment:

- Extend by 10 years the effectiveness time limit and time period to repay debt/collect tax increment of the Original Project Area and Amendment Areas No. 1 and 2 (collectively referred to as the Amendment Areas)
- Repeal the debt establishment limit for the Amendment Areas
- Increase the tax increment limit and bonded indebtedness limit

- Add projects and facilities to the list of eligible project and facilities the Agency may fund
- Reinstate eminent domain over non-residential uses in the Amendment Areas
- Add territory totaling approximately 600 acres (Added Area)
- Make certain technical corrections, revise and update the various text provisions within the Redevelopment Plan to conform to the requirements of the California Community Redevelopment Law (CRL)

The Agency also proposes the following technical amendment to the Redevelopment Plan for the Great Mall Project, referred to as the Sixth Amendment:

- Delete a non-contiguous area developed with a freeway sign (Sixth Amendment Deleted Area). The area identified for deletion is within the area proposed to be added to Project Area No. 1.

Collectively, the Thirteenth Amendment and the Sixth Amendment are referred to as the Amendments, or the proposed project.

The Preliminary Report (Keyser Marston Associates, October 2009) prepared on behalf of the Agency determined that blighting conditions continue to persist in both the Amendment Areas and Added Area. Blighting conditions present in the Analysis Area include physical blighting factors and economic blighting factors. Physical blighting factors present in the Analysis Area include:

- Buildings in which it is unsafe or unhealthy for persons to live or work. These conditions may be caused by serious building code violations, serious dilapidation and deterioration caused by long-term neglect, construction that is vulnerable to serious seismic or geologic hazards, and faulty or inadequate water or sewer utilities.
- Conditions that prevent or substantially hinder the viable use or capacity of buildings or lots. These conditions include buildings of substandard design, defective or obsolete design or construction, given the present general plan, zoning or other development standards.
- The existence of subdivided lots that are in multiple ownership and whose physical development has been impaired by their irregular shapes and inadequate sizes, given present general plan and zoning standards and present market conditions (Selwyn/Shirley Subarea).

Economic blighting factors present in the Analysis Area include:

- Depreciated or stagnant property values.
- Abnormally high business vacancies, abnormally low lease rates, or an abnormally high number of abandoned buildings (Town Center Subarea).
- Serious residential overcrowding that has resulted in significant public health and safety problems (Adams and Selwyn/Shirley Subareas).
- A high crime rate that constitutes a serious threat to the public safety and welfare (Adams and Selwyn/Shirley Subareas).

SUMMARY OF ALTERNATIVES TO THE PROPOSED PROJECT

Section 15126.6 (d) of the State CEQA Guidelines, requires an evaluation of "...a range of reasonable alternatives to the project, or to the location of the project, which could feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." The alternatives evaluated in Chapter 4 of this EIR include the No Project Alternative and the No Added Area – Alternative Means of Revitalization with Public Funds Alternative (No Added Area Alternative). The proposed project was determined to be the Environmentally Superior Alternative. Two alternatives were previously considered and rejected: Alternative Location and Alternative Public Actions. A summary of the alternatives considered is described below.

NO PROJECT ALTERNATIVE

Under the No Project Alternative, the Redevelopment Plan for Project Area No. 1 (Redevelopment Plan) would not be amended to expand the boundaries to include the Added Area, and the time and financial limits would not be extended for the Amendment Areas. The proposed public improvements and development assistance that would be provided with redevelopment (such as public infrastructure improvements, commercial and residential rehabilitation/development, and low- and moderate-income housing assistance) would not be implemented with redevelopment funding in the Added Area, and would not be extended in the Amendment Areas for an additional 10 years. Under the No Project Alternative, development in the Amended Project Area would occur as defined in the City of Milpitas General Plan (General Plan) at a pace commensurate with prevailing market conditions and infrastructure improvements that the City could implement without extending redevelopment tools and funding.

Because general land use types, densities, and intensities that could be developed pursuant to the Amendments could ultimately be developed under this alternative, long-term environmental effects associated with the No Project Alternative may be similar to those of the Amendments. A lower level of new pedestrian and transit oriented infill development could result, in the short-term, in somewhat less construction and traffic air emissions within the Analysis Area. However, the inability to consolidate parcels, remediate contamination, and construct new development would also tend to push housing demand outside the urban core as infill remains too expensive, with a resulting increase in traffic congestion, cumulative air emissions, and greenhouse gas (GHG) emissions. Regional air quality would be worse under this alternative compared to the Amendments. The No Project Alternative would not achieve any of the project objectives.

NO ADDED AREA - ALTERNATIVE MEANS OF REVITALIZATION WITH PUBLIC FUNDS

The No Added Area Alternative would amend the time and financial limits for the Amendment Areas, but would not increase the boundaries of Project Area No. 1 by approximately 600 acres. This alternative considers utilization of public revenue sources other than tax increment financing to fund public improvements and other actions in the Added Area. Federal, state, County, and City programs exist that may initiate some development without the need for redevelopment tax increment financing. These sources of alternative funding typically include mortgage revenue bonds, Community Development Block Grant funds (CDBG), Economic Development Administration funds, state and federal Transportation Grants, Urban Development Action funds, and revenue bonds. Some of the potential funding sources are

capped each year for the City, such as CDBG funds; many of these funds require applications and competition and cannot be relied upon to be available consistently over the next 30 years. Any such funds used in the Added Area are funds unavailable to alleviate blight in other parts of the City.

If consistently available, these alternative-funding mechanisms could eliminate blight and encourage some development within the Added Area, and meet the key objectives of the Amendments. However, these programs do not carry with them the powers of a redevelopment agency to assemble parcels for more modern development patterns or to use the Polanco Act to remediate contaminated properties, which could restrict the development potential of the Added Area and limit the scope and scale of development and rehabilitation. The lack of or insufficient funding to construct necessary street improvements and provide incentives for new development may result in the delay of or inability to develop some of the planned transit-oriented mixed-use development in the southern portion of the Added Area. A lower level of new pedestrian and transit-oriented infill development could result, in the short-term, in less construction noise, less traffic congestion on local street segments and intersections, and lower air emissions within the Added Area. However, the inability to consolidate parcels, remediate contamination, and construct new development would also tend to push housing demand outside the urban core as infill remains too expensive, with a resulting increase in cumulative traffic congestion, air emissions and GHG emissions. Older buildings lacking funding to upgrade to green building standards would contribute to cumulative GHG emissions. Regional air quality, GHG emissions, and traffic congestion could be worse under this alternative compared to the Amendments. Environmental effects would be similar to or worse than those resulting from the proposed Amendments.

ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The implementation activities identified as a part of the Amendments are intended to mitigate existing problems and to remove barriers to planned development within the Analysis Area. The Amendments provide the means to eliminate physical and economic blight in the Added Area, extend redevelopment tools and financing in the Amendment Areas for an additional 10 years, and thereby stimulate and encourage the revitalization, reuse, and new development of Analysis Area properties. Therefore, there is no environmentally superior alternative to the Amendments. The No Project Alternative leaves the existing blight in place and provides no new mitigation. The No Added Area Alternative would preclude the use of redevelopment tools to eliminate blight in the Added Area, where existing City and County efforts have proven to be insufficient to resolve the area's crime, substandard building, hazardous materials contamination, and vacancy problems. Under the Amendments, the following beneficial impacts will occur:

- Hazardous materials contamination will be remediated.
- Dangerous/vacant buildings will be removed or rehabilitated and reused with improved energy efficiency.
- Inadequate water, sewer, and drainage infrastructure may be upgraded.
- Circulation and pedestrian safety will be improved.
- Infill pedestrian- and transit-oriented development and building rehabilitation to higher energy standards will be facilitated for long-term reductions in GHG emissions.

Project-specific impacts for development engendered by redevelopment can be mitigated to less-than-significant levels except for operational GHG emissions that contribute to global climate change, the potential loss of cultural resources and project-specific additions to existing traffic level of service (LOS) problems. These impacts would be the same under the Alternatives. Because of the unique nature and purpose of redevelopment, and the requirements of where it can be applied, implementation of the Amendments will have an overall beneficial impact on the Analysis Area, and is therefore the environmentally superior alternative.

AREAS OF CONTROVERSY

CEQA Guidelines Section 15123 specifies that the summary shall identify "areas of controversy" known to the Lead Agency, Milpitas Redevelopment Agency, including issues raised by agencies and the public, and issues to be resolved, including the choice among alternatives and whether or how to mitigate the significant effects. There are no known areas of environmental controversy regarding adoption of the Amendments.

SUMMARY OF CONSISTENCY WITH ADOPTED PLANS AND POLICIES

In addition to physical environmental impacts, CEQA requires a discussion of the consistency of a proposed project with adopted plans and policies. Consistency with a plan is not a physical impact per se, but inconsistencies are required to be disclosed and discussed. This discussion is provided in Chapter 5, Land Use and Planning. If a plan inconsistency results in a physical impact, the physical impact is separately discussed in the topical sections in Chapter 6, Environmental Analysis.

At the time of adoption, the Amendments must, by law, be consistent with the General Plan. The Amendments further provide that land uses permitted in the Added Area shall continue to be governed by the General Plan, as it may be amended from time to time, including any specific plans which may be adopted by the City at any point in time. There were no inconsistencies with any adopted plan or policy identified with implementation of the Amendments.

SUMMARY OF POTENTIAL IMPACTS, MITIGATION MEASURES, AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

The environmental impacts of the implementation of the Amendments are summarized in Table 2.0-1, and a detailed discussion of the impacts is found in Chapter 6, Environmental Analysis, of this document. Table 2.0-1 identifies the potential impact and the adopted mitigation measure(s) determined to mitigate that impact.

SUMMARY TABLE

Table 2.0-1 has been organized to correspond with the environmental issues discussed in Chapter 6, Environmental Analysis. The summary table is arranged in four columns:

- Environmental impacts (Impact)

- Level of significance without mitigation (Significance)
- Mitigation measures (Mitigation Measure)
- The level of significance after implementation of mitigation measures (Residual Significance)

If an impact is determined to be significant or potentially significant, mitigation measures are identified, where appropriate and feasible. More than one mitigation measure may be required to reduce the impact to a less-than-significant level. This EIR assumes that all applicable plans, policies, and regulations would be implemented, including, but not necessarily limited to, the General Plan, laws, and requirements or recommendations of the City. Applicable plans, policies, and regulations are identified and described in the Regulatory Setting section of each issue area and within the relevant impact analysis. A description of the organization of the environmental analysis, as well as key foundational assumptions regarding the approach to the analysis, is provided in Chapter 6.0 (Introduction to the Analysis).

TABLE 2.0-1
ENVIRONMENTAL IMPACTS OF THE PROPOSED PROJECT

Impact	Significance Prior to Mitigation[1]	Mitigation Measure(s)	Significance After Mitigation
6.1 Air Quality			
Impact 6.1-1 The Amendments would engender development within the Analysis Area that could conflict with or obstruct implementation of the applicable air quality plan.	LS	None required	LS
Impact 6.1-2 Redevelopment-engendered development and infrastructure construction activities would generate short-term emissions of regional criteria pollutants.	PS	6.1-2 Future redevelopment projects shall comply with all current Basic Construction Mitigation Measures at the time of development approvals.	LS
Impact 6.1-3 Development engendered by redevelopment could result in long-term operational increases in regional criteria pollutants.	LS	None required	LS
Impact 6.1-4 Redevelopment-engendered development could increase the number of sensitive receptors exposed to significant levels of diesel particulate matter.	PS	6.1-4a For any residential project within 1,000 feet of I-680 or I-880: a) Locate livable structures and associated heating, ventilating, and air conditioning (HVAC) intakes as far from the freeway as possible; b) Plant tiered redwood and/or deodar cedar trees between the freeway and livable structures; and c) Meet current Bay Area Air Quality Management District (BAAQMD) requirements for evaluating and mitigating diesel particulate matter (DPM) effects.	LS

[1] LS = Less-than-Significant PS = Potentially Significant S = Significant SU = Significant and Unavoidable

Impact	Significance Prior to Mitigation[1]	Mitigation Measure(s)	Significance After Mitigation
		6.1-4b For any residential project that increases the number of dwelling units within 1,000 feet of I-680 or I-880, the applicant shall prepare a health risk assessment (HRA) to the satisfaction of the Bay Area Air Quality Management District (BAAQMD) and the Milpitas Redevelopment Agency.	
Impact 6.1-5 Redevelopment-engendered project construction activities would contribute to cumulative increases in ozone precursors.	LS	None required	LS
		6.2 Climate Change	
Impact 6.2-1 Redevelopment-engendered development and infrastructure construction activities would generate greenhouse gas emissions that could contribute to Global Climate Change.	PS	6.2-1 Redevelopment construction activities shall implement the most current BAAQMD performance-based best management practices (BMPs) to the satisfaction of the BAAQMD, including but not limited to: a) Alternative-fueled (e.g., biodiesel, electric) construction vehicles/equipment of at least 15% of the fleet b) Local building materials of at least 10% c) Recycle at least 50% of construction waste or demolition materials	LS
Impact 6.2-2 Individual redevelopment-assisted development projects could produce operational greenhouse gas emissions that contribute to global climate change.	PS	No plan-level mitigation beyond the required CEQA process for project approval is available at this time. It is unknown whether project by project mitigation measures will be sufficient to reduce GHG emissions below BAAQMD significance thresholds.	**SU**
Impact 6.2-3 The Amendments would engender redevelopment of the Analysis Area that could contribute to cumulative contributions to global climate change.	LS	None Required	LS

Impact	Significance Prior to Mitigation[1]	Mitigation Measure(s)	Significance After Mitigation
6.3 Cultural and Historic Resources			
Impact 6.3-1 Redevelopment projects and redevelopment-engendered development could cause a substantial adverse change in the significance of an archaeological resource, including human remains.	S	6.3-1a For any project involving ground penetrating activities, the Northwest Information Center (NWIC) at Sonoma State University shall be consulted to determine if a proposed project would require archaeological study and/or testing be conducted as part of the site specific environmental review. Recommended study and/or testing shall be completed prior to completion of environmental review. 6.3-1b Foremen and key members of major excavation, trenching, and grading for site preparation shall be instructed to be wary of the possibility of destruction of buried cultural resource materials. They shall be instructed to recognize signs of prehistoric use and their responsibility to report any such finds (or suspected finds) immediately, as specified by measure 6.3-1c below, so damage to such resources may be prevented. 6.3-1c Any unanticipated discovery of cultural resources during construction will be evaluated by a qualified archaeologist. If the find is determined to be potentially significant, the archaeologist, in consultation with the City and appropriate Native American group(s), will develop a treatment plan. All work in the immediate vicinity of the unanticipated discovery shall cease until the qualified archaeologist has evaluated the discovery, or the treatment plan has been implemented. 6.3-1d If human remains are encountered unexpectedly during construction excavation and grading activities, State Health and Safety Code §7050.5 requires that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to PRC §5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the Native American Heritage Commission (NAHC). The NAHC will then identify the person(s) thought to be the Most Likely Descendent of the deceased Native American, who will then help determine what course of action should be taken in dealing with the remains.	LS

Impact	Significance Prior to Mitigation[1]	Mitigation Measure(s)	Significance After Mitigation
Impact 6.3-2 Redevelopment projects and redevelopment-engendered development could cause a substantial adverse change in the significance of a paleontological resource.	PS	6.3-2 If paleontological resources, such as fossilized bone, teeth, shell, tracks, trails, casts, molds, or impressions are discovered during ground-disturbing activities, work will stop in that area and within 25 feet of the find until a qualified paleontologist can assess the significance of the find and, if necessary, develop and implement appropriate treatment measures in consultation with the City.	LS
Impact 6.3-3 Redevelopment projects and redevelopment-engendered development could result in the alteration of historic resources.	LS	None Required	LS
Impact 6.3-4 Redevelopment projects and redevelopment-engendered development could contribute to the cumulative degradation or loss of paleontological or archaeological resources, including human remains.	SU	Implement Mitigation Measures 6.3-1a through 6.3-1d and 6.3-2	LS
6.4 Hazards and Hazardous Materials			
Impact 6.4-1 Redevelopment-engendered development and infrastructure project construction could disturb unidentified contaminated soil and structures.	S	6.4-1a A thorough examination of past property uses shall be required for redevelopment projects involving demolition or reuse of older properties or construction on vacant parcels, prior to demolition or construction. This examination shall conform to the Phase I Environmental Site Assessment (ESA) process established by the American Society for Testing and Materials (ASTM), and shall include a site reconnaissance, a review of regulatory databases, interviews with persons knowledgeable of the property, and a review of past property uses using appropriate historical sources. A Phase II ESA shall be conducted if deemed necessary based on the Phase I ESA results. 6.4-1b If discolored soil, vapors, or contaminated groundwater are encountered during construction activities, all work shall cease until a qualified environmental professional assesses the situation and appropriate action is taken to ensure the safety of workers and the public.	LS

Impact	Significance Prior to Mitigation[1]	Mitigation Measure(s)	Significance After Mitigation
		6.4-1c If the Phase I/II indicates the potential for unremediated soil and/or groundwater contamination or underground storage tanks to be disturbed during construction, the Milpitas Redevelopment Agency (Agency) shall require in construction contract documents that a hazardous materials removal team be on-call and available for immediate response during site preparation, excavation, and other construction activities. Hazardous material removal activities must be contracted to a qualified hazardous materials removal contractor. Construction contract documents shall require the hazardous material removal contractor or subcontractor to comply with the following: (1) Prepare a hazardous material discovery and response contingency plan for review by the MFD. The MFD will act as the first responder to a condition of extreme emergency (i.e., fire, emergency medical assistance, etc). (2) In the event that a condition or suspected condition of soil and/or groundwater contamination are discovered during construction, work shall cease or be restricted to an unaffected area of the site as the situation warrants and the City shall be immediately notified. Upon notification, the City shall notify the HCMD of the contamination condition, and the hazardous material removal contractor shall prepare a site remediation plan and a site safety plan, the latter of which is required by OSHA for the protection of construction workers. Similarly, the hazardous material removal contractor shall follow and implement all directives of the HCMD and any other jurisdictional authorities that might become involved in the remediation process. (3) Preparation of any remediation plan shall include in its focus measures to be taken to protect the public from exposure to potential site hazards and shall include a certification that the remediation measures would clean up the contaminants, dispose of the wastes properly, and protect public health in accordance with federal, state, and local requirements. (4) Obtain closure and/or No Further Action letters from the appropriate agency(ies).	

Impact	Significance Prior to Mitigation[1]	Mitigation Measure(s)	Significance After Mitigation
		(5) Construction contract documents shall include provisions for the proper handling and disposal of contaminated soil and/or dewatering water (including groundwater and contaminated rainwater) in accordance with federal, state, and local requirements.	
Impact 6.4-2 Redevelopment could result in the rehabilitation or demolition of buildings likely to contain asbestos, lead-based paint, or other hazardous substances.	PS	6.4-2a Prior to any Agency rehabilitation or demolition activities, the Agency shall conduct an interior survey to evaluate the presence of ACM, lead based paint, PCB-containing electrical and hydraulic fluids, and/or chlorofluorocarbons (CFCs), as well as any other potential environmental concerns (i.e., aboveground/underground fuel tanks, elevator shafts/hydraulic lifts, floor drains/sumps, chemical storage/disposal) which may be present within structures on a project site. 6.4-2b A project applicant for a project subject to the Redevelopment Plan for Project Area No. 1 shall provide written documentation to the Agency that ACM and lead-based paint has been abated and any remaining hazardous substances and/or waste have been removed in compliance with applicable federal, state, and local laws and regulations.	LS
Impact 6.4-3 Redevelopment of the Analysis Area would contribute to cumulative increases in the use of hazardous substances during construction and occupancy.	LS	None Required	LS
Impact 6.4-4 Redevelopment of the Analysis Area would contribute to cumulative increases in the number of people who could be exposed to accidental or intentional release of hazardous substances on rail lines and roadways.	LS	None Required	LS

Impact	Significance Prior to Mitigation[1]	Mitigation Measure(s)	Significance After Mitigation
6.5 Noise			
Impact 6.5-1 Redevelopment-engendered development and infrastructure projects could result in construction noise at sensitive receptors.	S	Future redevelopment construction activities within 1,500 feet of residential units or other sensitive receptors, as determined by the Planning Director, shall implement the following measures for the duration of the construction period: 6.5-1a Properly muffle and maintain all construction equipment powered by internal combustion engines. 6.5-1b Prohibit unnecessary idling of internal combustion engines. 6.5-1c Locate all stationary noise-generating construction equipment, such as air compressors, as far as practical from existing nearby residences and other noise sensitive land uses. Such equipment shall also be acoustically shielded. 6.5-1d Select quiet construction equipment, particularly air compressors, whenever possible. Fit motorized equipment with proper mufflers in good working order. 6.5-1e A noise disturbance coordinator responsible for responding to any local complaints about construction noise shall be designated. The noise disturbance coordinator shall determine the cause of any noise complaint (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. A telephone number for the disturbance coordinator shall be posted at the construction site.	LS
Impact 6.5-2 Redevelopment-engendered development could result in increased ambient noise levels at noise-sensitive land uses.	LS	None Required	LS
Impact 6.5-3 Redevelopment-engendered development could result in an increase in cumulative community noise impacts.	LS	None Required	LS

Impact	Significance Prior to Mitigation[1]	Mitigation Measure(s)	Significance After Mitigation
6.6 Public Services and Utilities			
Impact 6.6-1 Redevelopment-engendered development could increase general population demands on public safety.	LS	None Required	LS
Impact 6.6-2 Redevelopment-engendered development could increase general population demands for school facilities.	LS	None Required	LS
Impact 6.6-3 Redevelopment-engendered development could increase solid waste generation and demands on existing solid waste facilities.	LS	None Required	LS
Impact 6.6-4 Redevelopment-engendered development could increase general population demands on wastewater collection and treatment.	LS	None Required	LS
Impact 6.6-5 Redevelopment-engendered development and infrastructure projects could affect stormwater and drainage systems, and be subject to localized flooding.	LS	None Required	LS
Impact 6.6-6 Redevelopment-engendered development could increase general population demands on water service.	LS	None Required	LS

Impact	Significance Prior to Mitigation[1]	Mitigation Measure(s)	Significance After Mitigation
6.7 Transportation and Circulation			
Impact 6.7-1 Redevelopment activities and development engendered by the Amendments could result in increased traffic on currently impacted roadway segments and intersections where no mitigation is feasible.	PS	Specific mitigation measures identified in the Transit and Midtown EIRs will be implemented as planned. Future redevelopment-engendered projects will analyzed on a case-by-case basis for localized impacts and additional mitigation measures.	**SU**
Impact 6.7-2 Redevelopment activities and development engendered by the Amendments could result in increased traffic on currently impacted freeway segments where no mitigation is feasible.	PS	Specific mitigation measures identified in the Transit and Midtown EIRs will be implemented as planned. Future redevelopment-engendered projects will analyzed on a case-by-case basis for freeway impacts.	**SU**
Impact 6.7-3 Redevelopment activities and projects could result in increased demands on pedestrian, bicycle, and transit access and operations.	LS	None required	LS
Impact 6.7-4 Redevelopment activities could remove barriers to development, resulting in cumulative increases in traffic in the Analysis Area.	LS	None required	LS

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3.0

PROJECT DESCRIPTION

Milpitas Redevelopment Amendments

CHAPTER 3

PROJECT DESCRIPTION

3.0 PROJECT DESCRIPTION

INTRODUCTION

This Chapter of the Environmental Impact Report (EIR) describes the background, location, and characteristics of the Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 and the Sixth Amendment to the Great Mall Redevelopment Project (proposed project or Amendments). The information presented in this section and incorporated by reference is based on the Redevelopment Feasibility Study (July 28, 2009), the City of Milpitas Redevelopment Agency Amended and Restated Implementation Plan 2004-2010 (updated August 2008), the Preliminary Plan (August 2009), the Draft Preliminary Report (October 2009), visual inspections, and aerial photographs.

BACKGROUND

The City of Milpitas (City) has two redevelopment project areas, the Milpitas Redevelopment Project Area No. 1 (Project Area No. 1) and the Great Mall Redevelopment Project. These two project areas were merged in 2006. The redevelopment plans for these project areas remain distinct and subject to separate amendment processes. These redevelopment plans are administered by the Milpitas Redevelopment Agency (Agency).

Prior Amendments to the Redevelopment Plan for Project Area No. 1

The original Redevelopment Plan for Milpitas Redevelopment Project No. 1 (Redevelopment Plan) was adopted by the Milpitas City Council by Ordinance No. 192 on September 21, 1976, and consisted of approximately 577 acres located in the central portion of the City (Original Project Area). Since the original adoption of Project Area No. 1, the Redevelopment Plan has been amended twelve times, including the 2006 merger:

- The first amendment, adopted on September 4, 1979 by Ordinance No. 192.1, added approximately 483 acres to the Original Project Area (Amendment Area No. 1).
- The second amendment, adopted on May 4, 1982 by Ordinance No. 192.2, added approximately 479 acres to the Original Project Area (Amendment Area No. 2).
- The third amendment, adopted on November 27, 1984 by Ordinance No. 192.3, added provisions applicable only to Amendment Area No. 1 and Amendment Area No. 2, including a public improvements list and a tax increment limit.
- The fourth amendment, adopted on December 9, 1986 by Ordinance No. 192.4, amended certain time and fiscal limits.
- The fifth amendment, adopted on April 16, 1991 by Ordinance No. 192.6A, made changes intended to clarify the time and fiscal limitations applicable to the areas within Project No. 1.
- The sixth amendment, adopted on December 9, 1994 by Ordinance No. 192.9, amended the time limits in accordance with Assembly Bill (AB) 1290.

- The seventh amendment, adopted on October 15, 1996 by Ordinance No. 192.11, increased the tax increment limit, increased the bond debt limit, and extended the debt establishment time limit.
- The eighth amendment, adopted on October 16, 2001 by Ordinance No. 192.12, deleted certain property from the Project Area (sign property).
- The ninth amendment, adopted on June 17, 2003 by Ordinance No. 192.14, included the following:
  1) Added area (691 acres) to the Original Project Area (known as the Midtown Added Area)
  2) Increased the tax increment limit
  3) Increased the bonded indebtedness limit
  4) Established eminent domain in the 691-acre added area for properties not occupied as a residence
  5) Revised and updated various text provisions to conform to the requirements of the CRL
- The tenth amendment, adopted on October 7, 2003 by Ordinance No. 192.15, extended the time limits on plan effectiveness/receipt of tax increment by one year for the Original Project Area, Amendment Area No. 1, Amendment Area No. 2, and the Midtown Added Area, as allowed by SB 1045 in exchange for the Agency's payment to the Educational Revenue Augmentation Fund (ERAF) in fiscal year 2003-04. The Agency was allowed to further extend the time limits on plan effectiveness/receipt of tax increment by two years for the Original Project Area, Amendment Area No. 1, and Amendment Area No. 2, as allowed by SB 1096 in exchange for the Agency's ERAF payments made in fiscal years 2004-05 and 2005-06.
- The eleventh amendment was adopted on October 3, 2006 by Ordinance No.192.16 pursuant to Senate Bill (SB) 1096 extended the time limits on plan effectiveness/receipt of tax increment by two years for the Original Project Area, Amendment Area No. 1, and Amendment Area No. 2, in exchange for the Agency's ERAF payments made in fiscal years 2004-05 and 2005-06.
- The twelfth amendment, adopted on November 29, 2006 by Ordinance No.192.18, merged Project Area No. 1 with the Great Mall Redevelopment Project.

Prior Amendments to the Great Mall Redevelopment Project

The Great Mall Redevelopment Project (Great Mall Project) was adopted by the City Council on November 2, 1993, by Ordinance No. 192.8 and consists of 150 acres. The Great Mall Project has been amended five times:

- The first amendment, adopted on December 6, 1994 by Ordinance No. 192.10, brought the Great Mall Project Area into conformity with the CRL as amended by AB 1290.
- The second amendment, adopted on October 16, 2001 by Ordinance No. 192.13, added 0.76± acres in two separate properties (located along Interstate 880 (I-880) and Montague Expressway containing 0.75 acres and along Interstate 680 (I-680)

south of Calaveras Boulevard containing 0.014 acres) for the placement and maintenance of freeway signs for the Great Mall of the Bay Area.

- The third amendment, adopted on October 3, 2006 by Ordinance No. 192.17, extended the time limits on plan effectiveness/receipt of tax increment by two years pursuant to SB 1096.
- The fourth amendment, adopted on November 29, 2006 by Ordinance No. 192.19, merged the Great Mall Project with Project Area No. 1.
- The fifth amendment, adopted on May 5, 2009 by Ordinance No. 192.22, extended plan effectiveness from 17 to 40 years.

PROJECT LOCATION

Milpitas is located in Santa Clara County (County), California (Figure 3.0-1). The City has one Merged Project Area that consists of Project Area No. 1 and the Great Mall Project. Project Area No. 1 is located in the central portion of the City, including the original Downtown area and the City's primary industrial area. The Great Mall Project consists of approximately 150 acres encompassing the Great Mall of the Bay Area shopping center complex, bounded by Great Mall Parkway, Montague Expressway, South Main Street, and the Union Pacific Railroad (UPRR) tracks, as well as two small non-contiguous sign properties (Figure 3.0-2).

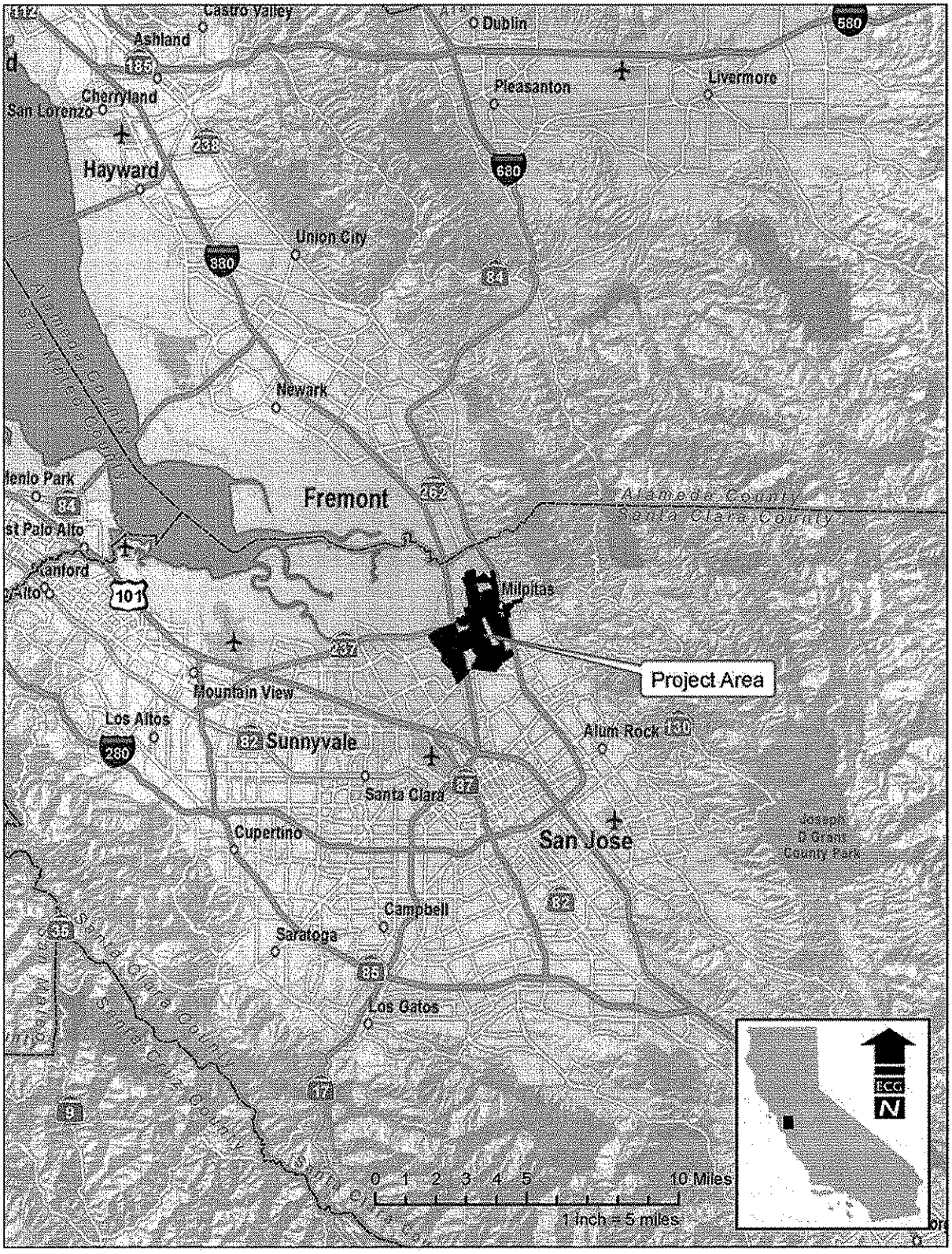
The Agency is considering expanding its redevelopment efforts in Project Area No. 1 to eliminate blighting conditions in an additional area containing approximately 600 gross acres (Added Area), and amending eligible portions of Redevelopment Plan to extend redevelopment powers for an additional 10 years. The Added Area would incorporate the sign property along I-680 south of Calaveras Boulevard containing 0.014 acres that would be removed from the Great Mall Project as a part of the proposed Amendments (Figure 3.0-3).

Those areas eligible for amendment within Project Area No. 1, referred to as the Amendment Areas, and the Added Area are collectively referred to as the Analysis Area for purposes of this EIR, and are identified on Figure 3.0-4.

SETTING

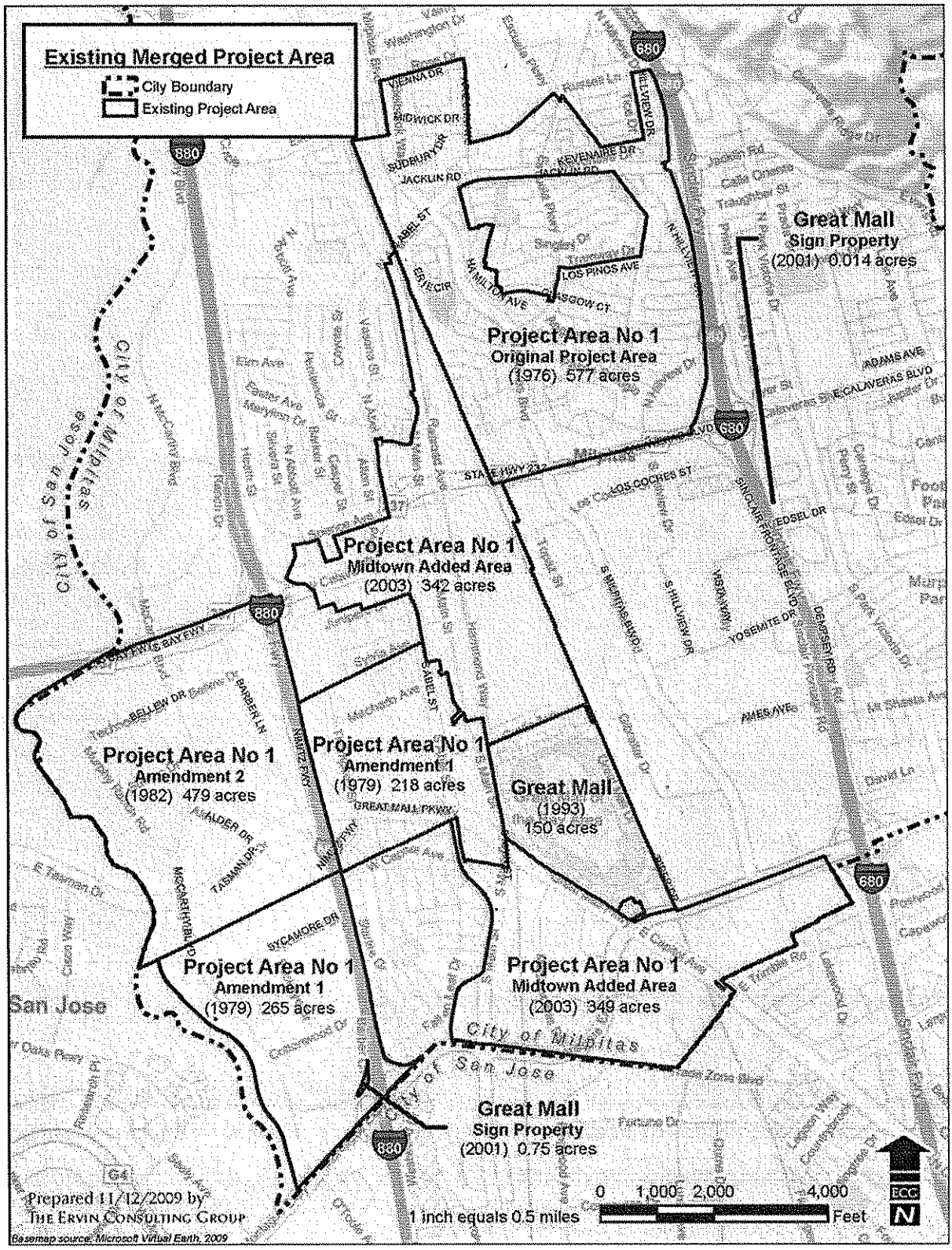
The Milpitas community is located near the southern tip of the San Francisco Bay, north of the City of San Jose. The area is located on the valley floor with no distinguishing scenic features or resources. Primary regional access to the Analysis Area is from I-880, I-680, State Route 237 (SR-237), and Montague Expressway. The area supports light rail transit (LRT) along Tasman Drive/Great Mall Parkway, and the Bay Area Rapid Transit (BART) system is being extended into the area along the UPRR in the near future.

The Analysis Area is a highly urbanized environment largely located between two interstate freeways, with a relatively dense mix of industrial/manufacturing, commercial, and residential land uses. Residential uses are primarily located north of SR-237 and east of I-680. Industrial and manufacturing uses are primarily located south of SR-237 and west of I-680 and I-880. Land uses are transitioning to mixed-use, transit oriented development within many portions of the traditionally industrial areas.



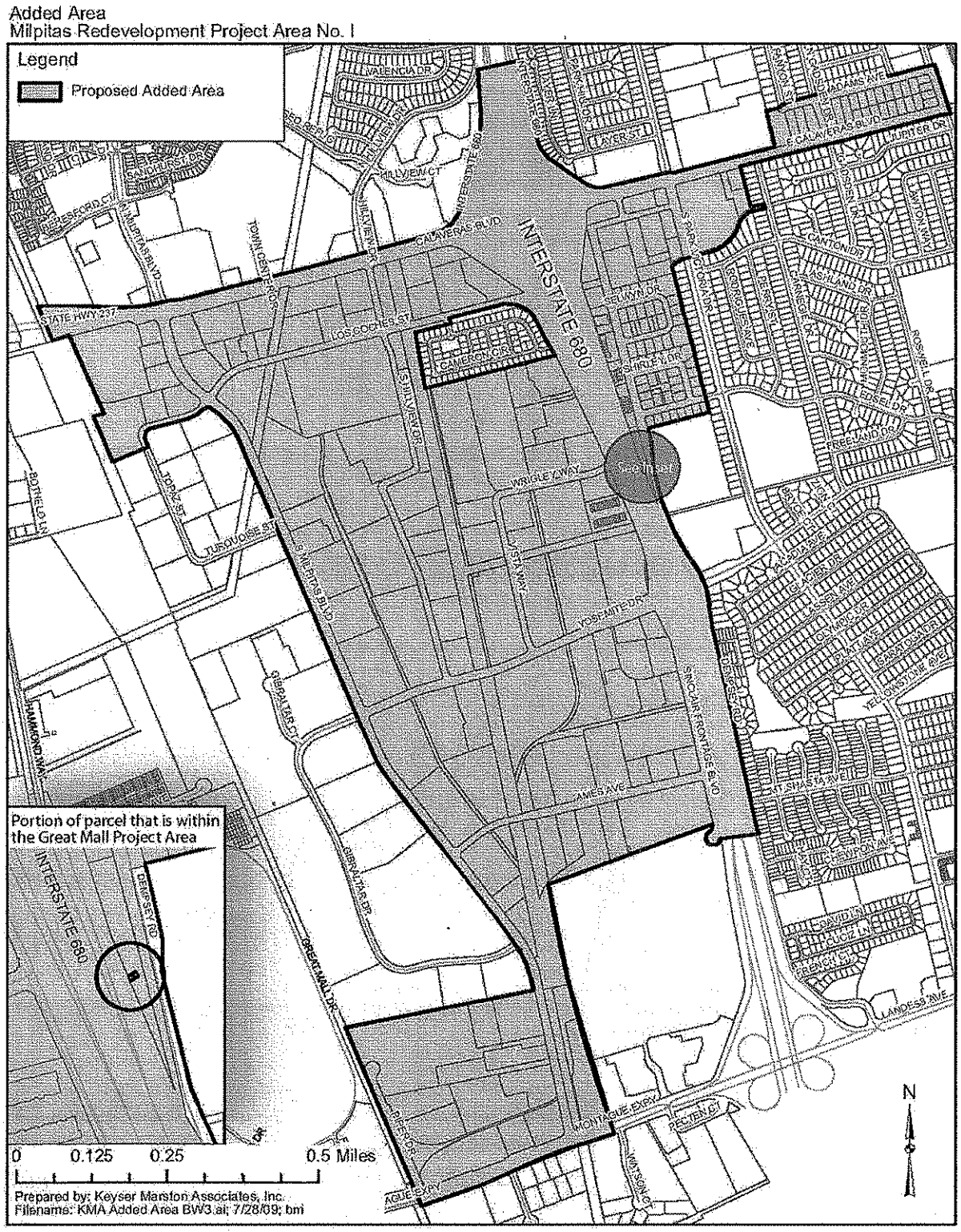
Source: Ervin Consulting Group (2009)
Data: ESRI, Inc. (2009)

FIGURE 3.0-1
PROJECT VICINITY



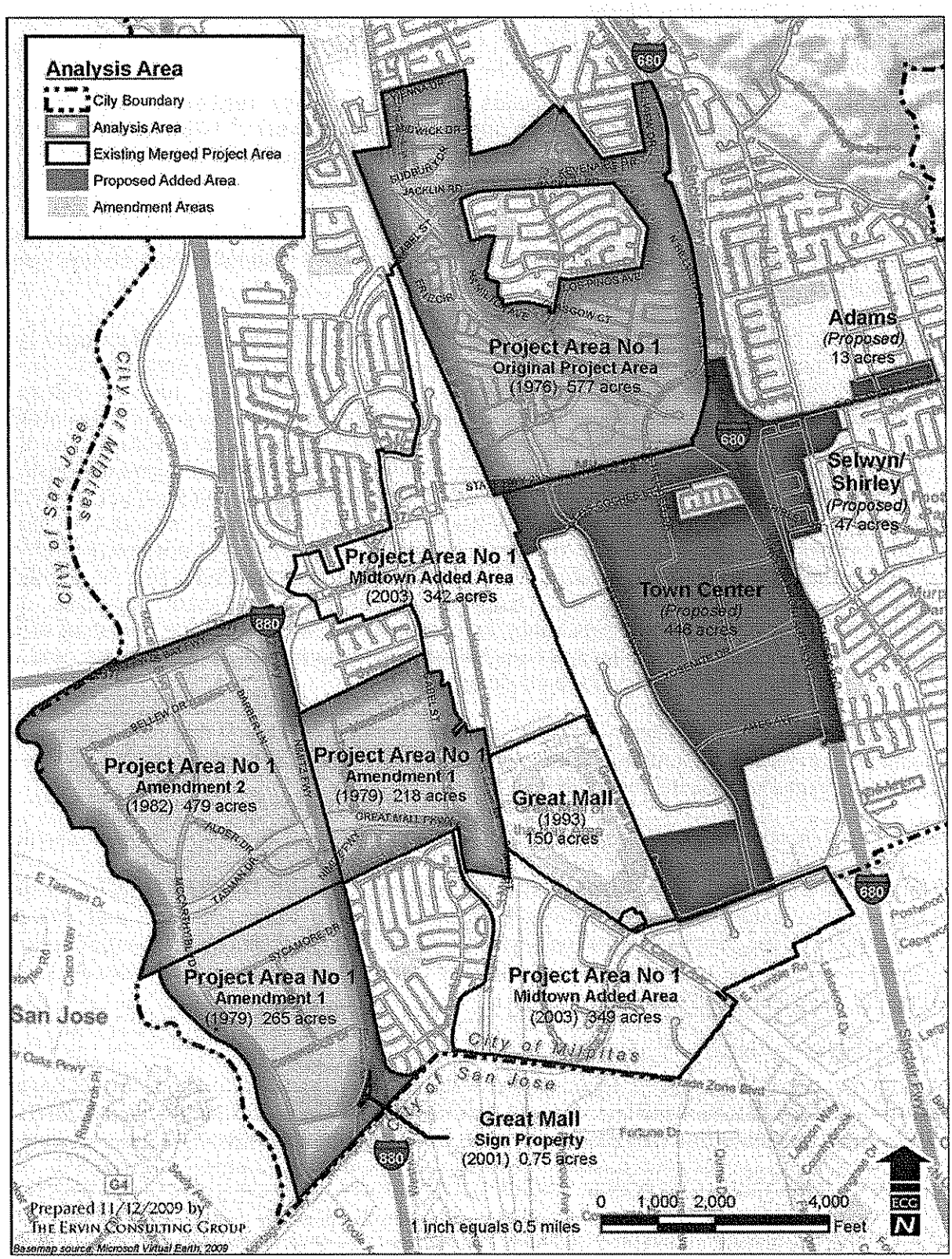
Source: The Ervin Consulting Group (2009)

FIGURE 3.0-2
EXISTING MERGED PROJECT AREA



Source: Keyser Marston Associates, Inc. (2009)

FIGURE 3.0-3
PROPOSED ADDED AREA WITH GREAT MALL PROJECT PROPERTY TO BE INCORPORATED



Source: The Ervin Consulting Group (2009)

FIGURE 3.0-4
ANALYSIS AREA

Conditions of Remaining Blight

Amendment Areas

Land uses within the Amendment Areas are predominantly residential north of SR-237/Calaveras Boulevard, light industrial and manufacturing west of I-880, and the County Elmwood Correctional Facility – located east of I-880 – is surrounded by single- and multi-family housing and retail.

Community and neighborhood shopping is located along major roadways, and includes such uses as retail establishments, automobile services, building materials, and storage yards and facilities.

The primary blighting conditions in the industrial and manufacturing areas include very high vacancy rates, and building obsolescence. Factors present in the Amendment Areas include those hindering the economic viability of buildings and lots, such as industrial manufacturing space that no longer meets contemporary user needs as demand has shifted from manufacturing to research and development space that needs flexible space and substantial window area. Approximately one quarter of the industrial properties include buildings designed for manufacturing purposes with long unencumbered spans and minimal window area, which lack the ability to be easily subdivided for multiple tenants. To make these buildings usable for offices, the space needs to be divided and additional windows added. Also, office uses require more parking than manufacturing uses. In addition, economic decline for retailers and lodging services has increased vacancies and significantly reduced transient occupancy tax revenues for the City. The industrial areas also suffer from abnormally high business vacancies, abnormally low lease rates, and an abnormally high number of abandoned buildings.

The Amendment Areas include industrial uses both present and past that use and/or store hazardous materials. Contributing to blighting conditions are several sites with severe to moderate hazardous waste contamination.

Also, a significant portion of the Amendment Areas is subject to flooding. Three creeks flow through the Amendment Areas east of I-880: Berryessa, Tularcitos, and Calera creeks. Substantial flood control improvements have been made south of Calaveras Boulevard; however, the necessary improvements to prevent flooding have not been made in the Amendment Areas, and over 900 residential units are subject to flooding. Redevelopment assistance is needed to fund the remaining flood control improvements to remove the areas from the 100-year floodplain.

Proposed Added Area

The Added Area consists of approximately 600 acres, two small portions of which are residential. The Adams Area is a small 13-acre residential area near the intersection of East Calaveras Boulevard and Temple Drive. The Selwyn/Shirley Area is a 47-acre residential area, with eight commercial properties, generally along I-680 and Calaveras Boulevard.

Both residential areas are primarily developed with multi-family rental units built in the 1960s. As identified by the City's Building Department, most of the residential buildings are two-story apartments with detached carports that are approximately 45 years old and suffering from deterioration and extensive code violations. The apartment complexes also suffer from overcrowding and have been the site of gang activity. For some time, the two

residential areas have been the focus of City code enforcement for numerous and persistent code violations, proactive planning, and police enforcement.

In total, there are 134 parcels in the residential areas, of which 114 are under separate ownership. Of the 114 parcels between 2002 and 2009, serious violations were cited for 81% of the properties within the Adams Area and 55% within the Selwyn/Shirley Area. In addition, on a per square foot basis the residential properties in these areas are assessed below the Citywide average for similar density multiple-family properties. Between 2004 and 2008, the value of property sales and land values in the areas were lower than Citywide averages for similar density multiple-family sales.

The apartment complexes suffer from serious residential overcrowding that has resulted in significant public health and safety problems. Based on United States Census data for the blocks that encompass the residential areas, over 50% of residents in the Selwyn area and over 33% of residents in the Adams Area live in overcrowded conditions compared to 22% Citywide. These areas also suffer from a high crime rate that constitutes a serious threat to the public safety and welfare, including gang activity and graffiti problems. During the five-year period, there was an average of three crimes per property in the Adams Area and six crimes per property in the Selwyn/Shirley Area, compared to 0.8 crimes per property Citywide. Although Adams has less than one percent (1%) of the population of the City, it has six percent (6%) of the gang related crimes. In the Selwyn/Shirley area the proportion of gang related crimes was even higher at 10% compared to six percent (6%) of the population of the City.

The Selwyn/Shirley Area also contains several commercial properties primarily developed with older neighborhood shopping centers and a motel. Much of the leasable space within the shopping centers is over 30 years old and has not been substantially renovated, although there are two newer strip malls. Lease rates in these areas are low compared to City-wide averages. Several public/quasi-public uses are located along I-680 are also included in the Added Area. These parcels are remnants of the construction of the I-680 and are narrow, irregularly shaped, and several are of inadequate size. One largely vacant, narrow parcel contains the freeway sign that is currently a part of the Great Mall Project Area. The parcels have been included because they are integral to the effective planning of the Selwyn/Shirley Area and the potential redevelopment of these parcels is limited by their narrow width (ranging from approximately 170 feet at the widest point to almost 0 feet), which is evidenced from their transition from their designed use as light industrial buildings to churches and a school.

The Town Center Area consists of 446 acres of industrial/warehouse uses in the Town Center Business Park. This area is located east of the UPRR and mostly east of S. Milpitas Boulevard, south of SR-237, west of I-680, and north of Montague Expressway. Although the Town Center Area is notable for its research and development uses, there are a significant number of manufacturing and warehousing uses in this area. The City has been concerned about the growing number of vacancies in the Town Center Area. There is some perception that the increased vacancies are due in part to the aging industrial building stock, which has become obsolete for contemporary users. As noted in the Redevelopment Feasibility Study, approximately 33% of the Town Center Area is developed with obsolete industrial buildings. The industrial vacancy rate is about 33% higher than in the North San Jose Market Area, and vacant industrial properties in the Town Center Area are on the market for almost twice as long. Industrial property sales data found that the industrial

space sold for significantly less in the Town Center Area, than comparable properties Citywide during the same period.

PROPOSED PROJECT CHARACTERISTICS

Redevelopment plans are intended to provide the Agency with powers, duties, and obligations to implement and further the program generally formulated in a redevelopment plan for the redevelopment, rehabilitation, and revitalization of the project area. A redevelopment plan does not present a specific plan or establish priorities for specific projects for the redevelopment, rehabilitation, and revitalization of any particular area within the project area. Instead, a redevelopment plan presents a process and a basic framework within which specific development plans will be presented, priorities for specific projects will be established, and specific solutions will be proposed, and by which tools are provided to the Agency to fashion, develop, and proceed with such specific plans, projects, and solutions.

PROJECT GOALS AND OBJECTIVES

The goals and objectives of the Amendments include:

- The elimination or alleviation of blighting influences and environmental deficiencies
- The replanning, redesign and/or redevelopment of areas which are stagnant or improperly utilized
- The installation of new or replacement of existing public improvements, facilities, and utilities in areas that are currently inadequately served with regard to such improvements, facilities and utilities
- The provision of opportunities for participation by owners and tenants in the revitalization of their properties
- The development and rehabilitation of housing for low and moderate income persons and families
- The strengthening of the commercial base and the corresponding expansion of employment opportunities

PROJECT COMPONENTS

The Agency proposes the following amendments to the Redevelopment Plan for Project Area No. 1 (collectively referred to as the Thirteenth Amendment):

- Extend by 10 years the effectiveness time limit and time period to repay debt/collect tax increment of the Original Project Area and Amendment Areas No. 1 and 2 (collectively referred to as the Amendment Areas)
- Repeal the debt establishment limit for the Amendment Areas
- Increase the tax increment limit and bonded indebtedness limit and exclude the Midtown Added Area from the tax increment limit
- Add projects and facilities to the list of eligible projects and facilities the Agency may fund

- Reinstate eminent domain over non-residential uses in the Amendment Areas
- Add territory totaling approximately 600 acres (Added Area)
- Make certain technical corrections, revise and update the various text provisions within the Redevelopment Plan to conform to the requirements of the California Community Redevelopment Law (CRL)

Concurrently, the Agency is proposing to amend the Redevelopment Plan for the Great Mall Redevelopment Project (Sixth Amendment) to delete a non-contiguous area developed with a freeway sign (Sixth Amendment Deleted Area). The area identified for deletion is within the area proposed to be added to Project Area No. 1.

Collectively, the Thirteenth Amendment and the Sixth Amendment are referred to as the Amendments.

Time and Financial Limits

The proposed 10-year extensions for duration and time period for collection of tax increment would provide the Agency with additional tax increment revenue from the Amendment Areas. This revenue is needed to fund the completion of the Agency's redevelopment program for blight elimination and the production of affordable housing. For the Amendment Areas, 30% of the gross tax increment would be set-aside to fund affordable housing; the affordable housing can be incorporated in stand-alone residential projects or in mixed-use projects in Project Area No. 1 or anywhere within the City.

Given the severe downturn in the economy, the additional 10 years of Plan effectiveness is also needed to provide time to complete the Agency's projects and programs, which will largely be based upon private sector initiation of the rehabilitation and redevelopment of remaining blighted sites within the Amendment Areas. The additional 10 years will also provide needed time for the Agency to implement an extensive infrastructure improvement program.

The Agency is proposing to repeal the debt establishment limit currently set at January 1, 2014 for the Amendment Areas. By repealing this limit, the Agency will be able to establish debt during the length of the proposed effectiveness period – which includes issuing bonds and entering into agreements that would pledge tax increment revenues, such as a development agreement.

Tax Increment and Bond Debt Limits

It is currently projected that the Agency would reach the tax increment limit several years before the Agency would otherwise be authorized to collect tax increment in the Amendment Areas. To allow the Agency sufficient revenue to fund its redevelopment program for the Amendment Areas, it is proposed that the tax increment limit be increased and that it be made applicable only to the Amendment Areas. Under the CRL, neither the Midtown Added Area nor the Thirteenth Amendment Added Area is required to have a tax increment limit.

The proposed increase in the tax increment limit is necessary to allow the Agency to collect the additional tax increment that would be generated in the 10-year extension period for the Amendment Areas. The bonded indebtedness limit is also proposed to be increased. The increase in this limit is necessary to provide bonding capacity in relationship to the proposed tax increment limit for the Amendment Areas. Furthermore, unlike the tax increment limit,

the bonded indebtedness limit applies to the Midtown Added Area and the proposed Thirteenth Amendment Added Area and needs to be large enough to provide adequate bonding capacity for these areas in addition to the Amendment Areas.

Infrastructure Program

The Redevelopment Plan includes a description of public improvements and facilities that the Agency may install or construct or cause to be installed or constructed. The description of public improvements is being updated and expanded as necessary to reflect the Agency's anticipated public improvement projects and facilities over the remaining effectiveness period of the Redevelopment Plan.

Added Territory

The Agency is proposing to add approximately 600 acres to Project Area No. 1. The proposed Added Area includes the following areas plus approximately 90 acres of public right-of-way:

- ***Town Center Area***
  446 acres of primarily industrial/warehouse uses in the Town Center Business Park
- ***Adams Area***
  A small 13-acre residential area near the intersection of East Calaveras Boulevard and Temple Drive
- ***Selwyn/Shirley Area***
  A small 47-acre residential area with limited commercial generally along I-680 between Calaveras Boulevard and Yosemite Drive, which includes the 0.014 acre sign pole property along I-680 currently included in the Great Mall Project

The Adams and Selwyn/Shirley residential areas are being considered for inclusion in a redevelopment project to continue the City's efforts to alleviate blighting conditions in these areas. The City, exclusive of the Agency, has been working with property owners and managers over several years to alleviate code violations and deter crime, particularly gang activity. Although these efforts produced short-term improvements, these largely residential areas continue to be impacted by blighting conditions. Redevelopment is proposed as another tool to improve these areas.

As a result of a high industrial vacancy rate and aging and obsolete buildings, the Agency is also proposing to include a portion of the Town Center in a redevelopment project. The Agency is proposing to assist in rehabilitating and redeveloping property to meet contemporary user needs thereby reducing vacancies and increasing property values.

Eminent Domain

The Agency proposes to reinstate or establish eminent domain authority within the Amendment Areas and establish eminent domain in the Added Area, excluding properties that are occupied as a residence. Eminent domain will be established for a 12-year period from the date of adoption of the Thirteenth Amendment. Eminent domain may be needed to assemble small and irregularly shaped industrial and commercial sites to accommodate contemporary businesses that will contribute to the elimination of obsolete facilities, high vacancy rates, and low lease rates.

Technical Corrections

The Agency is proposing to make certain technical corrections to the Redevelopment Plan for Project Area No. 1 to update and clarify the provisions of the Redevelopment Plan. The proposed Thirteenth Amendment will be incorporated in a new Amended and Restated Redevelopment Plan that will apply to the Existing Project Area No. 1 and the Added Area.

Sixth Amendment to the Great Mall Project

The Sixth Amendment will amend the legal description of the Great Mall Project to reference the deletion of the freeway sign along I-680. No other amendment is proposed for the Great Mall Project.

The proposed Sixth Amendment is a technical amendment necessary to avoid splitting or dividing a parcel within the proposed Added Area. The area proposed for deletion from the Great Mall Project includes only a freeway sign. The sign is not on a separate parcel but part of a parcel proposed to be included in the Added Area. Rather than try to exclude the sign from the parcel in the Added Area it is proposed to be included as part of the Added Area and deleted from the Great Mall Project.

The Great Mall Project is a non-tax increment generating project. Therefore, there are no financial impacts resulting from the deletion of the sign. The purpose of adding the sign to the Great Mall Project in 2001 was to allow monument and digital message boards to be located along I-680 for purposes of advertising public events and private businesses at the Great Mall. The transfer of the sign to Project Area No. 1 will not affect the use of the sign, but will simplify the adoption process for the Thirteenth Amendment and administration of the Project Area No. 1 by having the sign site coterminous with the surrounding area that is proposed to be added to Project Area No. 1.

PROPOSED PROGRAMS AND ACTIVITIES

Redevelopment tax increment is used to rehabilitate properties, stimulate private business and new development, improve or replace infrastructure, create jobs, and develop and maintain affordable housing. State law requires that at least 20% of the tax increment received by the Agency from the Added Area and 30% from the Amendment Areas be used to increase and preserve the community's supply of housing affordable to low- and moderate-income households.

The redevelopment program needs to be flexible and provide the capability to respond to changes and private sector interest. The strategy to attain the Agency's goals and objectives is to use public investment to attract and stimulate private investment. The Agency uses legal agreements to form public-private partnerships leading to the development of industrial sites, commercial centers, office buildings, and housing. The proposed redevelopment program includes four primary programs, as follows:

1. Transportation and Public Infrastructure Improvements
2. Community and Public Facilities
3. Economic Stimulation
4. Affordable Housing

The programs are designed to address the most significant blighting conditions in the Analysis Area. It is believed that as the most significant blighting conditions are reduced, further private sector investment will occur throughout the Analysis Area leading to further removal of blight. Therefore, the Agency's program of redevelopment will serve as a catalyst to remove blighting conditions and spur the preservation, improvement, creation, and maintenance of affordable housing.

Transportation and Public Infrastructure Improvements Program

This program provides for the improvement, construction, and reconstruction of major public and infrastructure improvements. The goal is to improve the basic infrastructure to entice business development and expansion. Infrastructure improvements, such as street lighting, will also help to deter crime.

In some instances, infrastructure improvements will be site-specific to assist in a proposed development, and in other instances it will be undertaken on a Merged Project Area-wide basis to improve the overall aesthetics of an area and to eliminate a general deficiency that is inhibiting new construction or reinvestment. The construction or installation of infrastructure and circulation improvements will reduce potential costs to property owners and developers and make the Analysis Area more attractive to investment. This will in turn further the development of underutilized properties and properties developed with obsolete structures.

Transportation and Infrastructure improvements programs include projects that will assist with the future development of the Analysis Area including, but not limited to the following:

1) Traffic/Circulation
   a) The construction, reconstruction, widening or other improvement of streets and roadways within or serving the Project Area;
   b) The installation or modernization of traffic signals on streets and roadways within or serving the Project Area;
   c) The realignment or removal of railroad tracks within or serving the Project Area;
   d) The construction, reconstruction or other improvement of curbs, gutters and sidewalks along or adjacent to streets and roadways within or serving the Project Area; and
   e) The installation, construction, reconstruction or other improvement of bridges, over or underpasses, and street medians, as well as bicycle paths, bus shelters and other improvements that facilitate multi-modal public transportation and access to the disabled.
2) Water, Sewer and Flood Control
   The installation, construction, reconstruction or other improvement of water, sewer and storm drainage systems and lines (collection, treatment, and/or delivery) within or serving the Project Area, including the acquisition of new water sources.
3) Parking
   The installation, construction, reconstruction or other improvement of both on-street and surface parking spaces and lots, as well as structured parking facilities, within or serving the Project Area.

4) Streetscape and Street Lighting
The installation of new, or repair or replacement of existing, landscaping and irrigation, street lighting, gateways and other signage, street furniture, trash receptacles, planters, murals and other amenities within or serving the Project Area.

5) Utilities
The installation of new, or repair or replacement of existing, electrical distribution systems, natural gas distribution systems, and cable television and fiber optic communication systems; where feasible, said utilities shall be placed underground.

Further compliance with General Plan, zoning standards, and environmental review may be necessary for these projects as they are identified and funded.

Community Facilities Improvements

This program provides for the repair, rehabilitation, installation, acquisition of land and improvement of parks, open spaces, playgrounds, libraries, community centers, transit facilities and other public buildings and structures that will adequately serve the City's residents. The Agency may fund separately, or in concert with the City, the community facilities improvements. These improvements will assist in improving the overall characteristics of the Analysis Area thereby attracting businesses, development, and patronage and improve the quality of life for the residents of the Analysis Area and the City.

The Community Facilities Improvements Program includes projects that will assist with the future development of the Analysis Area, including but not limited to the following:

1) Parks, Open Spaces and Community Facilities
The installation, construction, reconstruction or other improvement of:

a) Open spaces including parks and trails

b) School, fire, police, and other municipal facilities

c) Libraries

d) Community centers including cultural centers, sports centers, teen centers, community centers, performing arts facilities, and senior centers

Further compliance with General Plan, zoning standards, and environmental review may be necessary for these projects as they are identified and funded.

Economic Stimulation

This program will address serious code violations, structural obsolescence, and other factors hindering economic viability. The Agency will encourage rehabilitation, expansion, and new commercial, industrial, and residential development in the proposed Analysis Area through the Economic Stimulation Program. Under the Economic Stimulation Program, the Agency may assist with land acquisition, site preparation, off-site improvements, disposition of property, and relocation assistance to existing property owners and tenants.

The Agency may provide low interest loans for minor and major structural repair and improvements. This could include activities ranging from façade improvements to site preparation for building expansion. These loans may be available to both tenants and property owners. The Agency also intends to assist in creating additional parking in the

Analysis Area and the removal of toxic waste from sites in the area. In order to enhance the visibility of businesses within the City, the Agency may assist in the construction of digital message board signs along the freeway and way finding signs, which will facilitate and increase the economic vitality of these businesses. This assistance includes coordination between the owners and the City on sign design and approval. Through these improvements, new investment will help to reduce vacancies, increase lease rates, and improve property values. In addition to project financing the Agency may assist in marketing and in the development of vacant and underutilized sites through developer assistance in processing the necessary permits and issuing requests for proposals.

The Agency may also assist owners in obtaining project financing through the identification of available grants and in preparation of the grant application. For example, the Agency may identify available grants from the Environmental Protection Agency (EPA) for hazardous waste cleanup and assist in writing the grant application. This program will provide further incentive for businesses to clean up hazardous waste contamination, business expansion, and business relocation to the Analysis Area.

Housing Program

As required by State law, 20% of the gross tax increment funds received by the Agency from the Added Area must be deposited into a fund that would be used to assist in the production and preservation of low- and moderate-income housing. With the adoption of the proposed Amendments, the Agency will spend 30% of its gross tax increment revenues from the Amendment Areas on affordable housing. The Agency may assist in a variety of programs to develop affordable housing – both inside the Merged Project Area and Citywide.

Production

The Agency can make loans and grants from the Low and Moderate Income Housing Fund to non-profit and for-profit developers for the new construction of affordable housing. Loans can be made on a deferred payment and/or below market interest rate basis.

The Agency can also participate in land acquisition, land cost write-down, developer recruitment, credit enhancement, and other participation to cause affordable housing to be developed. This is normally accomplished after identification of a housing site, development of a housing concept, and issuance of a Request for Proposals for the development of housing. Such affordable housing could be rental or ownership housing. The Agency may also acquire land and directly build housing. In the near-term, the Agency is anticipated to focus its affordable housing efforts specifically on production and private sector assisted development.

Preservation

The Agency may offer low-interest or no-interest loans or grants to assist low- and moderate-income homeowners in making repairs to existing residences. Such repairs could consist of correcting health and safety violations, re-landscaping, and re-painting. This preserves the affordability of the housing and extends its lifespan, as well as improving the neighborhood. Additionally, such programs can be extended to owners of rental properties to make repairs to affordable rental housing. The Agency may also assist in the preservation of affordable housing by working with existing providers of affordable housing to extend the terms of expiring affordable housing contracts. In all cases covenants will be recorded to keep these properties affordable for the time period required by CRL.

Affordability Assistance

These activities can involve direct subsidies to lower the cost of producing housing or first-time homebuyer programs to assist very-low- to moderate-income families with mortgage assistance for the purchase of a home. The agency can provide silent seconds to assist buyers of affordable housing units. The Agency could also make a deferred loan with a low interest rate and equity sharing provisions. When the home is sold, the loan and equity share would be used to help another first-time homebuyer. Senior households in the low- to moderate-income category may also be targeted in such programs.

The above programs will make home ownership housing available to more low- and moderate-income residents in the proposed Analysis Area and Citywide. By making more ownership housing available the tax base for the proposed Analysis Area and Citywide will increase, in turn provide funding for additional housing and non-housing programs, and further creating market support for community retail, thus causing commercial uses to increase. Providing incentives for landlords and homeowners to rehabilitate their properties will increase the value of the surrounding properties and provide an incentive for those not qualified for rehabilitation assistance to also improve their properties.

IMPLEMENTATION PLAN

Since 1994, the CRL has required redevelopment agencies throughout the state to adopt an implementation plan that contains:

- The specific goals and objectives of the Agency for the project area
- The specific programs, including potential projects, and estimated expenditures proposed to be made during the next five years
- An explanation of how the goals and objectives, programs, and expenditures will eliminate blight within the project area
- A description of how the Agency proposes to address housing needs in the project area over the next five- and ten-year period

The Agency has one Implementation Plan for the Merged Project Area. The current Implementation Plan is for the five-year period between fiscal year 2005-2006 through 2009-2010 (July 1, 2005 through June 30, 2010). The Implementation Plan comprises two components, Redevelopment and Housing. The Redevelopment component revisits redevelopment goals and objectives for the two project areas; defines the Agency's strategy to achieve these goals and objectives; presents the projects, programs, and expenditures that have been developed as a means to attain the goals and objectives; and describes how the goals and objectives, projects, programs, and expenditures will eliminate blight within the Merged Project Area.

The activities that implement the housing requirements are contained in the Housing component. The Housing component shows how redevelopment goals and objectives for housing preservation and production will be implemented, as well as how the statutory requirements for the set-aside and expenditure of tax increment for housing purposes will be met.

The Redevelopment Plan effectiveness limit and limit to receive tax increment and repay debt for the Original Project Area will not be reached before 2010. Therefore, the 10-year

extension of these limits will not affect programs or financing during the current Implementation Plan period. No specific expenditures have been approved at this time. Before any expenditures are considered, these projects will be brought to the Agency for approval.

A new Implementation Plan will be prepared for the next five-year period between fiscal year 2010-11 and 2014-15 that will include the Amendments if they are adopted. By state law, the Implementation Plan is not subject to environmental review. Identified projects and programs are assessed as they are proposed for actual design and implementation.

4.0

ALTERNATIVES

Milpitas Redevelopment Amendments

CHAPTER 4

ALTERNATIVES

4.0 ALTERNATIVES

INTRODUCTION

The purpose of this Chapter of the Environmental Impact Report (EIR) is to identify and describe the alternatives to the Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 (Project Area No. 1) and the Sixth Amendment to the Great Mall Redevelopment Project (proposed project or Amendments). Project alternatives are developed to reduce or eliminate the significant or potentially significant adverse environmental effects identified as a result of the Amendments, while still meeting most if not all of the basic project objectives. Alternatives considered various elements of the proposed project, including the proposed change in Project Area No. 1 boundaries (Added Area), and the other amendments identified for the eligible portions of Project Area No. 1 (Amendment Areas).

CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIREMENTS

An EIR must evaluate a reasonable range of alternatives to the proposed project, or to the location of the proposed project, which could feasibly attain most of the basic objectives of the project – but would avoid or substantially lessen any of the significant effects of the project. The EIR must also evaluate the comparative merits of the alternatives (California Environmental Quality Act (CEQA) Guidelines, §15126.6). An EIR need not evaluate the environmental effects of alternatives in the same level of detail as the proposed project, but must include enough information to allow for meaningful evaluation, analysis, and comparison with the proposed project. CEQA provides the following guidelines for discussing alternatives to a proposed project:

> The specific alternative of the "no project" shall also be evaluated along with its impacts... If the environmentally superior alternative is the "no project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives (CEQA Guidelines, §15126.6 subd.(e)(2)).
>
> The discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the proposed objectives, or would be more costly (CEQA Guidelines, §15126.6 subd.(b)).
>
> If an alternative would cause one or more significant effects in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the project as proposed (CEQA Guidelines, §15126.6 subd.(d)).
>
> The range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice.... The range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision making.... An EIR need not consider an alternative whose effect

> cannot be reasonably ascertained and whose implementation is remote and speculative (CEQA Guidelines, §15126.6 subd.(f)).

The requirement that an EIR evaluate alternatives to the proposed project or alternatives that address the location of the proposed project is a broad one; the primary intent of the alternatives analysis is to disclose other ways that the objectives of the project could be attained while reducing the magnitude of, or avoiding, the environmental impacts of the proposed project. Alternatives that are included and evaluated in the EIR must be feasible alternatives. However, the Public Resources Code (PRC) and the CEQA Guidelines direct that the EIR need "set forth only those alternatives necessary to permit a reasoned choice." CEQA Guidelines provide a definition for "a range of reasonable alternatives" and, thus, limit the number and type of alternatives that need to be evaluated in a given EIR. According to the CEQA Guidelines (§15126.6(b)):

> The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project.

Therefore, alternatives in an EIR must be feasible. In the context of CEQA, feasible is defined as "...capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors."

Further, the following factors may be taken into consideration in the assessment of the feasibility of alternatives: site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries, and the ability of the proponent to attain site control (§15126.6(f)(1)). Finally, as noted above, an EIR is not required to analyze alternatives when the effects of the alternative "cannot be reasonably ascertained and whose implementation is remote and speculative (§15126.6(f)(3))."

PROJECT OBJECTIVES

The selection of alternatives takes into account the project objectives provided in the Project Description (Chapter 3). The objectives of the proposed Amendments include:

- The elimination or alleviation of blighting influences and environmental deficiencies
- The replanning, redesign, and/or redevelopment of areas which are stagnant or improperly utilized
- The installation of new or replacement of existing public improvements, facilities, and utilities in areas that are currently inadequately served with regard to such improvements, facilities, and utilities
- The provision of opportunities for participation by owners and tenants in the revitalization of their properties
- The development and rehabilitation of housing for low- and moderate-income persons and families

- The strengthening of the commercial base and the corresponding expansion of employment opportunities

PROJECT-SPECIFIC SIGNIFICANT AND UNAVOIDABLE IMPACTS

As noted above, CEQA Guidelines §15126.6(a) specifies that an EIR shall describe alternatives that "...would avoid or substantially lessen any of the significant effects of the project." The potentially significant and unavoidable environmental impacts of the Amendments identified in the Environmental Analysis (Chapter 6) include:

Impact 6.2-2 Individual redevelopment-assisted development projects could produce operational greenhouse gas emissions that may exceed Bay Area Air Quality Management District significance thresholds and contribute to global climate change. This would be a potentially significant and unavoidable impact.

Impact 6.7-1 Redevelopment activities and development engendered by the Amendments could result in increased traffic on currently impacted roadway segments and intersections where no mitigation is feasible. This would be a potentially significant and unavoidable impact.

Impact 6.7-2 Redevelopment activities and development engendered by the Amendments could result in increased traffic on currently impacted freeway segments where no mitigation is feasible. This would be a potentially significant and unavoidable impact.

CUMULATIVE SIGNIFICANT AND UNAVOIDABLE IMPACTS

The proposed Amendments would not result in any cumulatively significant and unavoidable environmental impacts, as identified and discussed in the Environmental Analysis (Chapter 6).

ALTERNATIVES PREVIOUSLY CONSIDERED AND REJECTED FROM FURTHER CONSIDERATION

CEQA Guidelines §15126.6(c) requires an EIR identify and briefly discuss any alternatives that were considered by the lead agency, the Milpitas Redevelopment Agency (Agency), but were rejected as infeasible during the scoping process. In identifying alternatives, primary consideration was given to alternatives that would reduce significant impacts, while still meeting most of the project objectives. Those alternatives that would have impacts identical to or more severe than the proposed project, or that would not meet most of the project objectives, were rejected from further consideration.

Two alternatives were considered and rejected from further consideration, as summarized below:

- ***Alternative Location***
  CEQA requires that an alternative location for a proposed project be analyzed if one is available that could lessen potential adverse impacts associated with the proposed project. The objective of the Amendments is to extend the Agency's ability to

alleviate identified blight and encourage economic recovery in the Analysis Area[1]. Because of the nature of the Amendments, which is to alleviate blight, remove barriers to development, and encourage economic recovery in areas that have been defined as containing significant blight, there are no other locations that could accommodate the project objectives within the City of Milpitas (City). The Feasibility Study (2009) prepared for the Amendments identified what areas of the City met California Community Redevelopment Law (CRL) definitions of blight, and the boundaries for the Added Area were determined based on legal criteria. Implementation of an alternative location to the proposed Amendments was deemed not feasible, and no alternative location has been considered or evaluated in this EIR.

- ***Alternative Public Improvements***
  During preparation of the Amendments, alternative strategies for redevelopment of the Added Area were considered. Based on field surveys and capital improvement plans for the City, Agency staff evaluated alternative public improvements and facilities to be included in the Amendments. It was determined that the list of proposed public improvements and facilities represented the best mix of general actions, consistent with the goals and objectives of the Amendments, to assist in the redevelopment of the Added Area. The projects have been identified by the City's facility master plans and capital improvement/transportation plans as the actions needed to accommodate the City of Milpitas General Plan (General Plan) build-out and meet City goals and policies in the Added Area. This alternative would not have reduced any of the significant effects of the proposed project. It is for that reason that this EIR does not consider an alternative list of public improvements and facilities.

ALTERNATIVES TO THE PROPOSED PROJECT

NO PROJECT ALTERNATIVE

Under the No Project Alternative, Project Area No. 1 would not be amended to expand the boundaries to include the Added Area, redevelopment powers would not be extended an additional 10 years in the Amendment Areas, and non-residential eminent domain would not be available to the Agency in the Amendment Areas. The proposed public improvements and development assistance that would be provided with redevelopment (such as public infrastructure improvements, industrial, commercial, and residential rehabilitation/ development, and low- and moderate-income housing assistance) would not be implemented with redevelopment funding in the Added Area, and would not be extended in the Amendment Areas for an additional 10 years. Under the No Project Alternative, development in the Analysis Area would occur as defined in the City of Milpitas General Plan (General Plan) at a pace commensurate with prevailing market conditions and infrastructure improvements that the City could implement without the use of redevelopment tools and funding.

Under the No Project Alternative, Agency powers to assemble suitable sites for development and provide assistance would not be available in the Added Area, and would be limited in the Amendment Areas, thus integrated modern projects with greater community

[1] The areas eligible for amendment within Project Area No. 1 are referred to as the Amendment Areas. The Amendment Areas and the Added Area are collectively referred to as the Analysis Area.

benefits would be unlikely to develop due to the conditions noted in the Project Description (Chapter 3). The amount of development would likely be substantially less and consist of less varied uses reflective solely of the limited market demand at a given time. The No Project scenario would be similar to any aged and blighted area, where the area suffers vacant and obsolete industrial buildings, a deteriorating housing stock, and lower property viability and value despite the underlying zoning. The ability for the industrial and commercial areas to compete economically would continue to decline with the increasing age of the buildings. The housing stock in the Added Area would likely continue to deteriorate, and with the adjoining commercial areas would be expected to continue to suffer increased criminal activity and blight.

Environmental Effects

Because general land use types, densities, and intensities that could be developed pursuant to the Amendments could ultimately be developed under this alternative, long-term environmental effects associated with future construction development under the No Project Alternative may be similar to those of the Amendments. However, this alternative would not alleviate conditions of obsolete buildings, infrastructure deficiencies, oddly configured lots, and economic blight in the Analysis Area. The continuation of such conditions makes it unlikely that significant new development would occur in this area under the No Project Alternative.

The existing Redevelopment Plan will terminate in the Amendment Areas in 2014, after which the Agency cannot undertake any new actions, including any new redevelopment projects. Under the No Project Alternative, the Agency would not have sufficient time to complete the Agency's redevelopment program for blight elimination and production of affordable housing given the severe downturn in the economy. No extensive infrastructure improvement program would be implemented by the Agency.

Therefore, although impacts related to new development would be less, such as contributions to traffic congestion, the No Project Alternative would result in the continuation of blight and blighting influences throughout the Analysis Area. Planned development in accordance with the General Plan may be prevented or may occur at a significantly slower rate, especially in the Specific Plan areas that require parcel consolidation and infrastructure construction to create modern, pedestrian oriented development. Combined with less funding for bringing existing buildings up to current green building energy standards, this may result in an increase in greenhouse gas (GHG) emissions under No Project conditions. Blighting conditions, including factors hindering the economically viable use of lots, lots of irregular form and shape and inadequate size that are under multiple ownership, depreciated property values, vacant parcels and business vacancies, serious building code violations, high frequency of litter and debris violations, crime, and unsafe/unhealthy buildings would remain in the area. Because of these blighting conditions, the Analysis Area could be expected to continue declining, with physical deterioration, vacancies, and building code violation occurrences increasing.

Seven sites within the Amendment Areas and thirteen sites within the Added Area were identified as having moderate to severe contamination issues. Under the No Project Alternative, the Agency would be precluded from or limited in its ability to use the Polanco Act or tax increment to assist in the remediation of such properties, and these contaminated properties may continue to lack the funds and/or incentives necessary for appropriate cleanup. The lack of or insufficient funding could also cause the delay of or inability to

rehabilitate existing structures that may contain asbestos and lead based paint. Long-term exposure to contamination or ongoing contamination of groundwater would continue rather than being remediated through redevelopment activities. Hazards and hazardous materials impacts would be worse under this alternative compared to the Amendments.

The lack of or insufficient funding to construct necessary street improvements and provide incentives for new development would likely result in the delay of or inability to develop some of the planned mixed-use development in the Analysis Area. A lower level of new pedestrian and transit oriented infill development could result, in the short-term, in somewhat less construction and traffic air emissions within the Analysis Area. However, the inability to consolidate parcels, remediate contamination, and construct new development would also tend to push housing demand outside the urban core, as infill remains too expensive, with a resulting increase in traffic congestion, cumulative air emissions, and GHG emissions. Regional air quality would be worse under this alternative compared to the Amendments.

Mitigation That Would No Longer Be Required

None of the mitigation measures identified in this EIR would be required under the No Project Alternative. However, health and safety impacts could increase over time, and long-term cumulative traffic, air quality, and GHG problems could increase as population demand is met in unconstrained agricultural land rather than urban infill.

Significant and Unavoidable Impacts That Would No Longer Occur

The significant and unavoidable impacts identified in the EIR were potential project specific GHG emissions that could exceed Bay Area Air Quality Management District (BAAQMD) thresholds, and project-specific street and freeway congestion due to development engendered by redevelopment. These would not be anticipated to occur as development is stagnant in the Analysis Area. However, cumulative traffic impacts could be significant if planned transit-oriented development is unable to proceed in infill areas due to physical and economic barriers.

Relationship of the No Project Alternative to the Project Objectives

The No Project Alternative would not achieve any of the project objectives. Without redevelopment assistance, development under this alternative may occur haphazardly on smaller sites under ministerial building permits. Street improvements, drainage and other infrastructure improvements, community facilities, code enforcement, rehabilitation of housing, affordable housing, and economic development projects would not be funded to the extent that these are anticipated to be funded in the Analysis Area as a result of the Amendments. Conditions in the Analysis Area would continue to deteriorate. The potential for integrated projects of substantial size suitable for new development would be limited, and blighting conditions and influences are likely to remain. Therefore, this alternative would not achieve the key project objectives.

NO ADDED AREA – ALTERNATIVE MEANS OF REVITALIZATION WITH PUBLIC FUNDS

The No Added Area - Alternative Means of Revitalization with Public Funds (No Added Area Alternative) would amend the time and financial limits for the Amendment Areas, but would not increase the boundaries of the Existing Project Area by approximately 600 acres. This alternative considers utilization of public revenue sources other than tax increment financing

to fund public improvements and other actions in the Added Area. Federal, state, county, and city programs exist that may initiate some development without the need for redevelopment tax increment financing. These sources of alternative funding typically include mortgage revenue bonds, Community Development Block Grant funds (CDBG), Economic Development Administration funds, state and federal Transportation Grants, Urban Development Action funds, and revenue bonds. Some of the potential funding sources are capped each year for the City, such as CDBG funds; many of these funds require applications and competition and cannot be relied upon to be available consistently over the next 30 years. Any such funds used in the Added Area are funds unavailable to alleviate blight in other parts of the City.

If consistently available, these alternative-funding mechanisms could eliminate blight and encourage some development within the Added Area. However, these programs do not carry with them the powers of a redevelopment agency to assemble parcels for more modern development patterns or to use the Polanco Act to remediate contaminated properties, which could restrict the development potential of the Added Area and limit the scope and scale of development and rehabilitation. Reduced levels of available funding for infrastructure improvements, economic development programs, and housing could slow the pace of improvements, leaving the Added Area blighted and unable to achieve the property values required to allow development to occur without public assistance.

Environmental Effects

Since these alternative-funding mechanisms could encourage some development in the Added Area, impacts associated with such development could be similar but not as extensive as those anticipated under General Plan build-out. Less redevelopment is anticipated to occur with the limitations in the funding sources and the large number of contaminated parcels and buildings with code violations. Development could also be delayed by inconsistent funding. Within the Added Area, this could result in reduced project-specific air and GHG emissions, less traffic added to local intersections and street segments, less construction noise, fewer cultural resources potentially disturbed, and a reduced demand on public services such as water and sewer compared to the Amendments.

Thirteen sites within the Added Area were identified as having moderate to severe contamination issues. Under the No Added Area Alternative, the City would not use the Polanco Act or tax increment to assist in the remediation of such properties, and these contaminated properties may continue to lack the funds and/or incentives necessary for appropriate cleanup. The lack of or insufficient funding could also cause the delay of or inability to rehabilitate existing structures that may contain asbestos and lead based paint. Long-term exposure to contamination or ongoing contamination of groundwater may continue rather than be remediated through redevelopment activities. Hazards and hazardous materials impacts would be worse under this alternative compared to the Amendments.

The lack of or insufficient funding to construct necessary street improvements and provide incentives for new development may result in the delay of or inability to develop some of the planned transit-oriented mixed-use development in the southern portion of the Added Area. A lower level of new pedestrian and transit oriented infill development could result, in the short-term, in less construction noise, less traffic congestion on local street segments and intersections, and lower air emissions within the Added Area. However, the inability to

consolidate parcels, remediate contamination, and construct new development would also tend to push housing demand outside the urban core as infill remains too expensive, with a resulting increase in cumulative traffic congestion, air emissions and GHG emissions. Older buildings lacking funding to upgrade to green building standards would contribute to cumulative GHG emissions. Regional air quality, GHG emissions, and traffic congestion could be worse under this alternative compared to the Amendments.

Mitigation That Would No Longer Be Required

All of the mitigation measures identified in this EIR would still be required under the No Added Area Alternative. As development is engendered in the Amendment Areas for an additional 10 years, similar impacts related to short-term air emissions, diesel particulate matter (DPM) exposure, GHG emissions, archaeological and paleontological resources, exposure to contamination, and construction noise would occur in the Amendment Areas and require similar mitigation. These projects would continue to need mitigation on a project-by-project basis.

Significant and Unavoidable Impacts That Would No Longer Occur

All of the significant and unavoidable impacts identified in this EIR would still occur under the No Added Area Alternative.

Relationship of the No Added Area - Alternative Means of Revitalization with Public Funds to the Project Objectives

If consistently and continually available, with a focused effort by the City, these alternative-funding mechanisms could achieve the key objectives of the Amendments for the Added Area.

However, the City has many demands on its available grants and other economic development and affordable housing resources, and shifting these funds to the Added Area would have to compete with the City's need to reduce blight in other parts of the City. Each of these alternative sources of funds also has its own unique limitations on use – such as application requirements, eligibility, and funding priorities. Both the City and the Santa Clara County (County) also have limited influence over the funding programs operated by other agencies. Thus, the continued availability of outside sources of funding cannot be guaranteed through the decades for which the Amendments could provide a steady source of public funding.

If outside funding mechanisms are relied upon and those funds are no longer available, the necessary public improvements and other actions needed to alleviate blighting conditions in the Added Area may not be undertaken. The City has been using other sources of funds to work with property owners and managers over several years to alleviate code violations and deter crime, particularly gang activity in the Added Area. Although these efforts produced short-term improvements, the residential areas continue to be impacted by blighting conditions. The Amendments require 20% of tax increment to be set aside for the development and improvement of affordable housing in the Added Area. Outside sources of funding may not provide comparable provision for this public need. In addition, limited sources of funding are available to assist in rehabilitating and redeveloping industrial and commercial property to meet contemporary user needs, thereby reducing vacancies and increasing property values. Abnormally low lease rates and stagnant and depreciated property values indicated by low property sales underscore that the physical blighting

conditions are affecting the viability of the properties in these areas, and City resources to alter these conditions have been insufficient.

Due to the uncertainty of available funding for necessary public improvements and other blight removal actions and lack of a specific affordable housing provision, the achievement of the Amendments' goals could not be ensured. Therefore, this Alternative, although feasible, is considered unlikely to achieve the key project objectives.

ENVIRONMENTALLY SUPERIOR ALTERNATIVE

CEQA Guidelines (§15126.6[a] and [e][2]) require that an EIR's analysis of alternatives identify the "environmentally superior alternative" among all of those considered. An alternative would be considered superior to the proposed project if there is a reduction in impact classification. In cases where the impact resulting from an alternative is in the same class as for the proposed project, differences in severity of the impact have been analyzed.

Redevelopment plans are unique in that they are specifically designed to mitigate conditions of blight where other tools available to local jurisdictions have failed. CEQA, as well as its subsequent case law, does not give direction for determining the environmentally superior alternative when the proposed project in and of itself is effectively a mitigation measure for some adverse physical condition. For this situation, this EIR draws guidance from the National Environmental Policy Act (NEPA) consideration of a proposed project as one of the project alternatives, and from California State agency practice to define the proposed project as the environmentally superior alternative when it most effectively mitigates the existing adverse conditions on a project site or area.

The implementation activities identified as a part of the Amendments are intended to mitigate existing problems and to remove barriers to planned development within the Analysis Area. The Amendments provide the means to eliminate physical and economic blight in the Added Area, extend redevelopment tools and financing in the Amendment Areas for an additional 10 years and thereby stimulate and encourage the revitalization, reuse, and new development of Analysis Area properties. Therefore, there is no environmentally superior alternative to the Amendments. The No Project Alternative leaves the existing blight in place and provides no new mitigation. The No Added Area Alternative would preclude the use of redevelopment tools to eliminate blight in the Added Area, where existing City and County efforts have proven to be insufficient to resolve the area's crime, substandard building, hazardous materials contamination, and vacancy problems. Under the Amendments, the following beneficial impacts will occur:

- Hazardous materials contamination will be remediated.
- Dangerous/vacant buildings will be removed or rehabilitated and reused with improved energy efficiency.
- Inadequate water, sewer, and drainage infrastructure may be upgraded.
- Circulation and pedestrian safety will be improved.
- Infill pedestrian- and transit-oriented development and building rehabilitation to higher energy standards will be facilitated for long-term reductions in GHG emissions.

Project-specific impacts for development engendered by redevelopment can be mitigated to less-than-significant levels except for operational GHG emissions that contribute to global climate change, and project-specific additions to existing traffic level of service (LOS) problems. These impacts would be the same under the Alternatives. Because of the unique nature and purpose of redevelopment, and the requirements of where it can be applied, implementation of the Amendments will have an overall beneficial impact on the Analysis Area, and is therefore the environmentally superior alternative.

5.0

LAND USE AND PLANNING

Milpitas Redevelopment Amendments

CHAPTER 5

LAND USE & PLANNING

5.0 LAND USE AND PLANNING

This Chapter of the Environmental Impact Report (EIR) is intended to provide the reader with information regarding current City of Milpitas (City) land use and zoning designations and land use policies for the Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 and the Sixth Amendment to the Great Mall Redevelopment Plan (proposed project or Amendments). This discussion differs from other discussions in that plan consistencies are addressed as opposed to environmental impacts and mitigation measures. Section 15125(d) of the California Environmental Quality Act (CEQA) Guidelines states that "(t)he EIR shall discuss any inconsistencies between the proposed project and applicable general plans and regional plans." This chapter also looks at whether redevelopment activities consistent with the City of Milpitas General Plan (General Plan) would encourage land uses and densities that would be incompatible with adjacent land uses. Physical environmental impacts that could result from the proposed project or from inconsistencies with adopted policies designed to reduce physical effects are discussed in subsequent chapters in this document.

EXISTING CONDITIONS

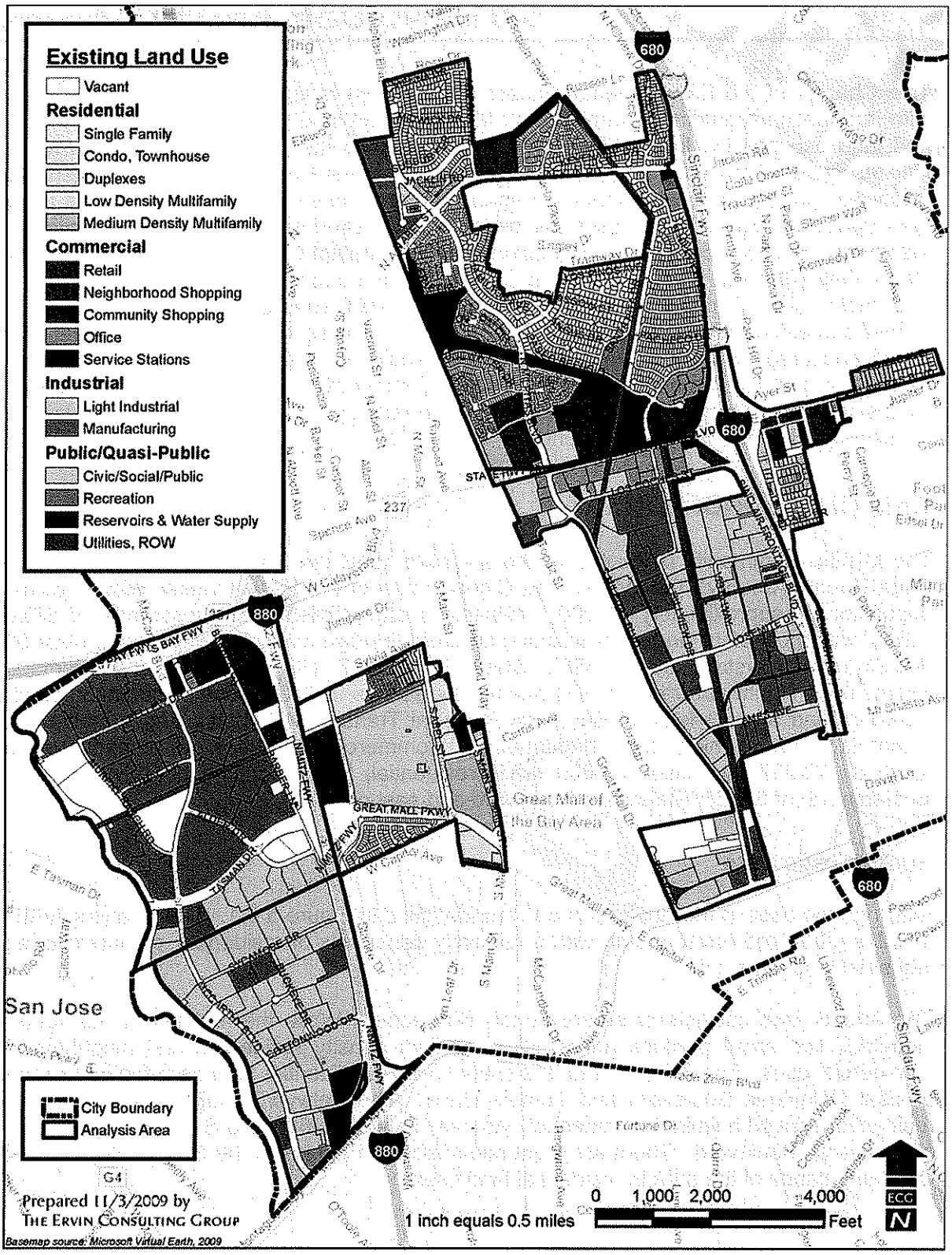
The Milpitas community is located at the southern tip of the San Francisco Bay in Santa Clara County (County), California. The City is a part of the Silicon Valley, with a resident population of approximately 71,000. Milpitas is often called the "Crossroads of Silicon Valley" with most of its land situated along and between two major freeways – Interstate 880 (I-880) and Interstate 680 (I-680), State Route 237 (SR-237), and the Montague Expressway. Light rail transit (LRT) opened for service in 2004 along Tasman/Great Mall Parkway, and an extension of Bay Area Regional Transit (BART) including a multi-modal station is in the planning stage. Industrial and commercial land uses are primarily located south of SR-237 and west of I-680, while residential, local shopping and civic uses are located north of SR-237/Calaveras Boulevard and east of I-680.

EXISTING LAND USES

Existing land uses in the Analysis Area[1] are identified in Figure 5.0-1. The Analysis Area is a highly urbanized environment, with a relatively dense mix of residential, commercial, and industrial land uses.

The Added Area consists of approximately 600 acres. While the majority of this area is industrial, two small portions are existing medium density residential and neighborhood commercial uses. The Adams Area is a small 13-acre residential area near the intersection of East Calaveras Boulevard and Temple Drive. The Selwyn/Shirley Area is a 47-acre residential area with limited commercial generally between I-680 and S. Park Victoria south of Calaveras Boulevard. There are eight commercial properties in the Selwyn/Shirley Area, with the balance of the area in residential land uses.

[1] The areas eligible for amendment within Project Area No. 1 are referred to as the Amendment Areas. The Amendment Areas and the Added Area are collectively referred to as the Analysis Area.



Source: The Ervin Consulting Group (2009)
Santa Clara County Assessor (2009)
ECG Visual Survey (2009)

FIGURE 5.0-1
EXISTING LAND USES IN THE ANALYSIS AREA

There are also several public/quasi public uses located just east of I-680 and south of Calaveras Boulevard included in the Added Area. These parcels have been included because they are integral to the effective planning of the Selwyn/Shirley Area and the potential redevelopment of these parcels is limited by their narrow width (ranging from approximately 170 feet at the widest point to almost 0 feet), which is evidenced from their transition from their designed use as light industrial buildings to churches and a school.

The Town Center Area consists of 436 acres of industrial/warehouse uses in the Town Center Business Park. This area is located roughly east of the Union Pacific Rail Line (UPRR), south of Calaveras Boulevard, west of I-680, and north of Montague Expressway. Although the Town Center Area is notable for its research and development uses, there are a significant number of manufacturing and warehousing uses in this area.

The Analysis Area overlaps small portions of two Specific Plans: the Transit Area Specific Plan (TASP) in the southwest corner of the Added Area, and the Milpitas Midtown Specific Plan (Midtown Specific Plan) on and around the Elmwood Correctional Facility. While land uses in most of the City are stable, the Specific Plan areas are in transition from trucking and industrial uses to mixed uses, including offices, high-tech industry, high-density housing, and retail. These Specific Plans, adopted in 2002 and 2008, respectively, promote the construction of high-density housing on former commercial and industrial sites near light rail stations and the future BART station.

GENERAL PLAN LAND USES

The General Plan sets basic land use policies for the City. As such, it establishes the basic public policy structure for future land use and designates development patterns for the Analysis Area, amongst other policy issues, as further discussed below. The Analysis Area is predominantly designated industrial/manufacturing, residential, and commercial. The General Plan land use designations for the Analysis Area are identified in Figure 5.0-2.

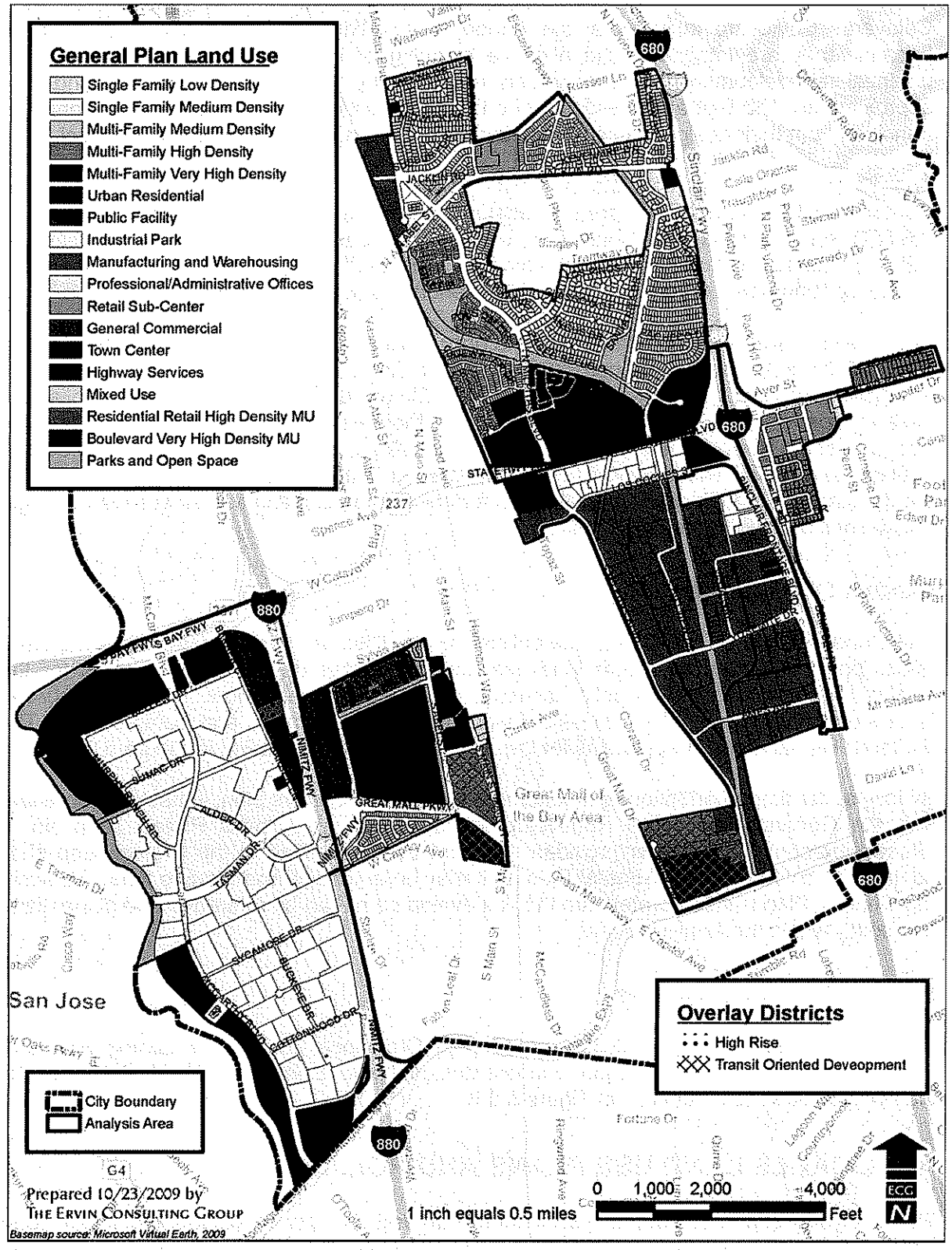
By law, at the time of adoption or amendment of a redevelopment plan, it must be consistent with the General Plan. The Redevelopment Plan for the Milpitas Project Area No. 1 (Redevelopment Plan) further provides that land uses permitted in the Project Area shall continue to conform to the General Plan as it may be amended from time to time. As such, the General Plan is incorporated into the Redevelopment Plan by reference and guides land use policy within the Analysis Area.

EXISTING ZONING DESIGNATIONS

The City of Milpitas Zoning Ordinance (Zoning Ordinance) includes a Zoning Map that generally reflects the General Plan land use designations. Existing zoning designations for the Analysis Area are identified in Figure 5.0-3.

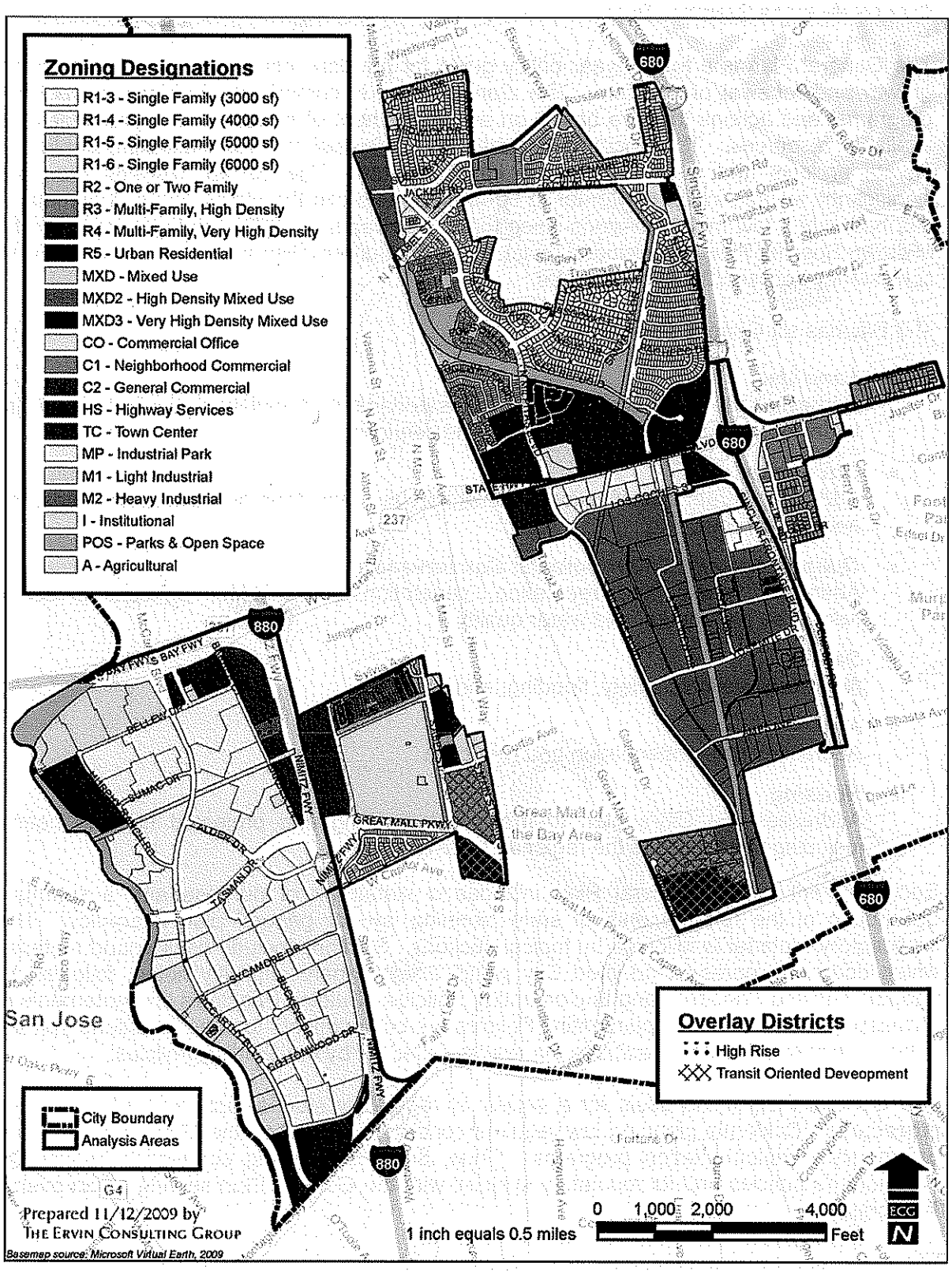
APPLICABLE LAND USE PLANS AND POLICIES

The Analysis Area is subject to the General Plan and the City of Milpitas Municipal Code (Municipal Code). In addition, the City has adopted several strategies for implementing the General Plan. The land use designations and policies of each of these documents are discussed below.



Source: The Ervin Consulting Group (2009)
Data: City of Milpitas (2009)

FIGURE 5.0-2
GENERAL PLAN LAND USES



Source: The Ervin Consulting Group, 2009;
Data: City of Milpitas, 2009

FIGURE 5.0-3
ZONING

CITY OF MILPITAS GENERAL PLAN

The General Plan is a twenty-year policy guide for physical, economic, and environmental growth and renewal of the City. The General Plan is comprised of objectives, policies, programs, and actions that are based on an assessment of current and future needs and available resources. The document is the City's principal tool for evaluating public and private projects and municipal service improvements. The current General Plan was significantly revised in 1994 in order to update and improve the clarity of the document. It has had only a few minor revisions since then. The January 2002 update incorporated the Midtown Specific Plan and included revisions to the General Plan land use map and text for consistency between these documents.

The City has six General Plan elements:

- ***Land Use***
  Addresses the distribution of land uses, standards for population density and building intensity, schools, and public utilities and services
- ***Circulation***
  Addresses street classifications, transit service, pedestrian and bicyclists needs, rail, and truck routes
- ***Open Space and Environmental Conservation***
  Addresses parks and recreation, vegetation and wildlife, agriculture, scenic resources and routes, and water quality
- ***Safety***
  Addresses seismic safety, flooding, and fire
- ***Noise***
  Addresses noise attenuation and reduction
- ***Housing***
  Addresses the City's plan to meet their existing and projected housing needs, including their share of the regional housing need

Each element of the General Plan includes a statement of purpose and a summary description of the requirements of state planning law for general plan adequacy. This introductory material is followed by topical sections. Sections include background material, which does not represent adopted City policy except where explicitly noted, followed by adopted Guiding Principles and Implementing Policies. Guiding Principles are statements of philosophy or intent, and Implementing Policies are commitments to specific actions that are to be undertaken in order to achieve the results called for by the Guiding Policies.

The General Plan is the basis for a variety of regulatory mechanisms and administrative procedures. California planning law requires consistency between the General Plan and a community's implementation programs. Thus, there is a strong connection between a community's policies and its regulatory system, with the General Plan serving as an overall "blueprint."

The goals and policies contained in the General Plan are directly associated with specific implementation measures including the Zoning Ordinance, subdivision regulations, the Capital Improvements Program (CIP), and development review processes. Implementing Policies are provided for each policy area. Implementing Policies related to specific policies

include a variety of monitoring efforts. This monitoring activity will help the City measure the success of the General Plan and its implementation. Redevelopment is specifically called out as a part of the General Plan's Implementing Policies (City of Milpitas, 1994).

City of Milpitas General Plan Housing Element

In accordance with California State Law, California cities must have an adopted General Plan and the General Plan must contain a Housing Element. While all elements of a General Plan are reviewed and revised regularly to ensure that the plan remains current, state law requires that the Housing Element be updated every five years. State law also dictates the issues that the Housing Element must address and furthermore requires the element to be reviewed by the California Department of Housing and Community Development (HCD) to assure that it meets the minimum requirements established by Government Code §65580-65589.8. This process is commonly referred to as "certifying" the Housing Element.

The major requirement for the Housing Element is that it requires cities to plan to meet their existing and projected housing needs, including their share of the regional housing need. The Association of Bay Area Governments (ABAG) recently completed the Regional Housing Needs Allocation (RHNA). As part of this process, ABAG worked with regional and local governments to develop a methodology for distributing the nine-county Bay Area's housing need (as determined by HCD) to all local governments in the region. Each city and county has received an allocation of housing units, broken down by income categories. Cities and counties must identify adequate sites zoned at adequate densities to meet this housing allocation, also referred to as the RHNA numbers. The planning period for this version of the Housing Element is 2009-2014. In response to the allocations, each city and county in the Bay Area was required to review, update, and adopt its Housing Element by June 30, 2009.

The City Council approved an updated Housing Element in June and submitted the element to HCD for review and certification. HCD has since commented and the City responded to those comments.

Since 2002, the City has actively planned for the types of housing that HCD encourages. The Midtown and Transit Specific Plan areas have and will continue to provide numerous housing sites at relatively high densities, thus Milpitas is in a good position to comply with the Housing Element requirements (City of Milpitas, 2002c).

CITY OF MILPITAS ZONING ORDINANCE

The Municipal Code, Title XI, Chapter 10, contains the Zoning Ordinance (City of Milpitas, 1954). Zoning is a local jurisdictional land use control that regulates the type and nature of development. Zoning ordinances regulate specific development characteristics, such as building height, bulk, use, lot coverage, and parking requirements. The Zoning Ordinance carries out the policies of the General Plan by classifying and regulating the uses of land and structures within the City, consistent with the General Plan. The purposes of the Zoning Ordinance are to:

- Encourage the most appropriate use of land throughout the City

- Stabilize and conserve the value of property to provide adequate light, air and reasonable access
- Secure safety from fire and other dangers
- Prevent overcrowding of land
- Avoid undue concentration of population
- Facilitate the adequate provision for transportation, water, sewerage, schools, parks and other public improvements
- Promote the public health, safety, peace, morals, comfort and welfare, all in accordance with a comprehensive Zoning Ordinance and Master Plan

SPECIFIC PLANS

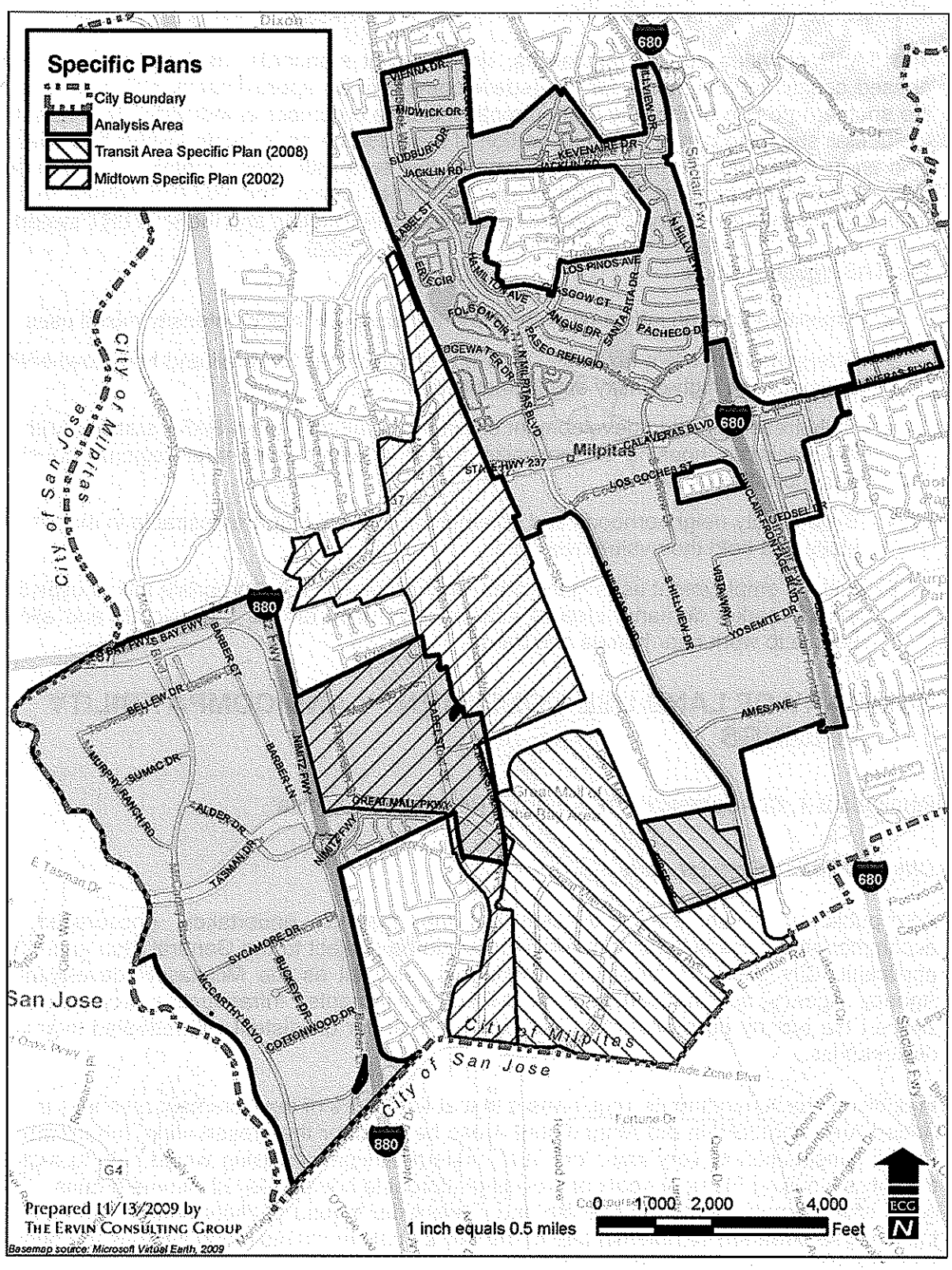
The Analysis Area overlaps small portions of two Specific Plans, the Midtown Specific Plan and the TASP, as specified on Figure 5.0-4.

Milpitas Midtown Specific Plan

The Midtown Specific Plan provides zoning regulations, development standards, design guidelines, and phased capital improvements for approximately 589 acres (recently revised to exclude the portion now governed by the TASP), a portion of which is in the Amendment Areas. This Specific Plan promotes a transition of existing industrial uses to transit oriented mixed-use development, including housing, reinvestment in the Great Mall shopping center, extension of the Santa Clara Valley Transportation Authority's (VTA's) Tasman East LRT line, and extension of BART through the area as part of the San Jose extension. Rather than responding to development proposals on a site-by-site basis, the City adopted the specific plan process in order to look comprehensively at the planning area and provide a cohesive vision for the area.

The goals of the Land Use Element are to:

- Encourage a compatible mixture of residential, retail, office, service-oriented commercial and industrial uses within Midtown Milpitas.
- Provide for a significant component of new housing within the area in order to: improve the vitality of the Midtown Area; address local and regional housing needs; and reinforce the use of transit.
- Promote an intensity of development in Midtown that is appropriate to its central location.
- Provide for a land use mix that supports major transit facilities.



Source: The Ervin Consulting Group, 2009;
Data: City of Milpitas, 2009

FIGURE 5.0-4
SPECIFIC PLANS WITHIN THE ANALYSIS AREA

Milpitas Transit Area Specific Plan

The TASP provides zoning regulations, development standards, design guidelines, and phased capital improvements for the redevelopment of an approximately 437-acre area in the southern portion of the City that currently includes a number of industrial uses near the Great Mall shopping center. A small portion of the Added Area is located within this specific plan area. The land use plan would redevelop this area with approximately 7,109 dwelling units, 993,843 square feet of office space, 340 hotel rooms, and 287,075 square feet of retail space centered around the proposed Milpitas BART station and the VTA LRT system.

The TASP goals include:

- Transition from an industrial area to one that supports higher intensity mixed uses.
- Strengthen the city's tax base – provide opportunities for retail and hotel, ownership housing, and high-density employment uses.
- Build transit-oriented development around light rail and future BART stations, with an emphasis on housing to maximize transit ridership and meet regional housing/ transportation goals.
- Build quality neighborhoods and commercial districts that are desirable in the market place and hold their value over time.
- Include employment uses in the area, so that there is an appropriate mix of uses that meets market demand, creates a balance of uses for the City overall, and allows people to work near homes and transit.

SUMMARY OF LAND USE CONSISTENCY AND COMPATIBILITY FINDINGS

FINDING 5.0-1 CONSISTENCY WITH ADOPTED PLANS AND POLICIES

City of Milpitas General Plan

Any public or private sector development that may be undertaken, encouraged, or accommodated by redevelopment activities would be subject to the General Plan and other applicable City plans, policies, and ordinances, as well as the Milpitas Redevelopment Agency (Agency) and the Redevelopment Plan requirements. Infrastructure projects would support the orderly development of the City in a manner consistent with adopted land use designations.

In addition, the Amendments' requirement that at least 20% of tax increment revenues in the Added Area and 30% in the Amendment Areas be used for the preservation, rehabilitation, and/or construction of very low-, low- and moderate-income housing would help to further the City's Housing Element goals of providing affordable housing for all income groups. The goals of the Amendments to eliminate and prevent the spread of blight and deterioration in the Analysis Area are complementary to the City's goals to maintain and improve the quality and character of residential neighborhoods.

Redevelopment is an integral part of the General Plan Implementing Policies. The Implementing Policy for Economic Development 2.a-I-8, states "Establish redevelopment

projects to secure funds that can be used to attract commercial, industrial, and residential development in order to eliminate blight and improve an area." Further, the Implementing Policy for Town Center 2.a-I-21, states "Require development in the Town Center to conform to the adopted design principles/requirements of the Milpitas Redevelopment Agency." In addition, the Housing Element relies heavily on the availability of redevelopment tax increment revenues to assist in funding infill residential housing in the City.

The Redevelopment Plan for Project Area No. 1 requires ongoing consistency with and serves to implement the General Plan. Therefore, the Amendments are ***consistent*** with the General Plan policies and serve as an implementation mechanism for the General Plan.

City of Milpitas Zoning Ordinance

The Amendments do not propose land use or zoning changes, and any public improvements that would occur as a result of the Amendments must be consistent with the Zoning Ordinance. At present, the intensity of land uses in the Analysis Area is below the maximum intensity allowed under the Zoning Ordinance, and many existing land uses are inconsistent with the adopted zoning. Private investment over the life of the Amendments is expected to result in an intensification of existing uses and in the creation of different types of land uses on parcels where the interim uses do not conform to the current Zoning Ordinance designations. This shift to conforming uses would be ***consistent*** with the Zoning Ordinance.

Milpitas Midtown Specific Plan

Some of the existing land uses in the Midtown Specific Plan area are considered transitional, and generally inconsistent with adopted land use designations. The area currently experiences barriers to development for designated uses from inadequate infrastructure, substandard design, and defective or obsolete design or construction. The Amendments could provide funding assistance for infrastructure improvements and development assistance for this portion of the Analysis Area, consistent with adopted land use designations. Therefore, the Amendments would be ***consistent*** with the goals and objectives of the Midtown Specific Plan.

Milpitas Transit Area Specific Plan

Some of the existing land uses in the TASP area are considered transitional, and generally inconsistent with the adopted land use designations. The area currently experiences barriers to development for designated uses from inadequate infrastructure, substandard design, and defective or obsolete design or construction. The Amendments could provide funding assistance for infrastructure improvements and development assistance for this portion of the Analysis Area, consistent with adopted land use designations. Therefore, the Amendments would be ***consistent*** with the goals and objectives of the TASP.

FINDING 5.0-2 COMPATIBILITY OF LAND USES

City of Milpitas General Plan

Any public or private sector development that may be undertaken, encouraged, or accommodated by redevelopment activities would be subject to the General Plan and other applicable City plans, policies, and ordinances, as well as the Amendments and Agency requirements.

Implementation of the Amendments would somewhat alter and intensify development of the Analysis Area. Private investment over the life of the Amendments is expected to result in an intensification of existing uses and in the creation of different types of land uses on parcels where the interim uses do not conform to the General Plan and zoning designations. This shift to conforming uses would result in land uses ***compatible*** with adjacent uses and the policies of the City.

City of Milpitas Zoning Ordinance

The Amendments do not propose new land uses or zoning changes, and any public improvements that would occur as a result of the Amendments must be consistent with the Zoning Ordinance. At present, the intensity of some land uses in the Analysis Area is below the maximum intensity allowed under the existing Zoning Ordinance, and many existing land uses do not meet current development standards. Private investment over the life of the Amendments is expected to result in an intensification of existing uses and in the creation of different types of land uses on parcels where the interim uses do not conform to the current Zoning Ordinance designations. This shift to conforming uses would result in land uses ***compatible*** with adjacent uses, and the improvement of properties up to current codes and standards.

Milpitas Midtown Specific Plan

The Amendments do not propose new land uses or zoning changes, and any public improvements that would occur as a result of the Amendments must be consistent with the Midtown Specific Plan where applicable. At present, the portion of the Analysis Area located within the Midtown Specific Plan has nearly completed redevelopment, although the area still retains some older uses that are non-conforming uses. Private investment over the life of the Amendments is expected to result in replacement of the existing uses with new development consistent with the Midtown Specific Plan. Planned residential and commercial uses engendered by the Amendments would be compatible with existing residential and commercial uses, as the area develops over time. This shift to conforming uses would result in land uses that are ***compatible*** with adjacent uses.

Milpitas Transit Area Specific Plan

The Amendments do not propose new land uses or zoning changes, and any public improvements that would occur as a result of the Amendments must be consistent with the TASP where applicable. At present, the area retains some older land uses that are non-conforming uses. Private investment over the life of the Amendments is expected to result in replacement of the existing uses with new development consistent with the TASP.

Planned high-density residential and mixed-uses engendered by the Amendments would be generally compatible with the proposed transit uses and existing manufacturing uses. Existing nuisance issues, such as noise from interim uses, would be mitigated on a project-by-project basis, as appropriate to the site conditions. This shift to conforming uses that meet current code requirements would result in land uses that are generally ***compatible*** with adjacent uses.

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6.0

INTRODUCTION TO THE ANALYSIS

Milpitas Redevelopment Amendments

CHAPTER 6

ENVIRONMENTAL ANALYSIS

6.0 INTRODUCTION TO THE ANALYSIS

This Chapter of the Environmental Impact Report (EIR) contains individual subchapters that describe the potential physical and environmental impacts of the Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 and the Sixth Amendment to the Great Mall Redevelopment Project (proposed project or Amendments). Each subchapter describes the existing setting and background information necessary to help the reader understand the conditions that would cause an impact to occur. In addition, each subchapter includes a section that describes how an impact is determined to be significant or less than significant. Finally, the individual subchapters recommend mitigation measures to reduce significant impacts.

APPROACH TO THE ANALYSIS

This EIR analyzes the potential environmental impacts of the proposed Amendments. The Amendments would add territory to the Milpitas Project Area No. 1 and thus the application of redevelopment tools in this Added Area needs to be assessed. In addition, the Amendments would extend redevelopment powers in eligible portions of Project Area No. 1, collectively called the Amendment Areas, for an additional 10 years beyond that originally anticipated. Therefore, this EIR analyzes the potential impacts of redevelopment implementation in both the Amendment Areas and the Added Area, collectively referred to as the Analysis Area, over the amended life of the Redevelopment Plan.

SCOPE OF THE ENVIRONMENTAL IMPACT REPORT

The Initial Study (Appendix A) prepared for the Amendments identified several areas that required further analysis. These areas are discussed in Subchapters 6.1 through 6.7 of this EIR and include:

6.1 Air Quality
6.2 Climate Change
6.3 Cultural and Historic Resources
6.4 Hazards and Hazardous Materials
6.5 Noise
6.6 Public Services and Utilities
6.7 Transportation and Circulation

Several issues are addressed in the Initial Study but are not discussed in this EIR. These include:

- Aesthetics
- Agricultural Resources
- Biological Resources
- Geology and Seismicity
- Hydrology and Water Quality
- Mineral Resources
- Population and Housing
- Recreation

These issues were eliminated from detailed analysis in the EIR for one of three reasons: 1) existing regulations will ensure that any impacts will be reduced to a less-than-significant level, 2) the issue is a social or economic issue and not a physical environmental impact, or 3) the issue does not apply to the project evaluated in this Draft EIR. The Initial Study

documents the justification for considering issues potentially significant or less-than-significant. Please refer to the Initial Study for a discussion of why these issues were identified as less-than-significant and are therefore not evaluated further in this EIR.

FORMAT OF THE ENVIRONMENTAL ANALYSIS

Each analysis chapter is organized to discuss the environmental setting, regulatory setting, project impact, method of analysis, standards of significance, and mitigation measures, as discussed below. References are consolidated in Chapter 8.

EXISTING CONDITIONS

According to Section 15125 of the California Environmental Quality Act (CEQA) Guidelines, an EIR must include a description of the existing physical environmental conditions in the vicinity of the proposed project to provide the baseline condition against which project-related impacts are compared. Normally, the baseline condition is the physical condition that exists when the Notice of Preparation (NOP) is published, although CEQA Guidelines recognize that the date for establishing an environmental baseline cannot be rigid. The NOP was published on September 9, 2009. Because physical environmental conditions may vary over a range of time periods, the use of environmental baselines that differ from the date of the NOP is reasonable and appropriate when doing so results in a more accurate or conservative environmental analysis.

For analytical purposes, impacts associated with implementation of the proposed project are derived from two fundamental components of the existing baseline environmental setting – existing conditions at the time the NOP was published and conditions that are anticipated to exist at build-out of the City of Milpitas General Plan (General Plan). It is appropriate to evaluate project-level impacts against the conditions that exist when the NOP was published for most issue areas. For issue areas either directly or indirectly related to infrastructure, project-level impacts are more conservatively analyzed against future baseline conditions that consider General Plan and approved growth, because improvements (e.g., roadway widenings, intersection improvements, wastewater distribution and conveyance, solid waste disposal, water supply, electricity, and natural gas supplies) must consider and accommodate ultimate demand.

REGULATORY SETTING

The Regulatory Setting provides a summary of federal, state, and local regulations, plans, policies, and laws that are relevant to each issue area.

IMPACTS AND MITIGATION MEASURES

This section is further divided into the following subsections, as described below.

Method of Analysis

This subsection identifies the methodology used in that subchapter to analyze potential environmental impacts.

Standards of Significance

The CEQA Guidelines define a significant effect on the environment as "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic and aesthetic significance" (CEQA Guidelines Section 15382). Definitions of significance vary with the physical conditions affected and the setting in which the change occurs. CEQA Guidelines set forth physical impacts that trigger the requirement to make mandatory findings of significance (CEQA Guidelines, Section 15091). This EIR identifies specific standards of significance for all environmental issues.

Where explicit quantification of significance is identified, such as a violation of an ambient air quality standard, this quantity is used to assess the level of significance of a particular impact in this EIR. For less easily quantifiable impacts, events or occurrences that would be regarded as significant or potentially significant were identified. For example, growth-inducing impacts would be identified as significant if the project results in a level, rate, or character of growth that (among other criteria) exceeds the capacity of existing infrastructure and services. Where the substantial effect of an impact is not identified in the CEQA Guidelines, the criteria for evaluating the significance of potential impacts were determined and identified in this document.

PROJECT-SPECIFIC IMPACTS AND MITIGATION MEASURES

This section describes the potential environmental impacts of the Amendments and, based upon the thresholds of significance, concludes whether the project specific environmental impacts would be considered significant, potentially significant, or less than significant. Each impact is summarized in an impact statement, followed by a more detailed discussion of the potential impacts and the significance of each impact before mitigation.

Each impact is provided as a summary block prior to the impact discussion to allow for easy reference. The impact number consists of the subchapter of the EIR in which that impact is identified followed by a hyphen to indicate the number of the impact in that subchapter. For example, Impact 6.1-1 is the first impact identified in Subchapter 6.1.

The analysis of environmental impacts considers both the construction and operational phases associated with implementation of the proposed project. As required by CEQA Guidelines Section 15126.2(a), direct, indirect, short-term, long-term, on-site, and/or off-site impacts are addressed, as appropriate, for the environmental issue area being analyzed.

A significant effect is defined by Section 15382 of the CEQA Guidelines as "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment... [but] may be considered in determining whether the physical change is significant."

The Draft EIR uses the following terms to describe the level of significance of impacts identified during the course of the environmental analysis:

- ***Significant and Unavoidable Impact (SU)***
  Impact that exceeds the defined threshold(s) of significance and cannot be eliminated or reduced to a less-than-significant level through the implementation of feasible mitigation measures.
- ***Significant Impact (S)***
  Impact that exceeds the defined threshold(s) of significance. For purposes of this document, pre-mitigation impacts that exceed the defined threshold(s) of significance are referred to as significant; however, when the impacts cannot be eliminated or reduced to a less-than-significant level through the implementation of feasible mitigation measures, these impacts are referred to as significant and unavoidable.
- ***Potentially Significant Impact (PS)***
  Impact that potentially exceeds the defined threshold(s) of significance. For purposes of this document, pre-mitigation impacts that potentially exceed the defined threshold(s) of significance are referred to as potentially significant; however, when the impacts cannot be eliminated or reduced to a less-than-significant level through the implementation of feasible mitigation measures, these impacts are referred to as significant and unavoidable.
- ***Less-Than-Significant Impact (LS)***
  Impact that does not exceed the defined threshold(s) of significance. This term is used for impacts for which mitigation measure(s) identified can reduce a pre-mitigation impact to a less-than-significant level. In many instances, the actions that are necessary to reduce a project impact are already required by local, state, or federal law and whereas compliance with the law is assumed, the impact is therefore considered less than significant.

CUMULATIVE IMPACTS AND MITIGATION MEASURES

This section describes the potential cumulatively significant environmental impacts of the Amendments in combination with other proposed projects and future development in the vicinity. As described for project specific impacts above, potential impacts are measured against thresholds of significance, and the analysis concludes whether the cumulative environmental impacts would be considered significant, potentially significant, or less than significant. Each cumulative impact is summarized in an impact statement, followed by a more detailed discussion of the potential impacts and the significance of each impact before mitigation.

Mitigation Measures

This subsection is provided for both project specific and cumulative impacts, and provides feasible mitigation measures that could reduce the severity of the identified impact. In addition to feasible mitigation measures, it is assumed that a future project applicant would also continue to comply with all applicable local, state, and federal laws and regulations, and these laws and regulations are considered to be part of the project description. In many instances, the actions that are necessary to reduce a project impact are already required by local, state, or federal law. Similarly, established design guidelines or other requirements that the City regularly recognizes and follows for development projects are also considered

part of the project description. In this EIR, such requirements are identified and considered in the impact assessment prior to the identification of additional mitigation measures that would reduce the level of significance of impacts.

Significance after Mitigation

Following the description of applicable policies and regulations, as well as mitigation measures for any significant impact, each impact section concludes with a statement regarding whether or not the impact – following implementation of the mitigation measure(s) and/or the continuation of existing policies and regulations – would be reduced to a less-than-significant level or would remain significant and unavoidable.

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6.1

AIR QUALITY

Milpitas Redevelopment Amendments

CHAPTER 6

ENVIRONMENTAL ANALYSIS

6.1 AIR QUALITY

This Subchapter of the Environmental Impact Report (EIR) describes the air quality setting of the proposed Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 and the Sixth Amendment to the Great Mall Redevelopment Project (proposed project or Amendments). This Subchapter addresses the impacts of the proposed Amendments on ambient air quality and the exposure of people, especially sensitive individuals, to unhealthful pollutant concentrations, including the type and quantity of emissions that would be generated by construction and operation or redevelopment engendered activities. Updated information on existing conditions in the proposed Analysis Area was collected from the Bay Area Air Quality Management District (BAAQMD) and the California Air Resources Board (CARB). Although many greenhouse gas (GHG) emissions are regulated by the CARB, climate change is discussed in Subchapter 6.2, Climate Change.

There were no comments received on the Notice of Preparation (NOP) regarding air quality issues.

ENVIRONMENTAL SETTING

CLIMATE AND METEOROLOGY

Climate and air quality are determined by the geographic location, topography, and urbanization of an area. This section describes pertinent characteristics of the air basin and provides an overview of the physical conditions affecting pollutant dispersion in the Analysis Area[1].

The City of Milpitas (City) lies within the Bay Area Air Basin (BAAB). The BAAB encompasses the nine-county region including all of Alameda, Contra Costa, Santa Clara, San Francisco, San Mateo, Marin and Napa counties, and the southern portions of Solano and Sonoma counties. The City is located within the Santa Clara Valley (Valley) sub-region of the BAAB, bounded by the San Francisco Bay to the north and by mountains to the east, south, and west.

Climate

The BAAB's climate is Mediterranean in character, with mild, rainy winter weather from November through March and warm to hot, dry weather from May through September. The BAAB's climate is determined largely by a high-pressure system that is almost always present over the eastern Pacific Ocean off the west coast of North America. During winter, the Pacific high-pressure system shifts southward, allowing storms to pass through the region.

Temperatures in the Valley are warm on summer days and cool on summer nights, and winter temperatures are fairly mild. At the northern end of the valley, mean maximum temperatures are in the low 80s during the summer and the high 50s during the winter, and

[1] The areas eligible for amendment within Project Area No. 1 are referred to as the Amendment Areas. The Amendment Areas and the Added Area are collectively referred to as the Analysis Area.

mean minimum temperatures range from the high 50s in the summer to the low 40s in the winter. Further inland, where the moderating effect of the bay is not as strong, temperature extremes are greater.

Winds in the Valley are greatly influenced by the terrain, resulting in a prevailing flow that roughly parallels the Valley's northwest-southeast axis. A north-northwesterly sea breeze flows through the Valley during the afternoon and early evening, and a light south-southeasterly drainage flow occurs during the late evening and early morning. In the summer the southern end of the valley sometimes becomes a "convergence zone," when air flowing from the Monterey Bay gets channeled northward into the southern end of the Valley and meets with the prevailing north-northwesterly winds.

Wind speeds are greatest in the spring and summer and weakest in the fall and winter. Nighttime and early morning hours frequently have calm winds in all seasons, while summer afternoons and evenings are quite breezy. Strong winds are rare and are mostly associated with the occasional winter storm.

Meteorological Influences on Air Quality

The air pollution potential of the Valley is high. High summer temperatures, stable air, and mountains surrounding the valley combine to promote ozone formation. In addition to the many local sources of pollution, ozone (O_3) precursors from San Francisco, San Mateo, and Alameda counties are carried by prevailing winds to the Valley. The Valley tends to channel pollutants to the southeast. In addition, on summer days with low level inversions, O_3 can be recirculated by southerly drainage flows in the late evening and early morning and by the prevailing northwesterlies in the afternoon. A similar recirculation pattern occurs in the winter, affecting levels of carbon monoxide (CO) and particulate matter (PM). This movement of the air up and down the valley increases the impact of the pollutants significantly.

Pollution sources are plentiful and complex in this subregion. The Valley has a high concentration of industry at the northern end, in the Silicon Valley. Some of these industries are sources of air toxics and criteria pollutants. In addition, the Valley's large population and many work-site destinations generate the highest mobile source emissions of any sub-region in the Bay Area.

CRITERIA AIR POLLUTANTS

Air Pollution is a general term that refers to one or more chemical substances that degrade the quality of the atmosphere. Individual air pollutants may adversely affect human or animal health, reduce visibility, damage property, and reduce the productivity or vigor of crops and natural vegetation.

Seven air pollutants have been identified by the US Environmental Protection Agency (EPA) as being of concern nationwide: CO; O_3; Nitrogen Dioxide (NO_2); particulate matter sized 10 microns or less (PM_{10}), also called respirable particulate and suspended particulate; fine particulate matter equal to or less than 2.5 microns in size ($PM_{2.5}$); sulfur dioxide (SO_2); and lead (Pb). These pollutants are collectively referred to as criteria pollutants. The sources of these pollutants, their effects on human health and the nation's welfare, and their final deposition in the atmosphere vary considerably.

Carbon Monoxide (CO)

CO is a colorless and odorless gas which, in the urban environment, is associated primarily with the incomplete combustion of fossil fuels in motor vehicles. Relatively high concentrations are typically found near crowded intersections and along heavily used roadways carrying slow-moving traffic. Even under the severest meteorological and traffic conditions, high concentrations of CO are limited to locations within a relatively short distance (300 to 600 feet) of heavily traveled roadways. Overall CO emissions are decreasing as a result of the Federal Motor Vehicle Control Program, which has mandated increasingly lower emission levels for vehicles manufactured since 1973. CO concentrations are typically higher in winter. As a result, California has required the use of oxygenated gasoline in the winter months to reduce CO emissions.

Ozone (O_3)

O_3 is the principal component of smog, and is formed in the atmosphere through a series of reactions involving reactive organic gases (ROG) and NO_X in the presence of sunlight. ROG and NO_X are called precursors of O_3. NO_X includes various combinations of nitrogen and oxygen, including NO, NO_2, NO_3, etc. O_3 is a principal cause of lung and eye irritation in the urban environment. Significant O_3 concentrations are normally produced only in the summer, when atmospheric inversions are greatest and temperatures are high. ROG and NO_X emissions are both considered critical in O_3 formation. Control strategies for O_3 have focused on reducing emissions from vehicles, industrial processes using solvents and coatings, and consumer products.

Nitrogen Dioxide (NO_2)

NO_2 is a product of combustion, and is generated in vehicles and in stationary sources, such as power plants and boilers. NO_2 can cause lung damage. As noted above, NO_2 is part of the NO_X family, and is a principal contributor to O_3 and smog.

Respirable Particulate Matter (PM_{10})

Particulate matter (PM) includes both liquid and solid particles of a wide range of sizes and composition. Larger particles are generally filtered in the nose and throat and do not cause problems, but particulate matter smaller than about 10 micrometers (µm), referred to as PM_{10}, can settle in the bronchi and lungs and cause health problems. While some PM_{10} comes from automobile exhaust, the principal source in Santa Clara County (County) is dust from the action of vehicle wheels on paved and unpaved roads during warm spring and summer months. The second most common source is from the indoor and outdoor burning of wood for heat or brush removal during the winter months. PM_{10} can cause increased respiratory disease, lung damage, and premature death. Control of PM_{10} is through the control of dust at construction sites, the cleaning of paved roads, and the wetting or paving of frequently used unpaved roads.

Fine Particulate Matter ($PM_{2.5}$)

$PM_{2.5}$ represents particles less than 2.5 µm in aerodynamic diameter. The sources, health effects, and control of $PM_{2.5}$ are similar to those of PM_{10}. In 1997, the EPA determined that the health effects of $PM_{2.5}$ were severe enough to warrant an additional standard. In

particular, a study published in the Journal of the American Medical Association indicates that $PM_{2.5}$ leads to high plaque deposits in arteries, causing vascular inflammation and atherosclerosis – a hardening of the arteries that reduces elasticity, which can lead to heart attacks and other cardiovascular problems (Pope et al., 2002). Researchers suggest that even short-term exposure at elevated concentrations could significantly contribute to heart disease. The BAAQMD started testing for this constituent in 1998 (CARB, 2009a).

Sulfur Dioxide (SO_2)

SO_2 is a combustion product, with the primary source being power plants and heavy industry that use coal or oil as fuel. SO_2 is also a product of diesel engine combustion. The health effects of SO_2 include lung disease and breathing problems for asthmatics. SO_2 in the atmosphere contributes to the formation of acid rain. In the BAAB, there is relatively little use of coal and oil, and SO_2 is of lesser concern than in many other parts of the country.

Lead (Pb)

Lead is a stable compound which persists and accumulates both in the environment and in animals. The lead used in gasoline anti-knock additives represented a major source of lead emissions to the atmosphere. However, lead emissions have significantly decreased due to the near elimination of the use of leaded gasoline.

TOXIC AIR CONTAMINANTS

In addition to the criteria air pollutants, another group of airborne substances – called Toxic Air Contaminants (TACs) – is known to be highly hazardous to health, even in small quantities. TACs are airborne substances capable of causing short-term (acute) and/or long-term (chronic or carcinogenic) adverse human health effects (injury or illness).

TACs are classified as non-criteria pollutants, because no ambient air quality standards (AAQS) have been established for them. The effects of these substances are very diverse and their health impacts tend to be local rather than regional.

TACs can be emitted from a variety of common sources – including gasoline stations, automobiles, dry cleaners, industrial operations, and painting operations. Natural source emissions include windblown dust and wildfires. Farms, construction-sites, and residential areas can also contribute to toxic air emissions. The CARB has also recently identified diesel particulate matter (DPM) as a TAC.

The CARB has determined that any source that poses a risk to the general population that is equal to or greater than 10 people out of 1 million contracting cancer as excessive. When estimating this risk, it is assumed that an individual is exposed to the maximum concentration of any given TAC continuously for 70 years.

The CARB has conducted studies to determine the total cancer inhalation risk to individuals due to outdoor toxic pollutant levels. According to the map prepared by the CARB showing the estimated inhalation cancer risk for TACs in the State of California, the Analysis Area is located in an area with an existing estimated risk that is less than 250 cancer cases per one million people (CARB, 2009b). This represents the lifetime risk that less than 250 people in one million may contract cancer from inhalation of toxic compounds at current ambient

concentrations. While TACs are produced by many different sources, the largest contributor to inhalation cancer risk in California is DPM.

DPM is emitted into the air via heavy-duty diesel trucks, construction equipment, and passenger cars. According to the CARB's Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles, the existing average statewide potential cancer risk from DPM is over 500 potential cancer cases per one million people (CARB, 2000).

REGULATORY SETTING

Air quality in the Analysis Area is regulated by several jurisdictions including the EPA, the CARB, and the BAAQMD. Each jurisdiction develops rules, regulations, policies, and/or goals to attain the goals or directives imposed upon them through legislation. Although EPA regulations may not be superseded, both state and local regulations may be more stringent.

Local air quality management districts (AQMDs) have been given authority by the state to manage their own stationary source emissions. The CARB requires that local AQMDs develop their own strategies for achieving compliance with the National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS), but maintains regulatory authority over these strategies, as well as all mobile source emissions throughout the state.

The AAQS define clean air. Specifically, the AAQS establish the concentration above which a pollutant is known to cause adverse health effects to sensitive groups within the population, such as children and the elderly. The amount of pollutants released and the atmosphere's ability to transport and dilute the pollutants affect a given pollutant's concentration in the atmosphere. Factors affecting transport and dilution include terrain, wind, atmospheric stability, and – for photochemical pollutants – sunlight.

The NAAQS and CAAQS for criteria pollutants and other regulated air pollutants are shown in Table 6.1-1. Table 6.1-2 lists the health effects associated with these pollutants.

FEDERAL

The Federal Clean Air Act

The Federal Clean Air Act (CAA) (42 USC. §§ 7401-7671q) requires the adoption of NAAQS to protect the public health and welfare from the effects of air pollution. Pollutants subject to the NAAQS are the criteria pollutants, as discussed above.

California Clean Air Act

CARB is responsible for enforcing the California Clean Air Act (CCAA) of 1988 (26 California Health and Safety Code §10000 et seq.), which established the CAAQS for criteria pollutants – as well as additional state standards for sulfates, hydrogen sulfide, vinyl chloride, and visibility reducing particles. These CAAQS are generally more restrictive than the NAAQS.

TABLE 6.1-1
NATIONAL AND CALIFORNIA AMBIENT AIR QUALITY STANDARDS

Pollutant	Averaging Time	California Standards[a]	Federal Standards[b]	
		Concentration[c]	Primary[c,d]	Secondary[c,e]
Ozone (O_3)	1 Hour	0.09 ppm (180 µg/m^3)	--	Same as Primary Standard
	8 Hour	0.070 ppm (137 µg/m^3)	0.075 ppm (147 µg/m^3)[5]	
Respirable Particulate Matter (PM_{10})	24 Hour	50 µg/m^3	150 µg/m^3	Same as Primary Standard
	Annual Arithmetic Mean	20 µg/m^3	--	
Fine Particulate Matter ($PM_{2.5}$)	24 Hour	No separate state standard	35 µg/m^3	Same as Primary Standard
	Annual Arithmetic Mean	12 µg/m^3	15 µg/m^3	
Carbon Monoxide (CO)	8 Hour	9.0 ppm (10 mg/m^3)	9 ppm (10 mg/m^3)	None
	1 Hour	20 ppm (23 mg/m^3)	35 ppm (40 mg/m^3)	
Nitrogen Dioxide (NO_2)	Annual Arithmetic Mean	0.030 ppm (56 µg/m3)	0.053 ppm (100 µg/m^3)	Same as Primary Standard
	1 Hour	0.18 ppm (339 µg/m3)	-	
Sulfur Dioxide (SO_2)	Annual Arithmetic Mean	-	0.030 ppm (80 µg/m^3)	-
	24 Hour	0.04 ppm (105 µg/m^3)	0.14 ppm (365 µg/m^3)	-
	3 Hour	-	-	0.5 ppm (1300 µg/m^3)
	1 Hour	0.25 ppm (655 µg/m^3)	-	-
Lead (Pb)[f]	30 Day Average	1.5 µg/m^3	-	-
	Calendar Quarter	-	1.5 µg/m^3	Same as Primary Standard
	Rolling 3-Month Average[g]	-	1.5 µg/m^3	
Visibility Reducing Particles	8 Hour	Extinction coefficient of 0.23 per kilometer – visibility within 10 miles or more due to particles when the relative humidity is less than 70 percent. Method: Beta Attenuation and Transmittance through Filter Tape	No Federal Standards	
Sulfates (SO_4)	24 Hour	25 µg/m^3		
Hydrogen Sulfide	1 Hour	0.03 ppm (42 µg/m^3)		
Vinyl Chloride[f]	24 Hour	0.01 ppm (26 µg/m^3)		

[a] California standards for ozone, carbon monoxide (except Lake Tahoe), sulfur dioxide (1 and 24 hour), nitrogen dioxide, suspended particulate matter— PM_{10}, $PM_{2.5}$, and visibility reducing particles, are values that are not to be exceeded. All others are not to be equaled or exceeded. California ambient air quality standards are listed in the Table of Standards in Section 70200 of Title 17 of the California Code of Regulations.

[b] National standards (other than ozone, particulate matter, and those based on annual averages or annual arithmetic mean) are not to be exceeded more than once a year. The ozone standard is attained when the fourth highest eight hour concentration in a year, averaged over three years, is equal to or less than the standard. For PM_{10}, the 24 hour standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m3 is equal to or less than one. For $PM_{2.5}$, the 24 hour standard is attained when 98 percent of the daily concentrations, averaged over three years, are equal to or less than the standard. Contact EPA for further clarification and current federal policies.

[c] Concentration expressed first in units in which it was promulgated. Equivalent units given in parentheses are based upon a reference temperature of 25°C and a reference pressure of 760 torr. Most measurements of air quality are to be corrected to a reference temperature of 25°C and a reference pressure of 760 torr; ppm in this table refers to ppm by volume, or micromoles of pollutant per mole of gas.

[d] National Primary Standards: The levels of air quality necessary, with an adequate margin of safety to protect the public health.

[e] National Secondary Standards: The levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.

[f] The ARB has identified lead and vinyl chloride as 'toxic air contaminants' with no threshold level of exposure for adverse health effects determined. These actions allow for the implementation of control measures at levels below the ambient concentrations specified for these pollutants.

[g] National lead standard, rolling 3-month average: final rule signed October 15, 2008.

Source: California Air Resources Board. (2008, November 17). National and California Ambient Air Quality Standards. [Electronic Version]. Retrieved September 30, 2009 from http://www.arb.ca.gov/research/aaqs/aaqs2.pdf.

TABLE 6.1-2
HEALTH EFFECTS SUMMARY OF THE MAJOR CRITERIA AIR POLLUTANTS

Air Pollutant	Adverse Effects
Ozone (O_3)	Eye irritation; Respiratory function impairment
Carbon Monoxide (CO)	Impairment of oxygen transport in the blood stream; Aggravation of cardiovascular disease; Impairment of central nervous system function; Fatigue, headache, confusion, dizziness; Can be fatal in the case of very high concentrations in enclosed places
Particulate Matter (PM)	May be inhaled and lodge in and irritate the lungs; Increased risk of chronic respiratory disease with long exposure; Altered lung function in children; May produce acute illness with sulfur dioxide
Nitrogen Dioxide (NO_2)	Increased risk of acute and chronic respiratory disease
Sulfur Dioxide (SO_2)	Irritation of lung tissue; Increased risk of acute and chronic respiratory disease

Source: Monterey Bay Unified Air Pollution Control District. (1995). *CEQA Air Quality Guidelines*. As revised 2004. pp. 3-1 to 3-5.

STATE

The State of California, for purposes of air quality classification, has divided the state into meteorologically and geographically similar areas called air basins. Each air basin is responsible for meeting NAAQS and CAAQS for criteria pollutants and is classified by the EPA and CARB as an attainment or non-attainment area for each pollutant.

Toxic Air Contaminants

Regulation of TACs is achieved through federal and state controls on individual sources; the 1990 Federal CAA Amendments offer a comprehensive plan for achieving significant reduction in both mobile and stationary source emissions of certain designated Hazardous Air Pollutants (HAPs). All major stationary sources of designated HAPs are required to obtain and pay the required fees for an operating permit under Title V of the federal CAA Amendments.

The Air Toxics Hot Spots Information and Assessment Act of 1987 (Assembly Bill (AB) 2588), California Health and Safety Code Section 44300 et seq, provides for the regulation of over 200 air toxics and is the primary air contaminant legislation in the state. Under the Act, local AQMDs may request that a facility account for its TAC emissions. Local AQMDs then prioritize facilities on the basis of emissions, and high priority designated facilities are required to submit a health risk assessment (HRA) and communicate the results to the affected public. The TAC control strategy involves reviewing new sources to ensure compliance with required emission controls and limits, maintaining an inventory of existing sources of TACs, and developing new rules and regulations to reduce TAC emissions. The purpose of AB 2588 is to identify and inventory toxic air emissions and to communicate the potential for adverse health effects to the public.

AB 1807, enacted in September 1983, sets forth a procedure for the identification and control of TACs in California. The CARB is responsible for the identification and control of TACs, except pesticide use. AB 1807 defines a TAC as an air pollutant that may cause or contribute to an increase in mortality or an increase in serious illness, or which may pose a present or potential hazard to human health. The CARB prepares identification reports on candidate substances under consideration for listing as TACs. The reports and summaries describe the use of and the extent of emissions in California resulting in public exposure, together with their potential health effects.

The CARB identified DPM as a TAC. DPM is emitted into the air via heavy-duty diesel trucks, construction equipment, and passenger cars. In October 2000, the CARB released the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles (CARB, 2000). This plan identifies DPM as the predominant TAC in California and proposes methods for reducing diesel emissions.

TAC impacts are assessed using a standard Maximally Exposed Individual (MEI) health risk of 10 people in 1 million. The CARB and the local AQMDs have determined that any source that poses a risk to the general population that is equal to or greater than 10 people out of 1 million contracting cancer as excessive. When estimating this risk, it is assumed that an individual is exposed to the maximum concentration of any given TAC, continuously for 70 years. If the risk of such exposure levels meets or exceeds the threshold of 10 excess cancer cases per 1 million people, then the CARB and the local AQMD require the installation of best available control technology (BACT) or maximum available control technology (MACT) to reduce the risk threshold. This ensures that the toxic source is being controlled to the fullest extent possible using current technology.

Senate Bill 656 - Reducing Particulate Matter in California

As a first step in the implementation of Senate Bill (SB) 656 -- Reducing Particulate Matter in California, the CARB approved a list of the most readily available, feasible, and cost-

effective control measures that can be employed by AQMDs to reduce PM_{10} and $PM_{2.5}$ (collectively referred to as PM) in 2004. The list is based on rules, regulations, and programs existing in California as of January 1, 2004, for stationary, area-wide, and mobile sources. As a second step, AQMDs must adopt implementation schedules for selected measures from the list. The implementation schedules will identify the appropriate subset of measures, and the dates for final adoption, implementation, and the sequencing of selected control measures. In developing the implementation schedules, each AQMD will prioritize measures based on the nature and severity of the PM problem in their area and cost-effectiveness. Consideration is also given to ongoing programs such as measures being adopted to meet NAAQS or the state O_3 planning process. The consideration and adoption of AQMD rules in their implementation schedules, coupled with CARB's ongoing programs, will ensure continued progress in reducing public exposure to PM and attainment of the CAAQS and the NAAQS.

In July 2007, the CARB adopted a regulation aimed at reducing DPM (a particular form of $PM_{2.5}$) and NO_X emissions from the state's in-use off-road diesel engines. The rule will affect off-road vehicles used in construction, mining, airport ground support, and other industries. The proposed regulation would require equipment fleets to apply exhaust retrofits that capture PM before it is emitted to the air, and to accelerate turnover of fleets to newer, cleaner engines.

LOCAL

Bay Area Air Quality Management District

The Analysis Area is under the jurisdiction of the BAAQMD. The BAAQMD is responsible for implementing emissions standards and other air quality regulations governing activities in the Analysis Area. Specific rules and regulations adopted by the BAAQMD limit the emissions that can be generated by various uses and/or activities, and identify specific pollution reduction measures that must be implemented in association with various uses and activities. These rules regulate not only emissions of the six criteria air pollutants, but also toxic emissions and acutely hazardous non-radioactive materials emissions. The BAAQMD also processes commercial and industrial applications to construct emission devices and issues permits to operate, which are renewed on an annual basis. The BAAQMD estimates releases of air contaminants and maintains an emission inventory to track emissions of all permitted devices. It also proposes mitigation strategies, working cooperatively with affected emission sources, evaluating potential health risks, and adopting air pollution control measures and regulations that seek to attain both the NAAQS and CAAQS (BAAQMD, 2009a).

BAAQMD regulations also apply to construction equipment and activities. This includes portable equipment (e.g., gasoline- or diesel-powered engines used for power generation, pumps, compressors, pile drivers, and cranes), architectural coatings, and paving materials. Equipment used during construction is subject to the requirements of BAAQMD Regulation 2 (Permits), Rule 1 (General Requirements) with respect to portable equipment unless exempt under Rule 2-1-105 (Exemption, Registered Statewide Portable Equipment); BAAQMD Regulation 8 (Organic Compounds), Rule 3 (Architectural Coatings); BAAQMD Regulation 8 (Organic Compounds), and Rule 15 (Emulsified and Liquid Asphalts).

Air Quality Attainment Plan

The CCAA requires non-attainment areas (for O_3) to develop air quality plans that contain strategies for achieving attainment. Air quality plans developed to meet federal requirements are referred to as State Implementation Plans (SIPs). The CAA and the CCAA require plans to be developed for areas designated as nonattainment (with the exception of areas designated as nonattainment for the State PM_{10} standard). Plans are also required under federal law for areas designated as "maintenance" for national standards. Such plans include strategies for attaining the standards. Currently, there are three plans applicable for the Bay Area:

- Ozone Attainment Plan for the 1-Hour National Ozone Standard (Association of Bay Area Governments (ABAG), 1999) developed to meet federal O_3 air quality planning requirements
- Carbon Monoxide Maintenance Plan (ABAG, 1994) developed to ensure continued attainment of the national CO standard
- Bay Area 2005 Ozone Strategy (BAAQMD, 2006), which was adopted by the BAAQMD Board of Directors on January 4, 2006, reviews the region's progress over the years in reducing O_3 levels, describes current conditions, and charts a course for future actions to further reduce O_3 and O_3 precursor levels in the Bay Area

The most current plan, the Bay Area 2005 Ozone Strategy, reviews the region's progress over the years in reducing O_3 levels, describes current conditions, and charts a course for future actions to further reduce O_3 levels in the Bay Area. The control strategy is a central element of the 2005 Ozone Strategy. The control strategy outlines a set of control measures to further reduce O_3 precursor emissions in order to reduce O_3 levels in the Bay Area and to reduce transport of pollution to downwind regions. The control strategy includes stationary source measures, mobile source measures, and transportation control measures.

The proposed Draft 2009 Clean Air Plan (CAP) is an update of and progress report for the 2005 Ozone Strategy in compliance with the CAA. The Draft CAP has been released and is undergoing environmental review. The proposed CAP provides a strategy for making progress toward attainment of the California O_3 standards in the Bay Area. This update of the 2005 Ozone Strategy will provide a multi-pollutant approach to air quality planning in the Bay Area. Although there are no requirements to develop a multi-pollutant plan at this time, the multi-pollutant plan addresses O_3, PM, TACs, and GHGS via an integrated control strategy (BAAQMD, 2009b).

BAAQMD CEQA Guidelines

The most recent version of the BAAQMD CEQA Guidelines was published December 1999: CEQA Guidelines, Assessing the Air Quality Impacts of Projects and Plans. These Guidelines are a set of recommendations that provide specific guidance on evaluating projects relative to the above general criteria (BAAQMD, 1999). For temporary construction-phase impacts, BAAQMD recommends a qualitative approach that focuses on the dust control measures that would be implemented. If appropriate mitigation measures are implemented to control PM_{10} emissions, then the impact from construction would be less than significant. For evaluating operational-phase emissions, BAAQMD recommends that local agencies use criteria of 80 pounds per day or 15 tons per year to identify significant increases in emissions of ROG, NO_x, and PM_{10} from individual development projects; an exceedance of the criteria would be considered a significant impact.

For CO, an increase of 550 pounds per day would be considered significant if it leads to or contributes to CO concentrations exceeding the CAAQS of 9 ppm averaged over 8 hours or 20 ppm for 1 hour (i.e., if it creates a "hot spot"). Generally, if a project results in an increase in ROG, NO_x, or PM_{10} of more than 80 pounds per day, then it would also be considered to contribute considerably to a significant cumulative effect. For projects that would not lead to a significant increase of ROG, NO_x, or PM_{10} emissions, the cumulative effect is evaluated based on a determination of the consistency of the project with the regional CAP.

The BAAQMD is in the process of updating their CEQA Guidelines, and is conducting public workshops in late 2009. The CEQA Guidelines Update will review, revise, and develop significance thresholds, assessment methodologies, and mitigation strategies for criteria pollutants, TACs, odors, and GHG emissions (see Subchapter 6.2, Climate Change).

EXISTING CONDITIONS

EXISTING AIR QUALITY MONITORING DATA

The CARB and BAAQMD currently monitor air quality throughout the BAAB through a regional air quality monitoring network that measures the ambient concentrations of the six criteria air pollutants. The station closest to the Analysis Area that monitors for O_3 is Jackson Street in San Jose, approximately four miles south of the Analysis Area. The CARB summaries of monitoring data for O_3, PM_{10}, $PM_{2.5}$, and CO compares measured concentrations with the CAAQS and the NAAQS (CARB, 2009a). Air quality data collected at this monitoring site for the last three years is summarized in Table 6.1-3.

EXISTING ATTAINMENT STATUS

The CARB currently identifies the BAAB as a non-attainment area for the State 1-hour and national 8-hour O_3 standards and for the State PM_{10} and $PM_{2.5}$ standards. The Bay Area is "attainment" or "unclassified" with respect to the other AAQS (CARB, 2009). In June 2004, the Bay Area was designated as a marginal nonattainment area of the national 8-hour O_3 standard. The EPA lowered the national 8-hour O_3 standard from 0.80 to 0.75 ppm effective May 27, 2008. The EPA will issue final designations based upon the new 0.75 ppm O_3 standard by March 2010.

SENSITIVE RECEPTORS

The location of a development project is a major factor in determining whether it will result in localized air quality impacts. The potential for adverse air quality impacts increases as the distance between the source of emissions and members of the public decreases.

Impacts on sensitive receptors are of particular concern. Sensitive receptors are facilities that house or attract children, the elderly, people with illnesses, or others who are especially sensitive to the effects of air pollutants. Sensitive land uses include residential communities, schools and school yards, daycare centers, parks and playgrounds, and hospitals and medical facilities.

TABLE 6.1-3
SUMMARY OF AIR POLLUTANT DATA FROM JACKSON STREET MONITORING STATION, SAN JOSE (COMPARED TO FEDERAL AND STATE STANDARDS)

Pollutant	2006	2007	2008
OZONE (O_3, 1-HOUR)			
Highest 1-hour (ppm)	0.118	0.083	0.118
Days>0.09 ppm (Cal)	5	0	1
OZONE (O_3, 8-HOUR)			
Highest 8-hour (ppm)	0.087	0.060	0.080
Days>0.075 (Fed)[a]	3	0	2
Days>0.070 ppm (Cal)	5	0	3
CARBON MONOXIDE (CO)			
Highest 8-hour (ppm)	2.92	2.71	2.48
Days>=9.5 ppm (Fed)	0	0	0
Days>=9.1 ppm (Cal)	0	0	0
PARTICULATE MATTER (PM_{10})			
Highest federal Concentration	68.9	64.7	55.0
Highest State Concentration	73.2	69.1	57.3
Days>150 µg/m³ (Fed)	0	0	0
Days>50 µg/m³ (Cal)	2	3	1
PARTICULATE MATTER ($PM_{2.5}$)[b]			
Highest Federal Concentration	64.4	57.5	41.9
Highest State Concentration	64.4	57.5	41.9
Days>35 µg/m³ (Fed)	7	9	5
NITROGEN DIOXIDE (NO_2)			
Highest 1-hour (ppm)	0.074	0.065	0.080
Annual (Fed) > 0.053 ppm	0	0	0
Days>.030 ppm (Cal)	0	0	0

[a] There is no Federal 1- hour O_3 standard
[b] There is no State 24-hour $PM_{2.5}$ standard

Source: California Air Resources Board. (2009). iADAM Top Four Summary. Retrieved October 16, 2009 from http://www.arb.ca.gov/adam

Sensitive receptors located within the Analysis Area include residential areas located primarily north of SR237/Calaveras Boulevard and east of Interstate 680 (I-680), Kaiser Permanente Milpitas, Kinder Care Preschool, Day Star Montessori School, Strickroth Park, and the Elmwood Correctional Facility. Residential uses abut I-680 and State Route 237 (SR-237) within the Analysis Areas, and are located within 50 feet of the Union Pacific Railroad (UPRR) right-of-way (ROW) north of SR-237. Major industrial uses are concentrated south of SR-237/Calaveras Boulevard, and west of I-680. Only one small subdivision is located within the industrial area south of Los Coches Street; this area is excluded from the proposed Added Area.

Air quality problems arise when sources of air pollutants and sensitive receptors are located near one another. There are several types of land use conflicts that should be avoided:

- A sensitive receptor is in close proximity to a congested intersection or roadway with high levels of emissions from motor vehicles. High concentrations of CO, fine particulate matter, or TACs are the most common concerns.
- A sensitive receptor is close to a source of TACs or a potential source of accidental releases of hazardous materials.
- A sensitive receptor is close to a source of odorous emissions. Although odors generally do not pose a health risk, they can be quite unpleasant and often lead to citizen complaints to the AQMD and to local governments.
- A sensitive receptor is close to a source of high levels of nuisance dust emissions.

Localized impacts to sensitive receptors generally occur in one of two ways:

- A (new) source of air pollutants is proposed to be located close to existing sensitive receptors. For example, an industrial facility is proposed for a site near a school.
- A (new) sensitive receptor is proposed near an existing source of air pollutants. For example, a residential development is proposed near a wastewater treatment plant.

ENVIRONMENTAL IMPACTS

METHODOLOGY

Redevelopment programs and projects are intended to eliminate blight and blighting conditions within the Analysis Area that currently prevent the full and effective use of the land – consistent with the City of Milpitas General Plan (General Plan), as amended over time. Impacts of implementing the Amendments were programmatically evaluated based on anticipated redevelopment actions throughout the effective life of the Amendments and include:

- Demolition, rehabilitation, and/or new development of residential, commercial, and/or industrial structures
- Installation of streets, utilities, and other public facilities and infrastructure
- Funding construction and development assistance for community centers, recreation centers, childcare centers, parks, urban design plans, master plans, streetscapes and facility improvements
- Construction of affordable housing

For construction phase impacts, BAAQMD does not require quantification of construction emissions, but recommends that significance be based on a consideration of the control measures to be implemented (BAAQMD, 1999). Therefore, construction impacts are discussed qualitatively and the BAAQMD recommended dust abatement measures are identified.

The criteria pollutants that are most important for this air quality impact analysis are those that can be traced principally to motor vehicle travel and construction. Of these pollutants,

CO, ROG, NO_X, and PM_{10} are evaluated on a regional or "mesoscale" basis. CO is often analyzed on a localized or "microscale" basis in cases of congested traffic conditions. Although PM_{10} has very localized effects, there is no EPA approved methodology to evaluate microscale impacts of PM_{10}. Methods for analysis of $PM_{2.5}$ have been implemented since 1999.

Short-term air quality impacts during construction and long-term impacts during operation were programmatically considered, including intermittent demolition/construction-related impacts from fugitive dust (PM), mobile or stationary construction equipment emissions, and construction and vehicular emissions. The specific location and intensity of the development in the Analysis Area that could cause such impacts over the extended period of the Amendments is for the most part unknown – except that all development must be consistent with the General Plan and that most of the Analysis Area is fully developed. Potential air quality impacts in this section are therefore based on anticipated General Plan build-out resulting from the removal of barriers to development and potential recycling of existing properties.

THRESHOLDS OF SIGNIFICANCE

Significance criteria are the basis for determining whether the Amendments would result in significant short-term or long-term impacts to local and regional air quality conditions. For this qualitative analysis, the thresholds of significance are based on those outlined in CEQA Guidelines Appendix G. A significant impact would occur if the proposed project would:

- Conflict with or obstruct implementation of the applicable air quality plan
- Violate any air quality standard or contribute substantially to an existing or projected air quality violation
- Result in a cumulatively considerable net increase of any criteria for which the project region is in non-attainment under an applicable NAAQS or CAAQS (including releasing emissions which exceed quantitative thresholds for O_3 precursors)
- Expose sensitive receptors to substantial pollutant concentrations
- Create objectionable odors affecting a substantial number of people

PROJECT-SPECIFIC IMPACTS AND MITIGATION MEASURES

Impact 6.1-1 The Amendments would engender development within the Analysis Area that could conflict with or obstruct implementation of the applicable air quality plan. This would be a less-than-significant impact.

The Clean Air Plan/Ozone Strategy was developed and is maintained based on information about existing development and uses, as well as on assumptions about incremental and ultimate growth as envisioned in local general plans. The CAP's strategies regarding the attainment and maintenance of the air basin consistent with federal and State standards are based on this information. The CAP includes thresholds for significance in determining if a local plan, such as a General Plan or Specific Plan, is consistent with the regional CAP, and specify that a plan must meet the following criteria:

- Consistency with CAP population and vehicle miles traveled (VMT) assumptions

- Consistency with CAP transportation control measures
- No significant odors and toxics emissions

Air pollutant emissions are a function of population and human activity. If population growth were greater than that assumed in the CAP emissions inventory, then population related emissions such as increased vehicular trip generation, would likely be greater than prior projections. The 2005 CAP population estimates were derived from ABAG's Projections, which in turn were based on adopted general plans and historic growth trends. The proposed Amendments would eliminate barriers to population growth consistent with land uses that were adopted for the Analysis Area prior to adoption of the CAP. No land use changes are proposed as a part of the Amendments. The additional population that could be engendered by the proposed Amendments is therefore already incorporated into the CAP, would be consistent with the CAP, and would not impede implementation of the CAP. The Amendments would not conflict with or obstruct implementation of the applicable CAP and would therefore have a less-than-significant impact on CAP implementation.

Mitigation

None required

Impact 6.1-2 Redevelopment engendered development and infrastructure construction activities would generate short-term emissions of regional criteria pollutants. This would be a potentially significant impact.

With future development and infrastructure construction in the Analysis Area, air pollutants would be emitted by construction equipment and fugitive dust (PM) would be generated during interior grading and site preparation and by wind erosion over exposed earth surfaces and material stockpiles. Fugitive dust can exceed BAAQMD thresholds of significance for PM, and can further be a nuisance at neighboring properties, soiling exposed surfaces and requiring more frequent washing. Fuel combustion from heavy-duty equipment operation can also generate PM emissions. Ambient pollutant concentrations from combustion emissions of construction equipment would also increase from implementation of the Amendments, as infrastructure is constructed and new development occurs over time in the Analysis Area.

Construction activities are regulated by the City and the BAAQMD. Construction in the Analysis Area over the life of the Amendments will include demolition of some structures and grading preparation for all new construction. PM emissions in the form of fugitive dust would vary from day to day, depending on the level and type of construction activity (demolition and grading), silt content of the soil, and prevailing weather. Emissions from construction equipment (i.e., graders, backhoes, haul trucks etc.) would generate PM_{10}, $PM_{2.5}$, NO_X, and ROG emissions.

The City is currently in non-attainment for PM_{10} and $PM_{2.5}$. These standards are also sometimes exceeded in the vicinity of construction sites. The largest source of construction-related PM emissions would be associated with the demolition of existing structures as properties are recycled. Demolition activities are required to conform to BAAQMD regulations and programs to reduce PM_{10} and $PM_{2.5}$ emissions. Air pollution-sensitive land uses and activities adjacent to construction sites may also be exposed more frequently to ambient dust concentrations that exceed the AAQS. The BAAQMD approach emphasizes implementation of effective and comprehensive dust control measures rather than detailed

quantification of emissions (BAAQMD, 1999). The BAAQMD currently considers construction related impacts of proposed projects to be less than significant if required dust-control measures are implemented. Under the Draft CEQA Guidelines, quantitative thresholds would be established for project-specific construction emissions, which would require analysis and mitigation using the latest available version of URBEMIS.

The Draft CEQA Guidelines outline preliminary screening for a conservative indication of whether a proposed project would result in the generation of construction-related criteria air pollutants and/or precursors that exceed the proposed thresholds for NO_x, ROG, and PM. Only city parks over 67 acres are anticipated to exceed the PM standards. Residential single-family subdivisions of at least 114 units, multi-family and condominium projects over approximately 240 units, schools, community and commercial facilities over 277,000 square feet (sf), hotels/motels over 554 rooms are anticipated to exceed ROG thresholds, and general light industry over 259,000 sf/11 acres/540 employees, and heavy industry or industrial parks of 11 acres or 259,000 sf would be anticipated to exceed NO_x thresholds.

The Analysis Area is urbanized, with many parcels that are underutilized or containing vacant, obsolete industrial buildings; very little vacant land exists in the Analysis Area. The greatest amount of development is anticipated to involve recycling of properties for modern uses, although redevelopment could encourage the consolidation of smaller parcels into a larger development, such as in the areas designated for new uses on the Transit Area Specific Plan. Except for such areas of adopted land use changes and already approved projects, this type of infill development is not anticipated to exceed the proposed construction screening levels. Regardless, all anticipated redevelopment actions, and development within the Analysis Area as a result of redevelopment activities, would be consistent with General Plan land uses and subject to project-by-project permitting and mitigation consistent with City and BAAQMD requirements. When the specifications and timing of individual redevelopment projects are known, construction procedures will be assessed against the criteria and standards applicable at the time of construction. The detailed procedures and requirements of the City and BAAQMD for all future development projects are anticipated to ensure potential construction emissions remain below the BAAQMDs significance thresholds.

The BAAQMD recommends the implementation of all Basic Construction Mitigation Measures outlined in the Draft CEQA Guidelines whether or not construction-related emissions exceed applicable Thresholds of Significance, as such measures represent best management practices (BMPs). Without such mitigations, construction emissions for redevelopment projects would be ***potentially significant.***

Mitigation

6.1-2 Future redevelopment projects shall comply with all current Basic Construction Mitigation Measures at the time of development approvals.

Significance after Mitigation

Less than significant

Impact 6.1-3 Development engendered by redevelopment could result in long-term operational increases in regional criteria pollutants. This would be a less-than-significant impact.

In addition to construction-related emissions, total emissions include mobile sources, non-permitted stationary or area sources, and permitted stationary devices. Commuting vehicles and on-site motor vehicles/mobile equipment would represent the greatest proportion of emission sources in the Analysis Area.

The proposed Amendments would remove barriers to General Plan build-out in the Analysis Area. As noted above, the Analysis Area is fully developed and future development will occur as a recycling or densification of existing land uses, consistent with the General Plan. As discussed in Subchapter 6.7, Transportation and Circulation, General Plan build-out is not anticipated to result in a significant increase in vehicle trips. General Plan policies to reduce dependency on the automobile, and redevelopment activities to enhance pedestrian, bicycle, and transit modes of travel will further reduce anticipated increases in operational emissions.

Most development projects also generate area source emissions. Area sources include examples such as water heaters, fireplaces, lawn maintenance equipment, and application of paints and lacquers, which individually emit fairly small quantities of air pollutants, although cumulatively may represent significant quantities of emissions.

Stationary or point sources consist of a single emission source with an identified emission point at a facility, such as a stack. Facilities can have multiple emission point sources located on-site. Examples of these sources include boilers and other types of combustion equipment, manufacturing plants, and industrial processes. Other smaller sources include print shops and gasoline stations, which are common in commercial areas.

The BAAQMD regulates air quality in the City through its permit authority over most types of stationary emission sources and through its planning and review activities. The land use and transportation patterns established through the General Plan – as well as state, federal, and regional regulations and transportation systems – determine to a large extent the severity and location of mobile source air quality impacts. The scale and timing of individual projects will determine the need for project-specific mitigation measures. When the specifications and timing of individual redevelopment projects are known, long-term emissions will be assessed against the criteria and standards applicable at the time of development. Whereas no land use changes are proposed and most development assisted by redevelopment would involve the recycling of existing land uses, and must comply with the BAAQMD requirements and assessment and mitigation in accordance with federal, state, and local requirements, the Amendments are anticipated to result in a ***less-than-significant*** impact on long-term operational impacts in the Analysis Area.

Mitigation

None required

Impact 6.1-4 Redevelopment engendered development could increase the number of sensitive receptors exposed to significant levels of diesel particulate matter. This would be a potentially significant impact.

As stated in the CARB Air Quality and Land Use Handbook (April 2005), freeways may represent a significant source of TAC that have the potential to adversely affect the health of future residents. The handbook states that residential receptors within 1,000 feet of a freeway, especially those within 300 feet, experience adverse health effects such as aggravated asthma symptoms and reduced lung function in children.

The BAAQMD Community Air Risk Evaluation (CARE) program was initiated in 2004 to evaluate and reduce health risks associated with exposures to outdoor TACs in the Bay Area. The program examines TAC emissions from point sources, area sources, and on-road and off-road mobile sources with an emphasis on diesel exhaust, which is a major contributor to airborne health risk in California (BAAQMD, n.d.). The results of the Phase I analysis indicate that DPM accounts for over 80% of the cancer risk weighted TAC emissions and that on-road and off-road mobile sources are responsible for the majority of cancer risk from air toxics. Phase II recommendations include creating guidelines for evaluating and making a significance determination, which have been included in the Draft CEQA Guidelines.

No new residential development is anticipated to be constructed within the Analysis Area within 1,000 feet of Interstate 880 (I-880) or I-680. Some rehabilitation of existing residential structures adjacent to the freeways could occur, which would have the beneficial effect of improving insulation and heating, ventilating, and air conditioning (HVAC) systems for residents already exposed. However, recycling of existing residential properties for intensified residential use could result in an increase in the number of dwelling units within 1,000 feet.

Although the BAAQMD does not have a current protocol, the potential for an impact can be programmatically assessed with the aid of the Sacramento Metropolitan Air Quality Management District's (SMAQMD) *Recommended Protocol for Evaluating the Location of Sensitive Land Uses Adjacent to Major Roadways* (March 2009). The protocol includes a table to provide a screening analysis, where values of incremental cancer risk are defined by receptor distance from the nearest freeway travel lane and the peak hour traffic, measured in vehicles per hour.

Peak hour traffic volumes (vehicles/hour) on I-680 north and south of SR-237, where existing residential development in the Analysis Area is located, are outlined in Table 6.1-4. Per guidance of the SMAQMD protocol, for a combined peak hour traffic volume approximated as 21,000 vehicles per hour and a potential sensitive residential receptor distance of 100 feet west of the freeway in the areas north of SR-237, the screening table yields an incremental cancer risk of approximately 305 cases per million west of the freeway. South of SR-237, the residential areas east of I-680 are located at a distance of over 200 feet, yielding an incremental cancer risk of approximately 369 cases. The protocol dictates that both directions are above the evaluation criterion of an increased risk of 296 cases per million, thus a site specific HRA would be required.

TABLE 6.1-4
CALTRANS' PEAK HOUR VOLUME DATA ON INTERSTATE 680 AT STATE ROUTE 237

Mile Point 39.347	PM Hours - Peak Volume
Ahead Leg – Northbound	10,400
Back Leg – Southbound	10,700

Source: California Department of Transportation (Caltrans), Traffic Data Branch. (2008). 2008 Peak Hour Volume Data. Retrieved October 27, 2009 from http://www.dot.ca.gov/hq/traffops/saferesr/trafdata/index.htm

The SMAQMD risk tables assume 70 years continuous exposure to DPM at current levels. This is an extremely conservative assumption given that emissions of DPM are expected to decline significantly (by 90%+) over the next 10 years. Therefore, actual risk to residents in areas within 1,000 feet of I-680 would be 10 to 100 times lower than risks projected by the SMAQMD Protocol.

This value should furthermore represent a conservative estimate for the maximum exposed sensitive receptor. Background cancer risk based on CARB monitoring of TACs is approximately 500 cancer cases per 1 million; emissions from the freeway replace other emissions as the primary source of cancer risk. The net effect is that the cumulative risk to the public remains the same, but the sources contributing to the risk are altered. Therefore, overall risk to the residents does not change as a result of living near the freeway in the Analysis Area. This conservative estimate for the incremental increased risk of cancer from DPM is estimated with the following two assumptions: the adjacent freeway experiences its maximum peak traffic volume for every hour over the course of a receptor's 70 year lifetime and the receptor remains stationary at the closest point of exposure. The conservative nature of this estimate is further compounded by the equally conservative assumptions made by the SMAQMD during their formation of its screening table. Therefore, this risk number should be taken for what it is, a worst-case scenario.

Regardless, any increased exposure to DPM, although statistically less than considerable, could increase health risks to residents within the Analysis Area. If redevelopment as a result of the Amendments would involve the recycling or intensification of residential uses within 1,000 feet of I-680 or I-880, an HRA would be needed. Therefore, the impact is ***potentially significant***.

Mitigation

6.1-4a For any residential project within 1,000 feet of I-680 or I-880:

a) Locate livable structures and associated heating, ventilating, and air conditioning (HVAC) intakes as far from the freeway as possible;

b) Plant tiered redwood and/or deodar cedar trees between the freeway and livable structures; and

c) Meet current Bay Area Air Quality Management District (BAAQMD) requirements for evaluating and mitigating diesel particulate matter (DPM) effects.

6.1-4b For any residential project that increases the number of dwelling units within 1,000 feet of I-680 or I-880, the applicant shall prepare a health risk assessment (HRA) to the satisfaction of the Bay Area Air Quality Management District (BAAQMD) and the Milpitas Redevelopment Agency.

Significance after Mitigation

Less than significant

CUMULATIVE IMPACTS AND MITIGATION MEASURES

Impact 6.1-5 Redevelopment engendered project construction activities would contribute to cumulative increases in ozone precursors. This would be a less-than-significant impact.

As described in the Chapter 5, Land Use and Planning, the Amendments must be consistent with the General Plan. No development beyond that already provided for in the City's land use plans is proposed as a part of the Amendments, although the proposed Amendments would remove barriers to planned development.

Population and employment increases would generate new vehicular trips and air pollutant emissions consistent with those anticipated in the General Plan. As discussed in Impact 6.1-1, air pollutant emissions are a function of population and human activity. Population growth engendered by the removal of barriers to development would not be greater than that assumed in the CAP emissions inventory. The 2005 CAP is based on growth projections developed for the region on the basis of land use plans of local jurisdictions, including the City, and other information. Since the Amendments are fully consistent with the City's General Plan, redevelopment activities would also be consistent with the regional air quality management plans. Whereas growth in the Analysis Area must be consistent with adopted plans, implementation of the Amendments would not result in cumulative emissions beyond those planned for by the BAAQMD in their attainment date projections. Cumulative emissions as a result of the Amendments would be ***less than significant***.

Mitigation

None required

6.2

CLIMATE CHANGE

Milpitas Redevelopment Amendments

CHAPTER 6

ENVIRONMENTAL ANALYSIS

6.2 CLIMATE CHANGE

This Subchapter of the Environmental Impact Report (EIR) describes climate change issues related to the Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 (Project Area No. 1) and the Sixth Amendment to the Great Mall Redevelopment Project (proposed project or Amendments). This Subchapter provides a general discussion of global climate change and focuses on emissions from human activities that alter the chemical composition of the atmosphere. The discussion on global climate change and greenhouse gas (GHG) emissions is based upon the California Global Warming Solutions Act of 2006 (Assembly Bill (AB) 32), the 2006 Climate Action Team (CAT) Report to Governor Schwarzenegger and the Legislature, and research, information and analysis completed by the Intergovernmental Panel on Climate Change (IPCC), the United States Environmental Protection Agency (EPA), California Air Resources Board (CARB), as well as the Bay Area Air Quality Management District (BAAQMD) proposed California Environmental Quality Act (CEQA) Guidelines.

There were no comments received on the Notice of Preparation (NOP) regarding climate change or GHGs.

ENVIRONMENTAL SETTING

Global climate change refers to the change in the average weather of the earth that may be measured by changes in wind patterns, storms, precipitation, and temperature. Projected climate changes could impact California's public health through changes in air quality, weather-related disasters, and a possible increase in infectious disease. If extreme precipitation and severe weather events become more frequent, and if sanitation and water-treatment facilities have inadequate capacity or are not maintained, increases in infectious diseases may result (CalEPA, 2007). The baseline by which these changes are measured originates in historical records identifying temperature changes that have occurred in the past, such as during previous ice ages. Many of the recent concerns over global climate change use this data to extrapolate a level of statistical significance specifically focusing on temperature records from the last 150 years (the Industrial Age) that differ from all previous climate changes in rate and magnitude.

The IPCC constructed several emission trajectories of GHG emissions needed to stabilize global temperatures and climate change impacts. The IPCC predicted that the range of global mean temperature change from 1990 to 2100, given six scenarios, could range from 1.1°C to 6.4°C. Regardless of analytical methodology, global average temperature and sea level are expected to rise under all scenarios (IPCC, 2007).

This IPCC Assessment makes it clear that the impacts of future climate change will be mixed across regions. For example, according to the IPCC Fourth Assessment report, there may be large differences in regional population, income, and technological development under alternative scenarios, which are often a strong determinant of the level of vulnerability to climate change. To illustrate, in a number of recent studies of global impacts of climate change on food supply, risk of coastal flooding, and water scarcity, the projected number of people potentially affected is considerably greater in areas characterized by relatively low per-capita income and large population growth. This difference is largely explained, not by differences in changes of climate, but by differences in vulnerability (IPCC, 2007).

GREENHOUSE GAS EMISSIONS

GHGs are gases that trap heat in the atmosphere, analogous to the way a greenhouse retains heat. Common GHGs include water vapor, carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), chlorofluorocarbons (CFCs), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulfur hexafluoride (SF_6), ozone (O_3), and aerosols. Global atmospheric concentrations of CO_2, methane, and N_2O have increased markedly as a result of human activities since 1750 and now far exceed pre-industrial values determined from ice cores spanning many thousands of years.

The accumulation of GHG in the atmosphere regulates the earth's temperature. Without the natural heat trapping effect of GHGs, the earth's surface would be about 34°C cooler (CAT, 2006). However, it is believed that emissions from human activities, such as electricity production and vehicle use, have elevated the concentration of these gases in the atmosphere beyond the level of naturally occurring concentrations.

Climate change is driven by feedbacks and forcings. A feedback is "an internal climate process that amplifies or dampens the climate response to a specific forcing" (National Research Council, 2005). Radiative forcing is the difference between the incoming energy and outgoing energy in the climate system. The global warming potential (GWP) is the potential of a gas or aerosol to trap heat in the atmosphere. It is the "cumulative radiative forcing effects of a gas over a specified time horizon resulting from the emission of a unit mass of gas relative to a reference gas" (EPA, April 2006).

Individual GHG have varying GWP and atmospheric lifetimes (Table 6.2-1). The CO_2 equivalent is a consistent methodology for comparing GHG emissions since it normalizes various GHG emissions to a consistent metric. The reference gas for GWP is CO_2; CO_2 has a GWP of one. By comparison, methane's GWP is 21; methane therefore has a greater global warming effect than CO_2 on a molecule per molecule basis (EPA, June 2006). CO_2 equivalent (CO_2e) is the mass emissions of an individual GHG multiplied by its GWP. Due to the scale of GHG calculations, one million metric tons (equal to one teragram [Tg]) of CO_2e is a common unit of measure, abbreviated $MMTCO_2e$ or $TgCO_2Eq$.

Water Vapor (H_2O)

Of all GHG in the atmosphere, water vapor is the most abundant, important, and variable. It is not considered a pollutant; in the atmosphere, it maintains a climate necessary for life. The main source of water vapor is evaporation from the oceans (approximately 85%). Other sources include evaporation from other water bodies, sublimation (change from solid to gas) from ice and snow, and transpiration from plant leaves.

Carbon Dioxide (CO_2)

CO_2 is an odorless, colorless natural GHG. Natural sources include the decomposition of dead organic matter; respiration of bacteria, plants, animals, and fungus; evaporation from oceans; and volcanic outgassing. Anthropogenic (human caused) sources of CO_2 include burning coal, oil, natural gas, and wood. Concentrations of CO_2 were 379 parts per million (ppm) in 2005, which is an average increase of 1.4 ppm per year since 1960 (IPCC, 2007).

TABLE 6.2-1
GLOBAL WARMING POTENTIALS
AND ATMOSPHERIC LIFETIMES OF SELECT GREENHOUSE GASES

Gas	Atmospheric Lifetime (years)	Global Warming Potential (100 year time horizon)
Carbon Dioxide (CO_2)	50-200	1
Methane (CH_4)	12 ±3	21
Nitrous Oxide (N_2O)	120	310
HFC-23	264	11,700
HFC-134a	14.6	1,300
HFC-152a	1.5	140
PFC: Tetrafluoromethane (CF_4)	50,000	6,500
PFC: Hexafluoroethane (C_2F_6)	10,000	23,900
Sulfur Hexafluoride (SF_6)	3,200	23,900

Source: EPA, June 2006

Methane (CH_4)

Methane is a flammable gas and is the main component of natural gas. When one molecule of methane is burned in the presence of oxygen, one molecule of CO_2 and two molecules of water are released. There are no health effects from methane. A natural source of methane is from the anaerobic decay of organic matter. Geological deposits known as natural gas fields contain methane, which is extracted for fuel. Other sources are from landfills, fermentation of manure, and cattle.

Nitrous Oxide (N_2O)

N_2O, also known as laughing gas, is a colorless GHG. Higher concentrations can cause dizziness, euphoria, and sometimes slight hallucinations. N_2O is produced by microbial processes in soil and water, including those reactions which occur in fertilizer containing nitrogen. In addition to agricultural sources, some industrial processes (fossil fuel-fired power plants, nylon production, nitric acid production, and vehicle emissions) also contribute to its atmospheric load. It is used in rocket engines, as an aerosol spray propellant, and in race cars.

Chlorofluorocarbons

Chlorofluorocarbons (CFCs) are gases formed synthetically by replacing all hydrogen atoms in methane or ethane with chlorine and/or fluorine atoms. CFCs are non-toxic, non-flammable, insoluble, and chemically unreactive in the troposphere (the level of air at the earth's surface). CFCs were first synthesized in 1928 for use as refrigerants, aerosol propellants, and cleaning solvents. They destroy stratospheric O_3; therefore, their production was stopped as required by the Montreal Protocol in 1987.

Hydrofluorocarbons

Hydrofluorocarbons (HFCs) are synthetic man-made chemicals that are used as a substitute for CFCs for automobile air conditioners and refrigerants.

Perfluorocarbons

Perfluorocarbons (PFCs) have stable molecular structures and do not break down through the chemical processes in the lower atmosphere. High-energy ultraviolet (UV) rays about 60 kilometers above Earth's surface are able to destroy the compounds. PFCs have very long lifetimes, between 10,000 and 50,000 years. Two common PFCs are tetrafluoromethane and hexafluoroethane. Concentrations of tetrafluoromethane in the atmosphere are over 70 parts per thousand (ppt). The two main sources of PFCs are primary aluminum production and semiconductor manufacture.

Sulfur hexafluoride (SF_6)

SF_6 is an inorganic, odorless, colorless, nontoxic, nonflammable gas. It also has the highest GWP of any gas evaluated (23,900). Concentrations in the 1990s were about 4 ppt. SF_6 is used for insulation in electric power transmission and distribution equipment, in the magnesium industry, in semiconductor manufacturing, and as a tracer gas for leak detection.

Ozone (O_3)

Described in Subchapter 6.1 (Air Quality) as a criteria pollutant, O_3 is also a GHG; however, unlike the other GHGs, O_3 in the troposphere is relatively short-lived and therefore is not global in nature. According to the CARB, it is difficult to make an accurate determination of the contribution of O_3 precursors (oxides of nitrogen (NO_X) and volatile organic compounds [VOCs]) to global warming. Therefore, project emissions of O_3 precursors would not significantly contribute to global climate change.

Aerosols

Aerosols are particles emitted into the air through burning biomass (plant material) and fossil fuels. Aerosols can warm the atmosphere by absorbing and emitting heat and can cool the atmosphere by reflecting light. Cloud formation can also be affected by aerosols. Sulfate aerosols are emitted when fuel with sulfur in it is burned. Black carbon (or soot) is emitted during biomass burning and incomplete combustion of fossil fuels. Particulate matter (PM) regulation has been lowering aerosol concentrations in the United States; however, global concentrations are likely increasing.

REGULATORY SETTING

Climate change in the Analysis Area is under the jurisdiction of several agencies including the EPA, the CARB, and the BAAQMD. Each jurisdiction develops rules, regulations, policies, and/or goals to attain the goals or directives imposed upon them through legislation. The following is a summary of current climate change legislation and regulation applicable to the Analysis Area.

INTERNATIONAL

The Montreal Protocol was originally signed in 1987 and substantially amended in 1990 and 1992. The Montreal Protocol governs compounds that deplete O_3 in the stratosphere – CFCs, halons, carbon tetrachloride, and methyl chloroform. The Montreal Protocol provided that these compounds were to be phased out by 2000 (2005 for methyl chloroform). In 1988, the United Nations (UN) and the World Meteorological Organization established the IPCC to assess "the scientific, technical and socioeconomic information relevant to understanding the scientific basis of risk of human-induced climate change, its potential impacts, and options for adaptation and mitigation" (City of Ontario, 2007).

On March 21, 1994, the United States joined a number of countries around the world in signing the UN Framework Convention on Climate Change (UNFCCC). Under the UNFCCC, governments "gather and share information on GHG emissions, national policies, and best practices; launch national strategies for addressing GHG emissions and adapting to expected impacts, including the provision of financial and technological support to developing countries; and cooperate in preparing for adaptation to the impacts of climate change" (IPCC, 2004).

A particularly notable result of UNFCC efforts was a treaty known as the Kyoto Protocol. Countries sign the treaty to demonstrate their commitment to reducing GHG emissions or to engaging in emissions trading. More than 160 countries (not including the United States) representing 55% of global emissions are currently participating in the protocol. In 1998, United States Vice President, Al Gore, symbolically signed the Kyoto Protocol; however, in order for the Kyoto Protocol to be formally ratified, the United States Congress must adopt it, which has not occurred.

FEDERAL

Supreme Court Ruling

The EPA is the Federal agency responsible for implementing the Clean Air Act (CAA). The U.S. Supreme Court ruled in its decision in Massachusetts et al. v. Environmental Protection Agency et al. ([2007] 549 U.S. 05-1120), issued on April 2, 2007, that CO_2 is an air pollutant as defined under the CAA, and that EPA has the authority to regulate emissions of GHGs.

Proposed Mandatory Greenhouse Gas Reporting Rule

On April 10, 2009, EPA published their Proposed Mandatory Greenhouse Gas Reporting Rule (Proposed Reporting Rule) in the Federal Register[1]. The Proposed Reporting Rule is a response to the FY 2008 Consolidate Appropriations Act (H.R. 2764; Public Law 110-161), which required EPA to develop "... mandatory reporting of greenhouse gases above appropriate thresholds in all sectors of the economy...." The Proposed Reporting Rule would apply to fossil fuel and industrial GHG suppliers, vehicle and engine manufacturers, and all facilities that would emit 25,000 MT CO_2e or more per year. Facility owners would be required to submit an annual GHG emissions report with detailed calculations of facility GHG emissions. The Proposed Reporting Rule would also mandate record keeping and administrative requirements in order for EPA to verify annual GHG emissions reports.

[1] The Federal Register is the daily publication for Rules, Proposed Rules, and Notices of the Federal Government.

Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases under the Clean Air Act

On April 23, 2009, EPA published their Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases under the Clean Air Act (Endangerment Finding) in the Federal Register. The Endangerment Finding is based on Section 202(a) of the CAA, which states that the Administrator (of the EPA) should regulate and develop standards for "emission[s] of air pollution from any class of classes of new motor vehicles or new motor vehicle engines, which in [its] judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare." The proposed rule addresses Section 202(a) in two distinct findings. The first addresses whether or not the concentrations of the six key GHGs (CO_2, CH_4, N_2O, HFCs, PFCs, and SF_6) in the atmosphere threaten the public health and welfare of current and future generations. The second addresses whether or not the combined emissions of GHGs from new motor vehicles and motor vehicle engines contribute to atmospheric concentrations of GHGs and therefore the threat of climate change.

The Administrator proposed the finding that atmospheric concentrations of GHGs endanger the public health and welfare within the meaning of Section 202(a) of the CAA. The evidence supporting this finding consists of human activity resulting in "high atmospheric levels" of GHG emissions, which are very likely responsible for increases in average temperatures and other climatic changes. Furthermore, the observed and projected results of climate change (e.g., higher likelihood of heat waves, wild fires, droughts, sea level rise, higher intensity storms) are a threat to the public health and welfare. Therefore, GHGs were found to endanger the public health and welfare of current and future generations.

The Administrator also proposed the finding that GHG emissions from new motor vehicles and motor vehicle engines are contributing to air pollution, which is endangering public health and welfare. The proposed finding cites that in 2006, motor vehicles were the second largest contributor to domestic GHG emissions (24% of total) behind electricity generation. Furthermore, in 2005, the U.S. was responsible for 18 percent of global GHG emissions. Therefore, GHG emissions from motor vehicles and motor vehicle engines were found to contribute to air pollution that endangers public health and welfare.

Climate Change Action Plan

In October 1993, President Clinton announced his "Climate Change Action Plan," with the goal of returning GHG emissions to 1990 levels by the year 2000. This was to be accomplished through 50 initiatives, relying on innovative voluntary partnerships between the private sector and government aimed at producing cost-effective reductions in GHG emissions. As of September 2009, 33 states had completed comprehensive Climate Action Plans and three states had plans in progress that detail the steps that each state can take to reduce their contribution to climate change. However, without specific targets for emissions reductions, incentives for cleaner technologies, or other clear policies, climate action plans cannot achieve real reductions in GHG emissions (Pew Center, 2009).

STATE

California Code of Regulations Title 24

Although not originally intended to reduce GHG emissions, California Code of Regulations (CCR) Title 24 Part 6: California's Energy Efficiency Standards for Residential and Nonresidential Buildings were first established in 1978 in response to a legislative mandate to reduce California's energy consumption. The standards are updated periodically to allow consideration and incorporation of new energy efficiency technologies and methods. The latest amendments were made in October 2005; however, the effective date for the 2008 Building Energy Efficiency Standards is January 1, 2010. Energy efficient buildings require less electricity, and electricity production by fossil fuels results in GHG emissions. Therefore, increased energy efficiency results in decreased GHG emissions.

California Assembly Bill 1493

AB 1493 (Pavley) enacted on July 22, 2002, required the CARB to develop and adopt regulations that reduce GHG emissions emitted by passenger vehicles and light duty trucks. Regulations adopted by the CARB applies to 2009 and later model year vehicles. The CARB estimates that the regulation will reduce climate change emissions from the light duty passenger vehicle fleet by an estimated 18% in 2020 and by 27% in 2030 (CARB, 2004).

Executive Order S-3-05

California Governor Arnold Schwarzenegger announced on June 1, 2005 through Executive Order S-3-05, GHG emission reduction targets as follows:

- Reduce GHG emissions to 2000 levels by 2010
- Reduce GHG emissions to 1990 levels by 2020
- Reduce GHG emissions to 80% below 1990 levels by 2050

Some literature equates these reductions to 11% by 2010 and 25% by 2020. The CAT Report to the Governor in 2006 contains recommendations and strategies to help ensure the targets in Executive Order S-3-05 are met.

California Assembly Bill 32

In 2006, the California State Legislature adopted the California Global Warming Solutions Act of 2006 (AB 32). AB 32 focuses on reducing GHG in California. GHG as defined under AB 32 include CO_2, methane, N_2O, HFCs, PFCs, and SF_6. AB 32 requires the CARB to adopt rules and regulations that would achieve GHG emissions equivalent to statewide levels in 1990 by 2020. AB 32 also charged the CARB with the task of developing, with public input, a plan for reducing GHG emissions and implementing that plan by January of 2012.

The CARB published its final report for Proposed Early Actions to Mitigate Climate Change in California, which describes recommendations for discrete early action measures to reduce GHG emissions in October 2007. The measures included are part of California's strategy for achieving GHG reductions under AB 32. One of the sources for the potential measures

includes the CAT Report. Three new regulations are proposed to meet the definition of "discrete early action GHG reduction measures," which include the following:

- A low carbon fuel standard (LCFS)
- Reduction of HFC-134a emissions from non-professional servicing of motor vehicle air conditioning systems
- Improved landfill methane capture

CARB estimates that by 2020, the reductions from those three measures would be approximately 13 to 26 $MMTCO_2e$.

Pursuant to AB 32, on November 16, 2007 the CARB released the statewide GHG emissions level for 1990 as 427 $MMTCO_2e$, and staff recommended approval of a statewide GHG emissions limit that is equivalent to that level, to be achieved by 2020. The CARB unanimously approved the staff's proposed 1990 GHG emissions level and the 2020 GHG emissions limit on December 6, 2007 with Resolution 7-55. Staff estimated that a reduction of approximately 12% would be needed to reduce 2004 levels to 1990 levels.

Under AB 32, the CARB has the primary responsibility for reducing GHG emissions. However, the CAT Report contains strategies that many other California agencies can implement. California is also exploring the possibility of cap and trade systems for GHG. The Market Advisory Committee to CARB published draft recommendations for designing a GHG cap and trade system for California (CARB, 2007).

California Senate Bill 1368

Senate Bill (SB) 1368 is the companion bill of AB 32 and was signed by Governor Schwarzenegger in September 2006. SB 1368 required the California Public Utilities Commission (PUC) to establish a GHG emission performance standard for baseload generation from investor-owned utilities by February 1, 2007. Similarly, the California Energy Commission (CEC) was tasked with establishing a similar standard for local publicly-owned utilities by June 30, 2007. These standards cannot exceed the GHG emission rate from a baseload combined-cycle natural gas fired plant. The legislation further requires that all electricity provided to California, including imported electricity, must be generated from plants that meet the standards set by the PUC and the CEC. In January 2007, the PUC adopted an interim GHG Emissions Performance Standard, which requires that all new long-term commitments for baseload generation entered into by investor-owned utilities have emissions no greater than a combined cycle gas turbine plant (i.e., 1,100 pounds of CO_2 per megawatt-hour). A "new long-term commitment" refers to new plant investments (new construction), new or renewal contracts with a term of 5 years or more, or major investments by the utility in its existing baseload power plants. In May 2007, the CEC approved regulations that prohibit the state's publicly owned utilities from entering into long-term financial commitments with plants that exceed the standard adopted by the PUC of 1,100 pounds of CO_2 per megawatt hour.

Executive Order S-01-07

Executive Order S-01-07 was enacted by Governor Schwarzenegger on January 18, 2007. Essentially, the order mandates the following:

- That a statewide goal be established to reduce the carbon intensity of California's transportation fuels by at least 10% by 2020
- That a LCFS for transportation fuels be established for California.

California Senate Bill 1078

SB 1078 establishes a renewable portfolio standard (RPS) for electricity supply. The RPS requires that retail sellers of electricity, including investor-owned utilities and community choice aggregators, provide 20% of their supply from renewable sources by 2017. This target date was moved forward by SB 1078 to require compliance by 2010. In addition, electricity providers subject to the RPS must increase their renewable share by at least 1% each year. The outcomes of this legislation will impact regional transportation powered by electricity.

California Senate Bill 97

The provisions of SB 97 enacted in August 2007 as part of the State Budget negotiations direct the Governor's Office of Planning and Research (OPR) to propose CEQA Guidelines advising lead agencies how to mitigate the impacts of GHG emissions. OPR has been directed to promulgate such guidelines by July 2009, and the Natural Resources Agency has been directed to adopt such guidelines by January 2010. At this time, however, there are no adopted CEQA Guidelines or other formal direction from regulatory agencies regarding the analysis of GHG emissions.

Draft CEQA Guideline Amendments for Greenhouse Gas Emissions

On April 13, 2009, OPR submitted to the Secretary for Natural Resources its proposed amendments to the CEQA Guidelines for GHG, as required by SB 97. These proposed CEQA Guideline amendments would provide guidance to public agencies regarding the analysis and mitigation of the effects of GHG emissions in draft CEQA documents. The Natural Resources Agency will conduct formal rulemaking in 2009, prior to certifying and adopting the amendments, as required by SB 97 (OPR, 2007).

Generally, the proposed Guidelines seek to apply CEQA's existing basic rules for impact analysis to the topic of GHG, specifying in several instances, for example, that determinations on GHG emissions must be supported by substantial evidence, as with other CEQA determinations. Under the Preliminary Draft CEQA Guideline amendments, changes to the CEQA Guidelines address determination of a project's incremental contribution to a cumulative effect, determining the significance of impacts from GHG (proposed Guideline 15064.4), consistency with plans, mitigation measures related to GHG emissions (proposed Guideline 15126.4), and tiering from an EIR. The Preliminary Draft CEQA Guideline amendments for GHG do not propose a particular threshold of significance to be applied in determining whether a project's contribution to global climate change is significant. Lead Agencies would retain discretion to establish thresholds of significance based on individual circumstances.

Senate Bill 375 - Redesigning Communities to Reduce Greenhouse Gases

SB 375 encourages housing and transportation planning on a regional scale, in a manner designed to reduce vehicle use and associated GHG emissions. It requires the CARB to set regional targets for the purpose of reducing GHG emissions from passenger vehicles for

2020 and 2035. Once plans and strategies are in place to meet the SB 375 targets, certain projects in these regions can be relieved of specific review requirements of the CEQA. The targets apply to the regions in the State covered by the 18 metropolitan planning organizations (MPOs), including the Metropolitan Transportation Commission (MTC) in the San Francisco Bay Area. The MTC developed the Metropolitan Transportation 2035 Plan (MTP), adopted April 22, 2009) with the AB 32 GHG reduction targets in mind; however, MTC's Regional Transportation Plan (RTP) update for 2013 would be the first MTC plan subject to SB 375 (MTC, 2008).

SB 375 requires MPOs to prepare a Sustainable Communities Strategy (SCS) within the RTP that sets forth a vision for growth for the region while taking into account transportation, housing, environmental, and economic needs. The SCS will be the blueprint by which the region will meet its GHG emissions reductions target if there is a feasible way to do so. The MPOs also will be required to prepare an alternative planning strategy with alternative development patterns, infrastructure, or additional transportation measures or policies to meet identified targets.

Regional Targets Advisory Committee

Per SB 375, CARB appointed a Regional Targets Advisory Committee (RTAC) on January 23, 2009, to provide recommendations on factors to be considered and methodologies to be used in CARB's target setting process. RTAC submitted the final report to CARB on September 29, 2009. CARB must propose draft targets by June 10, 2010, and adopt final targets by September 30, 2010 (CARB, September 2009).

RTAC recommended that regional targets be expressed as a percent per-capita GHG emission reduction from a 2005 base year. CARB would use an interactive process with MPOs to set a single statewide uniform target that could be adjusted up or down to respond to regional differences. Any adjustment would be subject to a "reasonably tough test". This process must ensure that targets are the most ambitious achievable for that region. The process will also involve expert consultation and interaction with stakeholders, the public and other state agencies.

The RTAC also analyzed the role of travel demand models and Best Management Practices (BMPs) in the target setting process. At the conclusion of its discussions, the RTAC agreed to the following:

1. All MPOs employ travel modeling, and the results of the modeling with respect to GHG emissions will be made publicly available.
2. RTAC supports the use of a list of accepted best management practices, or BMPs for:
    - One of several tools to be used in target setting
    - GHG reduction strategy development
    - Target compliance demonstration by small MPOs in the first round and as an action plan to supplement model compliance by all MPOs
    - CARB to use as an accuracy check on each MPO's submittal as part of its strategy approval process
    - A user-friendly tool to facilitate public review of the GHG reduction strategy for all MPOs

3. RTAC discussed the option of recommending that all MPOs have the option of using the BMP list as the sole method of demonstrating compliance, and could not come to resolution. Prior to CARB deciding on this option, RTAC recommends CARB consider all pros and cons related to this decision as discussed at the July 22, August 5 and 18, and September 1, 2009 RTAC meetings.

Additional California Climate Change Initiatives

The Western Regional Climate Action Initiative (Initiative) was signed on February 26, 2007 by five states: Washington, Oregon, Arizona, New Mexico, and California. The Premiers of British Columbia, Manitoba, Ontario, and Quebec, and the Governors of Montana and Utah have since joined the original five states. The Initiative calls for collaboration to identify, evaluate, and implement ways to reduce GHG emissions in the states collectively and to achieve related co-benefits. The Initiative has issued recommendations for the design of a regional cap and trade program, and in 2009 set a regional cap. In addition, a multi-state registry will track, manage, and credit entities that reduce GHG emissions. California is also exploring the possibility of cap and trade systems for GHG. The Market Advisory Committee to CARB published draft recommendations for designing a GHG cap and trade system for California.

LOCAL

Bay Area Air Quality Management District

The Analysis Area is under the jurisdiction of the BAAQMD. The BAAQMD is responsible for implementing emissions standards and other air quality regulations governing activities in the Analysis Area. The BAAQMD endeavors to protect and improve public health, air quality, and the global climate and create a healthy breathing environment for every Bay Area resident. The BAAQMD is governed by a 22-member Board of Directors composed of locally elected officials from each of the nine Bay Area counties. The number of board members from each county is proportionate to its population.

The BAAQMD Board oversees policies and adopts regulations for the control of air pollution within the district. The Board also appoints the Air District's Executive Officer/Air Pollution Control Officer, who implements Board policies and gives direction to staff, as well as the District Counsel, who manages the legal affairs of the agency. The BAAQMD consists of over 350 staff members, including engineers, inspectors, planners, scientists, and other professionals (BAAQMD, 2009).

BAAQMD 1999 CEQA Guidelines

The BAAQMD's current CEQA guidelines were adopted in December, 1999 and do not include guidance on the evaluation of impacts related to global climate change or GHGs. The BAAQMD Draft CEQA Guidelines released in September 2009 (BAAQMD Draft Guidelines), however, provides ample guidance. In the absence of any other regulations pertaining to GHG, the BAAQMD Draft Guidelines will serve as basis for the evaluation of the proposed Amendments.

BAAQMD 2009 Draft CEQA Guidelines

The BAAQMD Draft Guidelines recommend the use of an efficiency-based metric to evaluate general and area plans, combined with reliance on local action plans designed to reduce GHG emissions. Such an analysis enables comparison of general plans of different sizes and in different jurisdictions to a uniform GHG efficiency threshold, and allows comparison of general plans throughout the BAAB to one another. It will also provide guidance for decision-makers regarding whether the general plan would substantially help or hinder the State's ability to attain GHG emission reduction goals identified in AB 32.

Milpitas 2005 Local Government Operations Greenhouse Gas Emissions Inventory Report

The City is implementing the International Council for Local Environmental Initiatives (ICLEI) – Local Governments for Sustainability program to reduce the GHG emissions from City-controlled sources. The focus of the program is to reduce GHG emissions and mitigate the potential impacts of climate change by increasing energy efficiency in City facilities and vehicle fleets, utilizing renewable energy sources, sustainable purchasing, waste reduction, and supporting alternative modes of transportation for employees (ICLEI, 2005).

This program has five steps, referred to as Milestones.

- Milestone 1, creating the baseline GHG emissions inventory has been completed.
- Milestone 2 involves setting an emissions reduction target for the forecast year.
- Milestone 3 requires the creation of a climate action plan to meet this target.
- The framework associated with the final action plan will support the City in meeting the requirements of Milestone 4 (implementation) and Milestone 5 (monitoring and adjustment).

The framework facilitates the integration of new and revised information, taking advantage of new opportunities and allowing adjustments to under-performing initiatives.

Milpitas Green Building Ordinance

The City adopted an intermediate level Green Building compliance ordinance as Title II, Chapter 20 of the Milpitas Municipal Code, effective August 1, 2009. The purpose and intent of the ordinance "is to enhance the public health and welfare by promoting the environmental and economic health of the City through the design, construction, maintenance, operation and deconstruction of buildings and other site development by incorporating green building practices into all development." The green building provisions in the Ordinance are designed to increase energy efficiency, encourage water and resource conservation, and reduce waste generated by construction projects. Only buildings designated as a local Cultural Resource or listed on the California Register of Historic Resources or the National Register of Historic Places (National Register or NRHP), and remodels or renovations to residential buildings that do not add more than five new dwelling units are exempt from the ordinance. The types and sizes of projects subject to the provisions of the Ordinance are identified in Table 6.2-2.

TABLE 6.2-2
GREEN BUILDING STANDARDS FOR COMPLIANCE[A]

Type of Project[B]	Building Improvements		
	Checklist Required	Minimum Threshold	Verification Required
Residential			
New Construction fewer than five (5) units	Build it Green or LEED	Not Applicable	No
New Construction five (5) or more units	Build it Green or LEED	50 Green Points (Build it Green)	Yes
Nonresidential			
New Construction 500 - 25,000 sf	LEED	Not Applicable	No
New Construction 25,000 - 49,999 sf	LEED	LEED Certified	Yes
New Construction or renovations 50,000 sf or more	LEED	LEED Silver	Yes
City Buildings			
New construction or renovations over 25,000 sf	LEED	LEED Silver	Yes
Mixed Use	Residential and Commercial criteria as applicable to each residential and commercial component of the project.		

[A] All square footage is gross.

[B] Per these green building regulations, a rating system other than LEED or Build It Green may be used with equivalent thresholds at the discretion of the Compliance Officer.

Source: Milpitas Municipal Code, Title II, Chapter 20, Section 3.

Proposed Energy Efficiency and Conservation Strategy

The City and Redevelopment Agency have included a Green Facility Study as a part of the 2009-2014 Capital Improvement Program (CIP). An Energy Efficiency and Conservation Strategy (EECS) is now required for projects to receive Federal Stimulus Program funding. This strategy includes the following:

- Development of goals/objectives for local government energy use and emissions reductions, energy efficiency improvements, and renewable energy generation
- Project/program identification
- Project/program prioritization based on agency-approved criteria which may include associated GHG emissions reductions, capital investment required, how quickly the project can be implemented, job creation benefits, and how much other funding can be leveraged for each type of project
- Project/program cost estimates

- Baseline energy use and GHG emissions, and forecasted reductions for the projects undertaken
- Energy generation estimates
- Cost-effectiveness rationale, including opportunities to leverage other funding sources
- Job creation rationale
- Implementation schedule
- Appropriate performance metrics
- Identification of potential obstacles to reaching goals and develop strategies to remove obstacles,
- Policies and/or administrative actions adopted or needed to support actions/plans/ strategies/targets/schedule
- Evaluation, monitoring, and verification plan (auditing and monitoring procedures to prevent fraud, waste, error, and abuse)

The Silicon Valley Climate Protection Partnership

The Silicon Valley Climate Protection Partnership is a joint effort between Joint Venture: Silicon Valley Network (JV:SVN); Sustainable Silicon Valley (SSV); local governments in San Mateo, Santa Clara and Santa Cruz counties (hereby referred to as the "Silicon Valley area"); and ICLEI. The Partnership was initiated in 2008 to provide a solid regional platform for local governments to follow ICLEI's Five-Milestone process, as well as a shared learning experience. In early 2008, JV:SVN contracted with ICLEI to conduct government operations emissions inventories for 27 participating local governments, using the standards outlined in the then soon-to-be-released Local Government Operations Protocol (adopted by CARB in 2008). SSV joined the Partnership to provide additional educational and other services to facilitate more rapid progress by participating governments through the Five Milestones. While ICLEI created these inventories concurrently using the same tools and methods, each inventory was conducted independently using data specific to each local government's operations. For this reason, inventories from different jurisdictions will involve different sources of data and emissions calculation methods.

Alongside the activities of the Partnership, JV:SVN and SSV have been facilitating regional climate dialogues to further emissions reductions goals in the Silicon Valley area. JV:SVN supports the work of the Climate Protection Task Force, a group that includes staff members from 44 jurisdictions in the Silicon Valley area, including cities, counties, and special districts. In this neutral forum, the partners learn from each other and from expert guests about climate protection programs. They then work to develop effective, collaborative programs for the reduction of GHG emissions from public agency operations. SSV holds quarterly conferences and monthly meetings that discuss specific approaches to addressing climate change, including the pros and cons of regional climate planning. SSV also puts out annual reports highlighting successes of businesses and local governments that have voluntarily pledged to set and work toward their own CO_2 reduction goals (ICLEI, 2005).

EXISTING CONDITIONS

MUNICIPAL EMISSIONS

The County and the larger San Francisco Bay area public jurisdictions (cities and counties) have adopted global warming pollution reduction targets and have committed to developing action plans. The first step, creating the inventory of emissions produced by the internal municipal operations, has been completed for all cities and the county. The City's emissions by sector are 10% for water/wastewater transport, 9% for street lighting, 28% for buildings and facilities, 19% for the City vehicle fleet, 8% for government created solid waste, and 26% for employee commute. The City's total emissions for 2005 were 7,533 metric tons of CO_2e.

COMMUNITY-WIDE EMISSIONS

There is currently no GHG emissions inventory for the City of Milpitas at a community level.

On October 6, 2009, the City authorized the next phase of the ICLEI study, which will include an estimate of 2005 levels of Milpitas community-wide greenhouse gas emissions. Subsequent to a community greenhouse gas emissions baseline, future phases would include establishing emission reduction goals under a Climate Action Plan. The Plan would use the baseline data to measure progress toward those goals, such as setting an emissions reduction target for municipal operations (for example: reducing emissions to 1990 levels by 2020).

ENVIRONMENTAL IMPACTS

METHODOLOGY

Redevelopment programs and projects are intended to eliminate blight and blighting conditions within the Analysis Area that currently prevent the full and effective use of the land – consistent with the City of Milpitas General Plan (General Plan), as amended over time. Because redevelopment encourages development of blighted and underutilized properties to uses consistent with the General Plan, thresholds of significance have been selected that are appropriate for programmatic documents. No specific projects have been identified; therefore, the following activities are evaluated at the programmatic level:

- Property acquisition and land assemblage
- Demolition or rehabilitation of structures
- Installation of streets, utilities, and other public facilities and infrastructure
- Funding construction and development assistance for community centers, recreation centers, childcare centers, parks, urban design plans, master plans, streetscapes and facility improvements
- Financial development assistance for private projects
- Construction of affordable housing

Short-term GHG emissions during construction and long-term cumulative impacts during operation were programmatically considered, including intermittent mobile or stationary construction equipment emissions and construction and vehicular emissions. The specific location and intensity of the development in the Analysis Area that could cause such impacts over the extended period of the Amendments is for the most part unknown – except that all development must be consistent with the General Plan and that most of the Analysis Area is already developed. Potential GHG emissions impacts in this section are therefore based on anticipated General Plan development resulting from the removal of barriers to development and the recycling of existing properties.

THRESHOLDS OF SIGNIFICANCE

Significance criteria are the basis for determining whether the Amendments would result in significant short-term or long-term impacts to local and regional air quality conditions. GHG emissions from redevelopment and redevelopment-engendered development could contribute to global climate change during construction and as a cumulative contribution to community-wide emissions.

Construction Emissions

According to the 2009 BAAQMD Draft CEQA Guidelines, the threshold of significance for construction-related GHG emissions is the presence of BMPs. If the General Plan does not include the most recent BAAQMD recommended BMPs in goals, policies, and objectives, as appropriate, construction-related GHG emissions would result in a significant impact.

The Threshold of Significance for construction-related GHG emissions is the presence of the following performance-based best management practices:

- Alternative-fueled (e.g., biodiesel, electric) construction vehicles/equipment of at least 15% of the fleet
- Local building materials of at least 10%
- Recycle at least 50% of construction waste or demolition materials

Project-Level Operational Emissions

Land Use Projects

The proposed BAAQMD Threshold of Significance for operational-related GHG emissions for land use projects is 1,100 metric tons per year (MT/yr) of CO_2e. If annual emissions of operational-related GHGs would exceed this level, the proposed project would result in a cumulatively considerable contribution of GHG emissions and a cumulatively significant impact to global climate change.

The BAAQMD recommends URBEMIS mitigation measures to reduce operational-related emissions of GHGs from mobile, area, and stationary sources. The measures to reduce GHGs include:

- Mixed uses
- Local serving retail within 1/2 mile of a project
- Transit service

- Bike and pedestrian enhancements
- Affordable housing
- Transportation demand management measures such as parking reductions, transit passes, telecommuting programs, bike parking, showers, and/or car pooling
- Area source measures such as exceeding Title 24 requirements, electric equipment, and low-VOC architectural coatings

Non-URBEMIS energy efficiency related measures are also listed specifically targeting GHGs. These include:

- Plant shade trees within 40 feet of the south side or within 60 feet of the west sides of properties
- Require cool roof materials
- Install green roofs
- Require smart meters and programmable thermostats
- Meet Green Building Code (GBC) standards in all new construction
- Retrofit existing buildings to meet California GBC standards
- Install solar water heaters
- Install tank-less water heaters
- Install solar panels on residential and commercial buildings
- 100% increase in diversity of land use mix
- 100% increase in design (i.e., presence of design guidelines for transit oriented development, complete streets standards)
- 100% increase in density
- HVAC duct sealing
- Provide necessary infrastructure and treatment to allow use of 50% greywater/ recycled water in residential and commercial uses for outdoor irrigation
- Complete streets (i.e., bike lanes and pedestrian sidewalks on both sides of streets, traffic calming features such as pedestrian bulb-outs, cross-walks, traffic circles, and elimination of physical and psychological barriers (e.g., sound walls and large arterial roadways, respectively).)
- Other available measures without quantifiable reductions

Stationary Source Projects

The Threshold of Significance for operational-related GHG emissions for stationary source projects is 10,000 MT/yr of CO_2e. If annual emissions of stationary source operational-related GHGs would exceed this level, a project would result in a cumulatively considerable contribution of GHG emissions and a cumulatively significant impact to global climate change. If a land use project includes emissions from engines (e.g., back-up generators) and industrial sources subject to BAAQMD Rules and Regulations, these emissions should be analyzed separately from the land use indirect and area source emissions. Stationary source emissions are not included in the screening estimates given below and must be added to the indirect and area source land use emissions.

Screening Criteria

The BAAQMD has developed screening criteria to provide the Lead Agency and project applicant with a conservative indication of whether the proposed project would result in the generation of operational-related GHGs that exceed the Threshold of Significance. If the project would not exceed the applicable screening level size shown in the proposed CEQA Guidelines Table 2-3 (Proposed CEQA Guidelines, pg. 2-4), the operation of the proposed project would likely result in a less-than-significant cumulative impact to global climate change. Typical operational screening levels include a 56 unit single-family residential project, 78 unit low-rise apartment complex, 53,000 square feet (sf) general office building, 64,000 sf light industrial building, or 89,000 sf manufacturing plant.

Community-Wide Operational Emissions

Long-term operational impacts to air quality result from the build-out of long range plans and are generally determined by continued operation of land uses allowed in the general or area plan and the vehicle travel behavior associated with these uses. If a general or area plan is adopted pursuant to a certified EIR that considers GHG emissions, and if the plan and its EIR incorporate development policies, performance standards, and mitigation measures achieving GHG emission reductions, this could alleviate the need to evaluate and mitigate GHG emissions at the project-level for projects that are found to be consistent with the general or area plan.

As opposed to the identification of a bright-line mass emissions threshold (1,100 MT/yr CO_2e), as is applied to individual projects, BAAQMD recommends the use of an efficiency-based metric to evaluate general and area land use plans, combined with reliance on local action plans designed to reduce GHG emissions. A general or area plan would be assumed to have a less-than-significant impact from GHG emissions if the Lead Agency has prepared and adopted a climate action plan (CAP), or the plan contains goals, objectives and policies that meet criteria below, and has been evaluated pursuant to CEQA and has a certified or approved environmental document.

The CAP (or the area's long range plan) must:

1. Address the entirety of the general or area plan project area
2. Include a base year GHG emissions inventory and GHG emissions projections for 2020 for community-wide and municipal emissions
3. Identify a GHG reduction target that meets or exceeds AB 32 and/or Executive Order S-3-05 reduction targets
4. Specify a range of binding and enforceable GHG emission reduction measures, and demonstrate by way of substantial evidence that these measures, if implemented on a project-by-project basis, would achieve the specified GHG reduction target
5. Establish a mechanism to monitor the plan's progress toward achieving the GHG reduction target and require amendment if the plan does not meet the specified level

In the absence of a CAP as described above, an area land use plan's operational impacts on global climate change would be considered less than significant if a GHG emissions inventory, projection, and evaluation had been prepared and evaluated to reduce per-

Service Population (SP)[2] emissions below 4.6 MT/yr CO_2e/SP (mixed use) or per-capita emissions to below 6.7 MT/yr CO_2e/capita (residential).

Milpitas has not updated its General Plan or EIR to incorporate GHG emission reduction strategies. The City has adopted a CAP for municipal emissions, but has not yet adopted one that applies to community-wide emissions. It is anticipated that these steps will occur at some point during the life of the Amendments; however, the City has currently completed only the municipal emissions inventory.

PROJECT-SPECIFIC IMPACTS AND MITIGATION MEASURES

Impact 6.2-1 Redevelopment engendered development and infrastructure construction activities would generate greenhouse gas emissions that could contribute to global climate change. This would be a potentially significant impact.

With future development and infrastructure demolition and construction in the Analysis Area, GHG emissions would be emitted by construction equipment and the combustion of fossil fuels for construction vehicles and tools, construction vehicle trips, grid-delivered electricity for lighting and equipment, and construction waste. Construction activities are regulated by the City and the BAAQMD. Construction in the Analysis Area over the life of the Amendments will include demolition of some structures and grading preparation for all new construction. As noted above, according to the 2009 BAAQMD Draft CEQA Guidelines, the threshold of significance for construction-related GHG emissions is the presence of BMPs. Whereas neither the current General Plan nor the City of Milpitas Municipal Code (Municipal Code) include the most recent BAAQMD recommended BMPs in goals, policies, and objectives, construction-related GHG emissions from redevelopment activities would result in a ***potentially significant impact***.

Mitigation

6.2-1 Redevelopment construction activities shall implement the most current BAAQMD performance-based best management practices (BMPs) to the satisfaction of the BAAQMD, including but not limited to:

a) Alternative-fueled (e.g., biodiesel, electric) construction vehicles/equipment of at least 15% of the fleet

b) Local building materials of at least 10%

c) Recycle at least 50% of construction waste or demolition materials

Significance after Mitigation

Less than significant

[2] Service Population (SP) efficiency-based measure used by BAAQMD to estimate the development potential of a general or area plan. SP is determined by adding the number of residents to the number of jobs estimated for a given point in time

Impact 6.2-2 Individual redevelopment-assisted development projects could produce operational greenhouse gas emissions that contribute to global climate change. This would be a potentially significant impact.

The primary sources of GHG emissions generated within the Analysis Area are anticipated to be combustion of fossil fuels for operational vehicle trips; from grid-delivered electricity for lighting, appliances, and building cooling; and from building heating with natural gas. Even very large individual projects cannot generate enough GHG emissions to influence global climate change. However, each project makes an incremental contribution to GHG that, when combined with the cumulative increase of all other sources of GHG, can be considered to affect global climate change.

The City has adopted a CAP for municipal emissions, but has not yet adopted one that applies to community-wide emissions. In the absence of an area-wide CAP as described above, an individual redevelopment project's operational impacts on global climate change may be individually significant if it exceeds the proposed BAAQMD Threshold of Significance for operational-related GHG emissions of 1,100 MT/yr of CO_2e for land use projects, or 10,000 MT/yr of CO_2e for stationary sources. If annual emissions of operational-related GHGs would exceed this level, a redevelopment project could result in a considerable contribution of GHG emissions and a significant impact to global climate change.

Case-by-case review of redevelopment-engendered development would be required until the City has completed a community-wide CAP. Future redevelopment projects that exceed the BAAQMD screening criteria are required to complete an URBEMIS analysis using BAAQMD protocols to determine GHG emissions during the CEQA review process, and appropriate and feasible mitigation measures must be incorporated. The nature and extent of each redevelopment-assisted project within the Analysis Area is unknown at this time, as is the feasibility of reducing GHG emissions to below the applicable adopted thresholds. Therefore, individual development projects engendered by adoption of the Amendments could result in a ***potentially significant*** increase in GHG emissions.

Mitigation

No plan-level mitigation beyond the required CEQA process for project approval is available at this time. It is unknown whether project by project mitigation measures will be sufficient to reduce GHG emissions below BAAQMD significance thresholds.

Significance after Mitigation

Potentially significant and unavoidable

CUMULATIVE IMPACTS AND MITIGATION MEASURES

Impact 6.2-3 The Amendments would engender redevelopment of the Analysis Area that could contribute to cumulative contributions to global climate change. This would be a less-than-significant cumulative impact.

The passage of AB 32 – The California Global Warming Solutions Act of 2006 –requires that the CARB adopt a reduction strategy of rules and regulations to bring GHG emissions to

that of 1990 by 2020. The BAAQMD's proposed CEQA Guidelines recommends reliance on local CAPs designed to reduce GHG emissions. Although the City has not yet adopted an area-wide CAP, GHG reduction strategies generally include land use strategies such as transit-oriented development, compact urban design, circulation improvements to increase non-vehicular modes of transportation, increasing energy efficiency, and other conservation and sustainable development measures.

The Amendments would serve as an implementation tool for many such strategies. Existing land uses within the Analysis Area currently consist of many older structures built to lower energy efficiency standards. The Amendments would fund rehabilitation of existing structures to bring them up to code and increase energy efficiency, increasing the number of structures that meet the requirements of the Green Building Ordinance. This would replace older lighting systems, appliances, and heating, ventilating, and air conditioning (HVAC) systems with energy efficient systems, thus reducing the current GHG emissions within the Analysis Area. Streetscape and roadway infrastructure improvements would improve non-vehicular accessibility and reduce vehicle miles traveled (VMT). In addition, the housing assistance programs are intended to both increase affordability and improve the jobs-housing balance within the Analysis Area, further decreasing regional VMT.

The proposed Amendments would remove barriers to infill development within the Analysis Area. The Analysis Area is fully urbanized, with some parcels that are underutilized or previously developed. Obsolete, energy inefficient industrial buildings may be replaced with new structures constructed under the Green Building Ordinance. Redevelopment is intended to encourage transit and pedestrian oriented development close to jobs and services, reducing GHG through design; all portions of the Analysis Area are located within a half mile of transit. The Amendments would remove both fiscal and physical barriers to infill development through the proposed development and infrastructure programs to eliminate blight, reducing regional VMT. The Amendments would also benefit the overall Merged Project Area, and thereby remove barriers to the implementation of the Transit Area Plan and Midtown Specific Plans, which have both been designed to meet sustainable land use goals of higher density, mixed use, pedestrian and transit oriented development. Therefore, the extension of redevelopment tools into the Added Area and for an additional 10 years in the Existing Project Area would assist in reducing the existing levels of GHG in the Analysis Area, consistent with the objectives of Executive Order S-3-05, and would have a ***less-than-considerable cumulative impact*** on global climate change.

Mitigation

None required

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6.3

CULTURAL AND HISTORIC RESOURCES

Milpitas Redevelopment Amendments

CHAPTER 6
ENVIRONMENTAL ANALYSIS

6.3 CULTURAL AND HISTORIC RESOURCES

INTRODUCTION

This Subchapter of the Environmental Impact Report (EIR) identifies the historical background and cultural resources in the Analysis Area[1] for the Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 and the Sixth Amendment to the Great Mall Redevelopment Project (proposed project or Amendments). The potential cultural resource impacts of adding territory to Project Area No. 1 (Added Area) and extending redevelopment in the Amendment Areas for an additional 10 years are assessed programmatically, based on existing documentation for the Analysis Area.

There were no responses to the Notice of Preparation received regarding cultural resources.

SETTING

The City of Milpitas (City) lies in the northeastern corner of the Santa Clara Valley (Valley), which is south of San Francisco. Milpitas is generally considered to be a San Jose suburb in the South Bay, a term used to denote the southern part of the San Francisco Bay Area. Set within a mild Mediterranean climate zone in California, Milpitas experiences warm, sunny weather with no extreme temperatures or snow.

The median elevation of Milpitas is 19 feet. At Piedmont Road, Evans Road, and North Park Victoria Avenue, the elevation is generally about 100 feet, while the western area is almost at sea level. The highest point in Milpitas is a 1,289-foot peak in the southeastern foothills.

To the east of Milpitas lie the foothills, rolling hills, and mountains of the Diablo Range. Monument Peak, the most prominent summit in the eastern Milpitas hills, is one of the oldest and most well-known symbols of Milpitas. Although not within Milpitas' city limits, Monument Peak, Calaveras Reservoir, Arroyo Hondo, Laguna Valley, and the surrounding region are culturally and historically considered part of Milpitas.

There are also many creeks in Milpitas, most of which are part of the Berryessa Creek watershed. Calera Creek, Arroyo de los Coches (also called Los Coches Creek), Penitencia Creek, and Piedmont Creek are some of the creeks that flow from the Milpitas hills and empty into the San Francisco Bay. Lower Penitencia Creek and Ford Creek traverse the Amendment Areas in a north/south direction near S. Main and S. Abel streets. Berryessa, Piedmont, and Arroyo de los Coches creeks are channelized through the Analysis Area. Coyote Creek forms the western boundary of the Amendment Areas.

The Analysis Area contains much of the City's industrial lands, and some older residential neighborhoods. The Union Pacific Railroad (UPRR) tracks divide portions of the Analysis Area from north to south, as well as Interstate 880 (I-880) and Interstate 680 (I-680).

[1] The areas eligible for amendment within Project Area No. 1 are referred to as the Amendment Areas. For purposes of this EIR, the Amendment Areas and the Added Area are collectively referred to as the Analysis Area.

PREHISTORIC BACKGROUND

The Milpitas area was likely settled by Native Americans between 12,000 and 6,000 years ago. Penutian-speaking peoples migrated into central California around 4,500 years ago and were firmly settled around San Francisco Bay by 1,500 years ago. The descendants of the native groups who lived between the Carquinez Strait and the Monterey area prefer to be called Ohlone, although they are often referred to by the name of their linguistic group, Costanoan. Milpitas is within the ethnographic territory of the Alson tribe of Ohlone, who occupied the area near the mouth of the Coyote Creek. The lands now occupied by the City were once a part of the home territory of the Tamyen (also spelled Thomien, Tamien, Thamien, or Tamiayn) tribelet of the Ohlone (Costanoan) Indians.

The Ohlone people inhabited the San Francisco Bay area and predated Spanish occupation by up to 4,000 years. The Ohlone Indians lived a traditional life based on everyday hunting and gathering. The people were semi-nomadic, but would generally return to village sites season-after-season. Village sites were marked by shells and other refuse, in some instances eventually creating raised "shell mounds." Some of the Ohlone lived in various villages within what is now modern-day Milpitas, including sites underneath what are now the Calvary Assembly of God Church and Higuera Adobe Park. Archaeological evidence gathered from Ohlone graves at the Elmwood Correctional Facility in 1993 revealed a rich trade with other tribes from Sacramento to Monterey (City of Milpitas, March 2002).

Ethnographic Background

The Tamyen are one of eight linguistic divisions of the Coastanoan people groups of Native Americans who lived in Northern California. The Tamyen lived throughout the Santa Clara Valley. The use of the name Tamyen is on record as early as 1777, it comes from the natives' name for the location of the first Mission Santa Clara (Mission Santa Clara de Thamien) on the Guadalupe River. Father Pena mentioned in a letter to Junipero Serra that the area around the mission was called Thamien by the native people. The missionary fathers erected the mission on January 17, 1777 at the native village of So-co-is-u-ka.

Tamyen (also called Santa Clara Costanoan) has been extended to mean the Santa Clara Valley Indians, as well as for the language they spoke. Tamyen is listed as one of the Costanoan language dialects in the Utian family. It was the primary language spoken at the first and second Mission Santa Clara (both founded in 1777). Linguistically, it is thought that Chochenyo, Tamyen, and Ramaytush were close dialects of a single language.

Like other Costanoan groups, the Tamyen maintained a few year-round village sites in the Milpitas vicinity, but also visited various temporary camps at different seasons of the year to hunt and gather food as it became available. Related archaeological sites in the Milpitas vicinity tend to be situated on alluvial fans near historic bay and/or marsh margins, as well as along former and existing sources of fresh water.

Archaeological Resources in the Vicinity

Two notable Costanoan village sites lay within the city limits of Milpitas. One site is a huge shellmound near the present-day Elmwood Correctional Facility, located within the Analysis Area, was discovered in 1949 and dates back to the 18th century. The other, on the site of the Alviso Adobe near the corner of Calaveras and Piedmont, located just east of the Added

Area, is at least 3,000 years old and is one of only a handful of archaeological sites in California with such a long history of continuous occupation.

HISTORIC BACKGROUND

Historic Setting of the City of Milpitas

During the Spanish expeditions of the late 1700s, several missions were founded in the San Francisco Bay Area. During the mission period, Milpitas served as a crossroads between Mission San José de Guadalupe in modern-day Fremont and Mission Santa Clara de Asis, in present Santa Clara. The land in modern-day Milpitas was divided between the 6,353-acre Rancho Rincon de Los Esteros granted to Ygnacio Alviso; the 47,738-acre Rancho Milpitas (Spanish for "little corn fields") granted to José María Alviso; and the 26,581-acre Rancho Los Tularcitos granted to José Higuera. Two prominent adobe homes built on these properties still exist and are the oldest structures in Milpitas. The seriously eroded walls of the Jose Higuera Adobe, now in Higuera Adobe Park, are encapsulated in a brick shell built c.1970 by Marian Weller.

In the 1850s, large numbers of Americans of English, German, and Irish descent arrived to farm the fertile lands of Milpitas. These early settlers farmed the land and set up many businesses on a section of what was then called Mission Road, which by the late 20th century became known as the "Midtown" district.

There is a local legend that during the late 1800s, when the United States Postal Service wanted to locate a Post Office in the town, there was some support for naming the town Penitencia, after the small Roman Catholic confessional building that served local Indians and ranchers and that stood near Penitencia Creek, which ran along the Mission Road. Prominent land owner and civic leader, Joseph Weller, felt the Spanish word Penitencia might be confused with the English word "penitentiary." Instead he suggested another popular name for the area, Milpitas, after the name of Alviso's property, Rancho Milpitas.

By 1890, Milpitas was secure in its position as one of the most important shipping points in the entire county, with miles of graded, graveled roads feeding into the cross-roads. Freight and passenger trains arrived and departed several times daily, forging closer links with distant cities. For over a century, Milpitas served as a popular rest stop for travelers on the old Oakland–San Jose Highway.

On January 26, 1954, Milpitas residents incorporated as a City. Starting in 1955, with the construction of the Ford Motor Mustang/Mustang Shelby Assembly Plant, and accelerating in the 1960s and 1970s, extensive residential and retail development took place. Hayfields in Milpitas rapidly disappeared as industries and residential housing developments spread. Soon, the once rural town of Milpitas found itself as a San Jose suburb.

The building of I-880 in the early 1950s sounded the death knell for the old Milpitas crossroads. With the construction of I-680 to the east of downtown, new emphasis was placed on Calaveras Road, which became the connector road across town from one freeway to the other. Recent growth, including new civic buildings, has focused on the Calaveras corridor. In the 1960s, the City approved the construction of the Calaveras overpass. Formerly at a junction with the UPRR, Calaveras Boulevard had a bridge passing over six sets of railroad tracks after the construction was completed. Though the result was

that local residents could now drive over the train tracks without waiting for a slow freight to pass, it resulted in the loss of the historical residential area. Here houses owned by former city leaders were either moved or were demolished.

Although several adobes and some farmhouses were lost to the fluctuations of time and weather, and the commercial center to various fires, Milpitas remained little changed one hundred years after California's admission to the Union. However, significant change came with the decision to build the Ford Motor Plant at the southern end of the City. The huge plant required an attendant population of workers and supporting services. Within the next two decades virtually all of the older buildings in the center of the City were demolished; leaving only the two corridors along the eastern foothills and the western highway fairly intact.

The Ford Mustang/Mustang Shelby factory closed in 1984 and was converted into the Great Mall of the Bay Area shopping mall, which opened in 1994. In the early 21st century, Milpitas light rail transit system station was added, making it the north-easternmost light rail destination in the region (City of Milpitas, n.d.; March 2002).

City of Milpitas Historic Resources Inventory

Currently, there are thirteen sites (four of which have no historic structures on them) officially designated as Cultural Resources within the City. The City of Milpitas Conceptual Historic Resources Master Plan (Historic Resources Master Plan; 1993) identified an additional six Cultural Resource sites and two historic sites listed in the Historic Sites Inventory as "prime" candidates for preservation. The Historic Resources Master Plan also identified the two adobes as being eligible for the states' Historic Landmark or Point of Historical Interest status. The 1990 survey limited its scope to buildings over 50 years old, applying the criteria of the National Register of Historic Places, (NRHP) with the single exception of the Ford Mustang/Mustang Shelby factory, which was constructed in 1953.

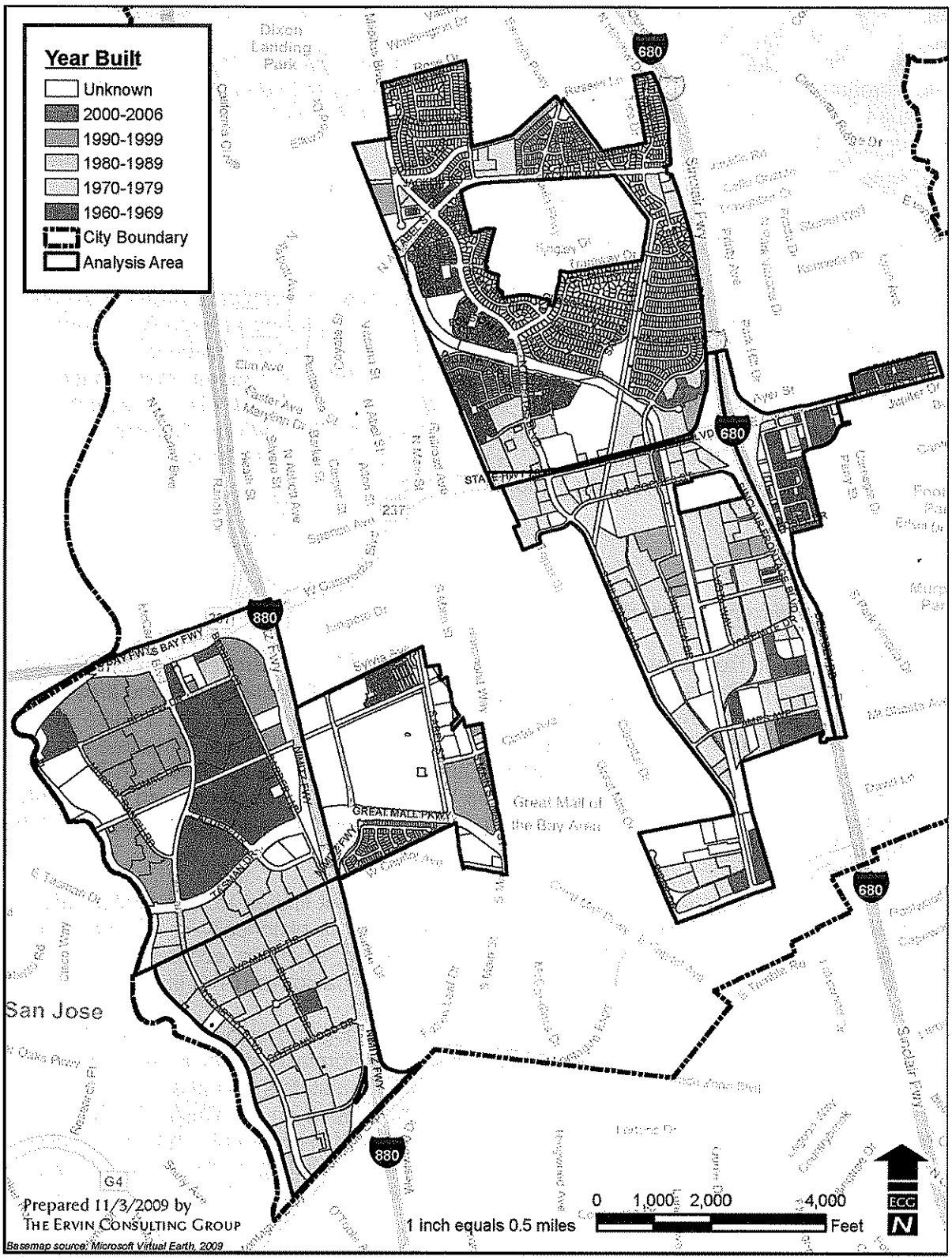
No listed or identified historic sites are located within the Analysis Area.

Age of Structures within Analysis Area

The State Office of Historic Preservation (SHPO) has identified a threshold of 45 years for considering structures for historic significance. Based on available Metroscan data (2007), the vast majority of the Analysis Area – over 96% – has been constructed since 1970 (Figure 6.3-1).

Upon visual inspection, all of the parcels listed as older than 1960 seem to have been dated in error or are open space; these sites have been added to the "unknown" category on Figure 6.3-1. Existing structures in the Added Area identified as being constructed in the 1960s are primarily multi-family housing east of I-680, or appear to have already been redeveloped in the industrial area.

There are currently no known or observed potentially historic structures within the Analysis Area.



Source: The Ervin Consulting Group, 2009.
Data: Metroscan, 2007

FIGURE 6.3-1
YEAR BUILT IN ANALYSIS AREA

REGULATORY FRAMEWORK

Historic and prehistoric resources of importance throughout the City and the County are inventoried and governed by national, state, and local laws and regulations. The regulations that apply to cultural and historic resources in the City are discussed below.

FEDERAL

National Register of Historic Places

The National Historic Preservation Act of 1966 established the National Register of Historic Places (National Register or NRHP) as the official national listing of important historic and prehistoric resources worthy of preservation. The National Register includes districts, sites, buildings, structures, and objects with local, regional, state, or national significance. The definition of historic property includes "any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in, the National Register" (Advisory Council on Historic Preservation, 1986). A historic property must meet specific criteria to be considered eligible for listing on the National Register.

STATE

California Register of Historical Resources

The State Historic Resources Commission and Office of Historic Preservation (OHP), within the Department of Parks and Recreation (DPR), administer the State's historic preservation programs. The OHP oversees State agency compliance with State preservation statutes and programs, administers federal preservation programs in California, and state programs such as the California Register of Historical Resources (California Register or CRHR). The California Register is a guide to identifying the State's historical resources and establishes a list of those properties that are to be protected from substantial adverse change (Public Resources Code (PRC) §5024.1).

The PRC defines a historical resource to include, but is not limited to, any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California (PRC §5010.1(j)).

In California the standard of historical (including archeological) significance is listing in or eligibility for listing in the California Register. The California Register is the authoritative guide to be used by state and local agencies to identify the state's historical resources (PRC §5024.1(a)). It includes properties nominated to and placed on the California Register by the State Historic Resources Commission, properties listed in or formally determined eligible (under §106 of the National Historic Preservation Act) for listing in the National Register (PRC §5024.1(b) and (d)(1)). Both individual properties and historic districts may be listed in the California Register (PRC §5024.1(e)(1)(2)).

In addition to properties listed, or formally determined eligible for listing, historic resources or districts designated or listed as City or County landmarks or locally listed pursuant to any City or County ordinance are presumed to be eligible for listing in the register unless a

preponderance of evidence in the record indicates that it is not historically or culturally significant (PRC §21084.1). Historical resources identified as significant in historical resource surveys conducted by local governments also may be eligible for listing (PRC §5024.1(e)(3)), if the survey meets one or more of the criteria for eligibility set forth in PRC §5024.1(g). Further, if a historical resource is not listed in the California Register, is not designated by a local agency, and is not identified as significant in a historical survey, a lead agency may determine that the resource may be a historical resource as defined in the PRC §5020.1(j) or §5024.1 (California Environmental Quality Act (CEQA) Guidelines, §15064.5(a)(4)).

The criteria for listing in the California Register are defined in statute (PRC §5024.1 (C)(1-4)), in the CEQA Guidelines (California Code of Regulations (CCR) Title 14 Ch 3 §15064.5 (3)(A-D) and in the Guidelines for the California Register (CCR Title 14, Ch. 11.5 §4852(b)(1-4)). These criteria are very similar to the federal criteria for listing in the National Register. The criteria include:

1. It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States.
2. It is associated with the lives of persons important to local, California, or national history.
3. It embodies the distinctive characteristic of a type, period, region, or method of construction, or represents the work of a master or possesses high artistic values.
4. It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

One or more of these criteria may apply to a single property or a district.

In addition to meeting the above criteria, a property or district must possess integrity. Integrity is defined as the authenticity of a historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance. A property must retain enough of its historic character or appearance to be recognizable as a historical resource and to convey the reasons for its significance (CCR Title 14, Ch 11.5 §4852(C)).

LOCAL

Milpitas General Plan

The General Plan outlines local Guiding Principals and Implementing Policies for the treatment and protection of cultural resources.

Guiding Principles

4.f-G-1 Preserve existing historical and cultural resources, especially those sites where an Historical Park may prove feasible.

4.f-G-2 Undertake efforts that promote Milpitas as a historical community, and undertake efforts to increase public awareness towards preservation.

City of Milpitas Municipal Code

Municipal Code Title XI – Zoning, Planning and Annexation, Chapter 4 – Cultural Resources Preservation Program identifies procedures to identify and designate historical and cultural resources and to guide their preservation. Cultural resources and historic districts are designated by the City Council on the advice of the Parks, Recreation, and Cultural Resources Commission.

CITY OF MILPITAS CONCEPTUAL HISTORIC RESOURCES MASTER PLAN

The Historic Resources Master Plan was developed to identify goals for historic preservation, identify prime sites for preservation, and make recommendations for the disposition and treatment of historic structures within the City. The Historic Resources Master Plan identifies the following goals:

1. Preserve Existing Historic Resources
2. Educate the Public
3. Encourage Private Involvement in Preservation through a Revolving City Loan Program
4. Promote Milpitas as a Historic Community

ENVIRONMENTAL IMPACTS

METHODOLOGY

This analysis is based on the General Plan, the Cultural Resources Preservation Program, the Historic Resources Master Plan, an assessment of structural ages and a visual survey of Analysis Area, and cultural assessments of recent projects within or near the Analysis Area.

THRESHOLDS OF SIGNIFICANCE

The CEQA Guidelines define a "substantial adverse change in the significance of an historical resource" to mean "physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired" (CEQA Guidelines, §15064.5, subd. (b)(1)). CEQA Guidelines, §15064.5, subdivision (b)(2), defines "materially impaired" for purposes of the definition of "substantial adverse change...". The significance of a historical resource is materially impaired when a project:

- demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register;
- demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources pursuant to §5020.1(k) of the PRC or its identification in an historical resources survey meeting the requirements of §5024.1(g) of the PRC, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or

- demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register as determined by a lead agency for purposes of CEQA (CEQA Guidelines, §15064.5, subd. (b)(2)).

Impacts were considered significant under CEQA if the Amendments would result in an effect that may change the significance of the resource (PRC Section 21084.1), such as demolition, replacement, substantial alteration, or relocation of historic properties.

PROJECT-SPECIFIC IMPACTS AND MITIGATION MEASURES

Impact 6.3-1 Redevelopment projects and redevelopment engendered development could cause a substantial adverse change in the significance of an archaeological resource, including human remains. This would be a significant impact.

The Analysis Area is located in an area of the City that was settled by prehistoric peoples for thousands of years and by historic peoples since 1852, and is anticipated to contain unknown sub-surface resources. One major site is known to exist under the Elmwood Correctional Facility; given historic patterns of habitation, other resources may be buried within the Analysis Area.

Implementation of the Amendments would include ground disturbing activities such as infrastructure improvements, grading, trenching, and excavating for development. Infrastructure improvements and new development assisted by redevelopment could encounter cultural resources during construction activities relating to earlier periods of the Analysis Area's history. Both prehistoric and historic buried archaeological resources could be exposed during any subsurface construction activities, and such resources and their immediate surrounding matrix could be damaged. Disruption during construction could result in the permanent loss of potentially important cultural resource data, which would be a ***significant impact***.

Mitigation

For any redevelopment project within the Analysis Area, the following mitigation measures shall apply:

6.3-1a *For any project involving ground penetrating activities, the Northwest Information Center (NWIC) at Sonoma State University shall be consulted to determine if a proposed project would require archaeological study and/or testing be conducted as part of the site specific environmental review. Recommended study and/or testing shall be completed prior to completion of environmental review.*

6.3-1b *Foremen and key members of major excavation, trenching, and grading for site preparation shall be instructed to be wary of the possibility of destruction of buried cultural resource materials. They shall be instructed to recognize signs of prehistoric use and their responsibility to report any such finds (or suspected finds) immediately, as specified by measure 6.3-1c below, so damage to such resources may be prevented.*

6.3-1c *Any unanticipated discovery of cultural resources during construction will be evaluated by a qualified archaeologist. If the find is determined to be potentially significant, the archaeologist, in consultation with the City and appropriate Native American group(s), will develop a treatment plan. All work in the immediate vicinity of the unanticipated discovery shall cease until the qualified archaeologist has evaluated the discovery, or the treatment plan has been implemented.*

6.3-1d *If human remains are encountered unexpectedly during construction excavation and grading activities, State Health and Safety Code §7050.5 requires that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to PRC §5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the Native American Heritage Commission (NAHC). The NAHC will then identify the person(s) thought to be the Most Likely Descendent of the deceased Native American, who will then help determine what course of action should be taken in dealing with the remains.*

Significance after Mitigation

Less than significant

Impact 6.3-2 Redevelopment projects and redevelopment engendered development could cause a substantial adverse change in the significance of a paleontological resource. This would be a potentially significant impact.

Paleontological resources are the fossilized evidence of past life found in the geologic record. Despite the tremendous volume of sedimentary rock deposits preserved worldwide, and the enormous number of organisms that have lived through time, preservation of plant or animal remains as fossils is an extremely rare occurrence. Because of the infrequency of fossil preservation, fossils – particularly vertebrate fossils – are considered to be nonrenewable resources. Due of their rarity, and the scientific information they can provide, fossils are highly significant records of ancient life. Implementation of the Amendments would include ground disturbing activities such as infrastructure improvements, grading, trenching, and excavating for development. Infrastructure improvements and new development assisted by redevelopment could encounter paleontological resources during construction activities. The possible damage or destruction loss of fossilized resources during construction activities is a ***potentially significant impact***.

Mitigation

6.3-2 *If paleontological resources, such as fossilized bone, teeth, shell, tracks, trails, casts, molds, or impressions are discovered during ground-disturbing activities, work will stop in that area and within 25 feet of the find until a qualified paleontologist can assess the significance of the find and, if necessary, develop and implement appropriate treatment measures in consultation with the City.*

Significance after Mitigation

Less than significant

Impact 6.3-3 Redevelopment projects and redevelopment engendered development could result in the alteration of historic resources. This would be a less-than-significant impact.

The OHP considers any building over 45 years of age to be a potential historic resource. Currently, there are no known or potential structures in the Analysis Area that meet this criterion. However, existing structures will fall into this category over the life of the Amendments.

Redevelopment would result in the rehabilitation, relocation, or demolition of existing structures or site features over the life of the Amendments. The City addresses the identification and preservation of historic structures through its Cultural Resources Preservation Program, and CEQA review is required for site-specific projects. The Amendments would have a less-than-significant effect on historic structures.

Mitigation

None required

CUMULATIVE IMPACTS AND MITIGATION MEASURES

Impact 6.3-4 Redevelopment projects and redevelopment engendered development could contribute to the cumulative degradation or loss of paleontological or archaeological resources, including human remains. This would be a significant impact.

Based upon previous research, the area that comprises the City and surrounding area has been inhabited by prehistoric peoples for thousands of years and by historic peoples since 1852. Redevelopment activities and projects, in combination with other development in the City could contribute to the loss of significant archaeological resources. Because all archaeological resources are unique and non-renewable members of finite classes, all adverse effects or negative impacts erode a dwindling resource base. The loss of any one archaeological site affects all others in a region because these resources are best understood in the context of the entirety of the cultural system of which they are a part.

The boundaries of an archaeologically or historically important site extend beyond the site boundaries. As a result, a meaningful approach to preserving and managing cultural resources must focus on the likely distribution of cultural resources, rather than on project or parcel boundaries. The cultural system is represented archaeologically by the total inventory of all sites and other cultural remains in the region. Proper planning and appropriate mitigation can help to capture and preserve knowledge of such resources and can provide opportunities for increasing our understanding of the past environmental conditions and cultures by recording data about sites discovered and preserving artifacts found. Federal, state, and local laws are also in place, as discussed above, that protect these resources in most instances.

Based on the lack of evidence of archaeological resources during excavation of recent projects surrounding the Elmwood Correctional Facility and the highly disturbed nature of the Analysis Area, the City does not anticipate that previously undiscovered resources will be uncovered during construction activities. However, because redevelopment activities and projects in the Analysis Area have the potential to adversely affect subsurface

archaeological resources that are unique and non-renewable members of finite classes, the incremental contribution to these cumulative effects would itself be potentially cumulatively considerable. The loss of cultural resources associated with redevelopment projects could contribute to a region-wide impact that is considered ***potentially significant***.

Mitigation

Implement Mitigation Measures 6.3-1a through 6.3-1d and 6.3-2

Significance after Mitigation

The standards of Cumulative Significance for cultural resources in this EIR are the same as those established for the project-specific analysis described above. The mitigation measures will ensure that should accidental discovery of archaeological or paleontological resources occur, that impacts to significant cultural or paleontological resources would be mitigated with each project constructed. Significant resources that could be affected by construction activities would be avoided, or if this is not possible, recovered for scientific value. Therefore, cumulative impacts to significant cultural or paleontological resources are expected to be ***less than significant.***

6.4

HAZARDS AND HAZARDOUS MATERIALS

Milpitas Redevelopment Amendments

CHAPTER 6
ENVIRONMENTAL ANALYSIS

6.4 HAZARDS AND HAZARDOUS MATERIALS

This Subchapter of the Environmental Impact Report (EIR) addresses the hazards and hazardous materials setting and potential impact of implementing the Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 and the Sixth Amendment to the Great Mall Redevelopment Project (proposed project or Amendments), as well as anticipated effects of known or suspected hazardous substance contamination.

There were no comments on the Notice of Preparation regarding hazards or hazardous materials.

ENVIRONMENTAL SETTING

TERMINOLOGY OF HAZARDS AND HAZARDOUS MATERIALS

Under Title 26 of the California Code of Regulations (CCR), a hazardous material is defined as a substance or combination of substances that may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating illness, or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed (CCR, Title 22, Chapter 11, Article 2, §66261.10).

Hazardous wastes are hazardous substances that no longer have practical use, such as materials that have been discarded, discharged, spilled, or contaminated or are being stored until they can be properly disposed of. The California Health and Safety Code, sections 25117 and 25122, define a hazardous waste as any solid, liquid, or contained gaseous material for disposal or recycle that poses significant potential harm to human health or environmental quality. According to CCR Title 26, hazardous materials and hazardous wastes are classified according to four properties: toxic, ignitable, corrosive, and reactive (CCR, Title 26, §22-66680).

- Toxic substances may cause short-term or long-lasting health effects, ranging from temporary effects to permanent disability or death. Toxic substances can cause eye or skin irritation, disorientation, headache, nausea, allergic reactions, acute poisoning, chronic illness, and other adverse health effects, depending on the level of exposure. Carcinogens (substances known to cause cancer) are a special class of toxic substances. Examples of toxic substances include most heavy metals, pesticides, and benzene (a carcinogenic component of gasoline).
- Ignitable substances, such as gasoline, hexane, and natural gas, are hazardous because of their flammable properties.
- Corrosive substances, such as sulfuric acid (battery acid) and lye, can damage other materials or cause severe burns upon contact.
- Reactive substances, such as explosives, pressurized canisters, and pure sodium metal (which reacts violently when exposed to water), may cause explosions or generate gases or fumes.

Soil that is excavated from a site containing hazardous materials is a hazardous waste if it exceeds specific CCR Title 26 criteria. Remediation (cleanup) of hazardous wastes found at a project site is generally required if those materials are excavated. Cleanup requirements are determined on a case-by-case basis by the agency with lead jurisdiction over the project.

EXISTING CONDITIONS

The Analysis Area[1] contains industrial/manufacturing, commercial, and residential uses along both sides of Interstate 680 (I-680) and Interstate 880 (I-880). The main north-south rail line of the Union Pacific Railroad (UPRR) roughly forms the western boundary of the Amendment Areas, and rail spurs cross the Analysis Area.

An Environmental FirstSearch™ Report was prepared for the Analysis Area by EEI Geotechnical and Environmental Solutions on August 10, 2009, to identify known sources of contamination and is located in Appendix C. The results of this report are summarized below.

The search parameters for the Environmental First Search™ report were set to comply with the latest ASTM standard, E1527-05, which is the standard used in Phase I ESAs. This default is used because it uses a clear set of guidelines, based on EPA Standards and Practices for All Appropriate Inquiries; Final Rule (40 CFR Part 312). EEI utilized Environmental First Search™ to review hazardous waste generating establishments in the vicinity of the Analysis Area, and for sites with known environmental concerns. These facilities were identified by county, state, or federal agencies as either having a known spill/leak, or as having permits to either generate, store, or dispose of hazardous materials, hazardous waste, or petroleum products.

The presence of an operating permit is not necessarily considered a concern, unless a spill/leak has also been reported at the site as well. Therefore, many of these listings are merely sites with the potential for future concerns due to the presence or known historic presence of hazardous materials, hazardous waste, or petroleum products. Sites with known spills leaks are also identified, regardless of site status (i.e., closed or open). Therefore, many of the listings may reflect known release sites where cleanup action has occurred and a no further action status has been granted. However, a No Further Action (NFA) status is not a guarantee that the site is either "clean" or not currently a threat to either human health or the environment. It merely reflects that at the time the NFA was granted, the regulatory agency overseeing the site felt that a sufficient level of mitigation had occurred or that, based on the standards at the time, the best available technology had reached a point of "diminishing returns" and no further reduction in contamination was either practical or economically feasible. It is important that case files for former release sites be reviewed in enough detail to verify that the current condition of the site does not pose a potential concern.

There are a total of 411 sites reported on the various state and federal environmental databases within the Analysis Area. These include:

- 1 Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS) site
- 8 CERCLIS No Further Remedial Action Planned (NFRAP) sites
- 2 Resource Conservation and Recovery Information System (RCRA) Correction Action sites
- 1 RCRA Treatment Storage and Disposal (TSD) site
- 82 RCRA Generator (GEN) sites
- 26 RCRA No Longer Regulated (NLR) sites

[1] The areas eligible for amendment within the Project Area No. 1 are referred to as the Amendment Areas. The Amendment Areas and the Added Area are collectively referred to as the Analysis Area.

- 65 small emergency response (ERNS) sites
- 7 State Cleanup sites
- 31 State Spill sites
- 1 solid waste landfill site (SWL)
- 65 leaking underground storage tank (LUST) sites
- 60 permitted underground storage tank (UST) facilities
- 59 State Permit sites
- 3 State Other sites

The majority of these listed sites are located along the principal thoroughfares in the Analysis Area: Calaveras Boulevard, Milpitas Boulevard, and Interstates 680 and 880. Several sites are also located along El Cajon Avenue, in the southwestern portion of the Amendment Areas. Figure 6.4-1 shows the level of hazards risk throughout the Analysis Area.

Amendment Areas

Of the listed sites located within the Amendment Areas, those considered as having relatively moderate to severe contamination issues include:

A. Shell – 990 Jacklin Road (open LUST)
B. Shapell Industries of Northern Cal – 100 North Milpitas Boulevard (open LUST)
C. Elmwood Correctional Facility – 701 South Abel Street (open LUST)
D. Grace Semiconductor Facility – 92 South Alder Drive (Semiconductor Manufacturing)
E. General Electric Calma Site – 501 Sycamore Drive (Spills, LUST)
F. Harris Microwave Semi-conductor – 1530 McCarthy Boulevard (CERCLIS NFRAP, Spills site, open LUST)
G. LSI Logic – 1601 McCarthy Boulevard (CERCLIS NFRAP, Spills site, LUST)

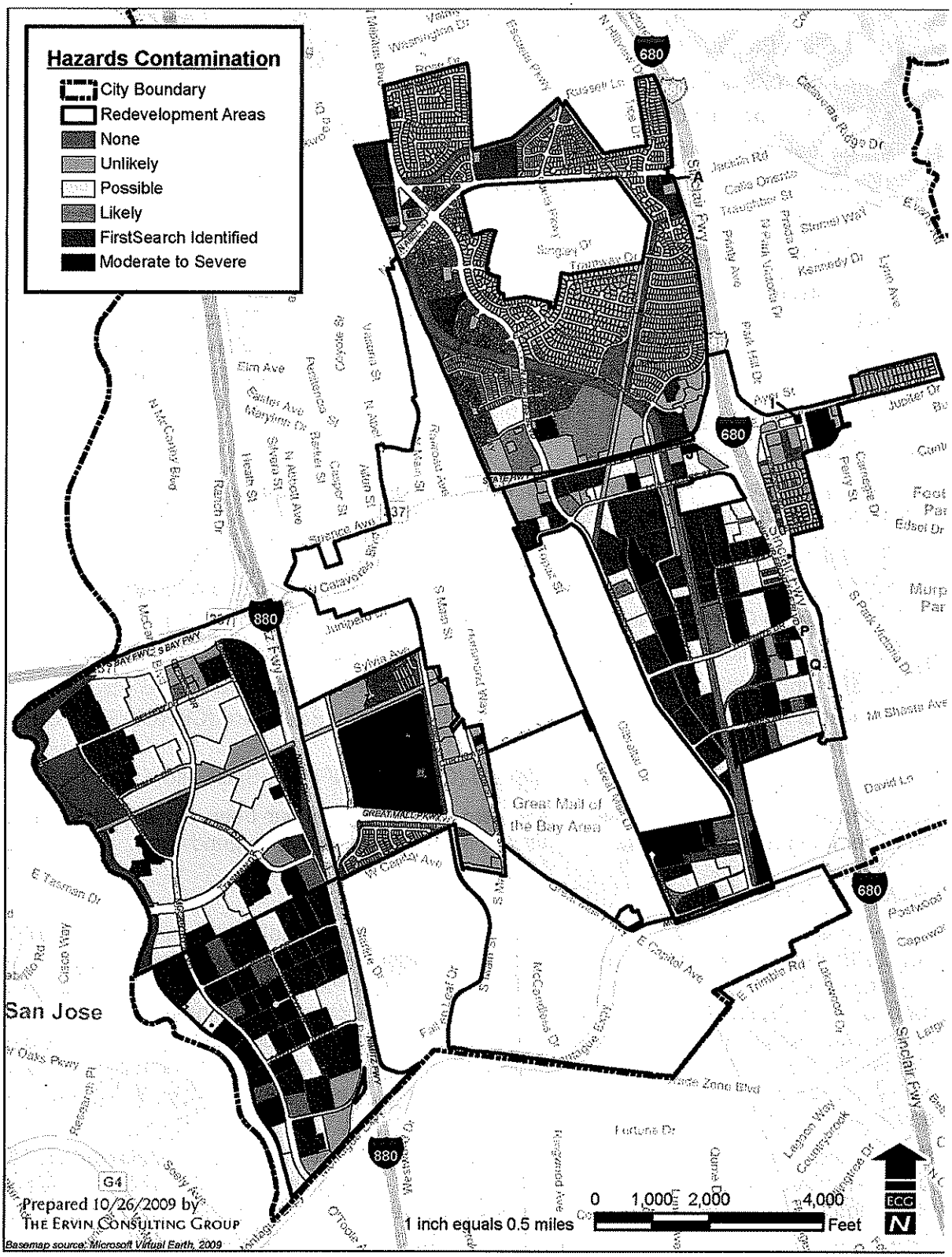
The remaining listed sites in the Amendment Areas have either been closed, or have not been demonstrated to have had a significant impact to soil and/or groundwater.

Proposed Added Area

The proposed Added Area contains some of the older residential and commercial/industrial structures in the City, and asbestos-containing material (ACM) and lead based paint would be anticipated in these buildings. According to data from ParcelQuest, of the 113 residential parcels in the Added Area, all of them were developed prior to 1975. These older structures are more susceptible to deterioration due to aging, weathering, and lack of current building standards and codes, which increases the risk of the release of asbestos or lead. Rehabilitation or demolition can also release lead based paint and/or ACM into the environment.

The Added Area also contains 120 industrial parcels (warehouse, manufacturing), 84 residential parcels, and 27 commercial parcels (retail and office uses). Of the listed sites on the various state and federal environmental databases located within the Added Area, those considered as having relatively moderate to severe contamination issues include:

H. JC Cleaners – 76 South Park Victoria Drive (Dry Cleaners)
I. Unocal – 27 South Park Victoria Drive (open LUST)



Source: The Ervin Consulting Group, 2009.

FIGURE 6.4-1
HAZARDS CONTAMINATION

J. Shell – 950 Calaveras Boulevard (open LUST)
K. Devcon Construction – 555 Los Coches Street (open LUST)
L. Komag 4 – 275 South Hillview Drive (CERCLIS NFRAP, RCRA GEN, State Cleanup site, Spill site)
M. Comac – 565 Sinclair Frontage Road (open LUST)
N. Sierra Chemical – 1001 Yosemite Drive (CERCLIS NFRAP, RCRA GEN, ERNS, open LUST site, UST site)
O. Bottomley Distributing Company – 755 Yosemite Drive (open LUST)
P. Aztec Tile – 1126 Yosemite Drive (open LUST)
Q. Pierce and Stevens Chemical Corporation – 805 South Sinclair Frontage Road); (CERCLIS NFRAP, RCRA GEN, RCRA COR, ERNS, State Cleanup site, open LUST site, UST site).
R. Great Western Chemical Company – 945 Ames Boulevard) (CERCLIS NFRAP, ERNS, RCRA GEN, RCRA COR, RCRA TSD, State Cleanup site, Spill site, open LUST site, Permit site, SWL site, UST site)
S. North American Transformer – 1200 Piper Drive (CERCLIS, ERNS, State Cleanup site, Spill site, UST site, Other site)
T. Jones Chemical – 985 Montague Expressway (CERCLIS NFRAP, ERNS, State site, Spills site)

The remainders of the listed sites in the Added Area have either been closed, or have not been demonstrated to have had a significant impact to soil and/or groundwater.

Potential Receptors

The sensitivity of potential receptors in the areas of known or potential hazardous materials contamination is dependent primarily on an individual's potential pathway for exposure. Hazardous materials exposure could occur through exposure to groundwater and/or soil contamination during construction. With respect to this possible form of hazardous materials exposure, construction workers have the highest potential for exposure to groundwater and/or soil contamination. Other potential receptors in the Analysis Area include home health care facilities and residential areas.

Hazardous Materials Transportation through the Analysis Area

Railroad

The UPRR tracks and spur line run between the eastern and western portions of the Amendment Areas, and along the western boundary of the Added Area. Currently, the tracks carry only freight trains.

A future transit system is planned to be built alongside the UPRR freight rail tracks. The Santa Clara Valley Transportation Authority (VTA) plans to relocate the existing freight tracks in the railroad corridor from north of the UPRR Warm Springs Yard, in the City of Fremont in Alameda County, to north of Montague Expressway, in the City of Milpitas. The project, known as the Bay Area Rapid Transit (BART) Silicon Valley Extension Project is an extension of the existing BART system to San Jose, Milpitas, and Santa Clara (SCVTA, 2009a).

Rail companies such as the UPRR are public carriers (regulated by the California Public Utilities Commission), and the federal government requires railroads to transport hazardous substances whether the rail company wants to or not. Any shipper that chooses to use rail

to transport hazardous materials may do so, provided the shipper and rail car(s) transporting the materials meet all federal rail safety transportation requirements for hazardous materials. The number of cars carrying hazardous materials through the City at any one time therefore varies from train-to-train, as do the types and amounts of hazardous materials transported between origins and destinations. While the shippers and the railroads maintain comprehensive records of where a rail car (including pressurized tanks carrying hazardous materials) is at any time, this information is not published or readily available to the general public (Wilmoth, 2007). In the event of an emergency involving an accidental or threatened release of hazardous substances, however, this information is immediately available to response personnel via a coordinated national, state, and local emergency response system.

The UPRR maintains a switching yard immediately west of the Added Area, where freight trains may idle for long periods of time or remain overnight. The number of cars carrying hazardous materials that may pass through the City or remain at the switching yard is unknown. However, nearly all of the hazardous materials transported through the County, and the Analysis Area, are carried by truck on the freeways and state highways. Little or no hazardous materials are transported through the County via rail.

Roadways

As noted above, county roads and city streets are used to transport locally-generated wastes from the source to the regional highway system. Local truck traffic transporting products containing hazardous substances may legally use any through roadways in the Analysis Area, including State Route 237 (SR-237)/Calaveras Boulevard, and Milpitas Boulevard. Several listed sites are also located along El Cajon Avenue, and I-680 and I-880. I-680 and I-880 are major highways on which hazardous substances are routinely transported.

REGULATORY SETTING

FEDERAL

Many agencies regulate hazardous substances. These include federal agencies such as the Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), the Nuclear Regulatory Commission (NRC), the US Department of Transportation (DOT), and the National Institutes of Health (NIH). The following federal laws and guidelines govern hazardous substances:

- Federal Water Pollution Control Act
- Clean Air Act (CAA)
- Occupational Safety and Health Act
- Federal Insecticide, Fungicide, and Rodenticide Act
- Comprehensive Environmental Response, Compensation, and Liability Act Guidelines for Carcinogens and Biohazards (CERCLA)
- Superfund Amendments and Reauthorization Act (SARA), Title III
- Resource Conservation and Recovery Act (RCRA)
- Safe Drinking Water Act (SDWA)
- Toxic Substances Control Act (TSCA)

At the federal level, the principal agency regulating the generation, transport, and disposal of hazardous substances is the EPA, under the authority of the RCRA. The EPA regulates hazardous substance sites under CERCLA. Applicable federal regulations are contained primarily in Titles 29, 40, and 49 of the Code of Federal Regulations (CFR).

Hazardous Substances Handling Requirements

The RCRA established an all-encompassing federal regulatory program for hazardous substances that is administered by the EPA. Under the RCRA, the EPA regulates the generation, transportation, treatment, storage, and disposal of hazardous substances. The RCRA was amended in 1984 by the Hazardous and Solid Waste Act (HSWA), which affirmed and extended the "cradle-to-grave" system of regulating hazardous substances. The HSWA specifically prohibits the use of certain techniques for the disposal of some hazardous substances.

Under the RCRA, individual states may implement their own hazardous substance management programs as long as those programs are consistent with, and at least as strict as, the RCRA. The EPA must approve state programs intended to implement the RCRA requirements.

Hazardous Substances Worker Safety Requirements

OSHA is the agency responsible for ensuring worker safety. OSHA sets federal standards for implementation of training in the workplace, exposure limits, and safety procedures in the handling of hazardous substances (as well as other hazards). OSHA also establishes criteria by which each state can implement its own health and safety program.

Transport of Hazardous Substances and Hazardous Wastes

The DOT has developed regulations in CFR Titles 10 and 49 pertaining to the transport of hazardous substances and hazardous wastes by all modes of transportation. The US Postal Service has developed additional regulations for the transport of hazardous substances by mail. DOT regulations specify packaging requirements for different types of materials. The EPA has also promulgated regulations for the transport of hazardous wastes. These more stringent requirements include tracking shipments with manifests to ensure that wastes are delivered to their intended destinations.

In a typical year, 1.7 to 1.8 million rail freight carloads of hazardous substances are transported by rail throughout the United States (Assoc. of Am. Railroads, 2009b). In June 2007, in his address to the 2007 Chemical Sector Security Summit, then-Homeland Security Secretary Michael Chertoff noted that the DOT's hazardous materials transportation safety program "provides for a high degree of safety with respect to incidents involving unintentional releases of hazardous materials occurring during transportation." He went on to note,

> ...intentional misuse of hazardous materials was rarely considered when the regulations were developed. Since 9/11, [the government agencies] have come to realize that hazardous materials safety and securities are inseparable. Many, if not most, of the requirements designed to enhance hazardous materials transportation safety, such as strong containers and clear hazard communication, enhance the security of hazardous materials shipments as well. Congress recognized this synergy and legislated its intent that hazmat safety [was] to include hazmat security when it enacted the Homeland Security Act of 2002 authorizing the Secretary of Transportation to

> prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce.

Secretary Chertoff further acknowledged the federal government's heightened concern about the safety, security, and vulnerability of rail transport of hazardous substances – particularly toxic inhalation hazard materials, such as chlorine gas – in highly urbanized areas. Secretary Chertoff noted his agency had completed a comprehensive risk evaluation process and determined "the greatest vulnerability is in those areas where [there is a] chemical sitting still in a rail yard or in some particular location of track, or in an area where there is a handoff between one entity controlling the chemical car and another one..."

CFR 49, Parts 106 through 189, regulate the transport of such materials as well as all other hazardous substances on rail lines. Additionally, the rail industry, through the Association of American Railroads, has developed a detailed protocol on recommended railroad operating practices for the transportation of hazardous materials. The Association of American Railroads issued the most recent version of this document, known as Circular OT-55-J, on March 17, 2009. The Circular details railroad operating practices for designating trains as "key trains" for certain types and amounts of hazardous substances, designating operating speed and equipment restrictions for key trains, designating "key routes" for key trains, and setting standards for track inspection and wayside defect detectors, assisting communities with emergency response training and information, and shipper notification procedures, among others. These recommended practices were originally implemented by all of the Class 1 rail carriers operating in the United States; the most recent version of the Circular also includes short-line railroads as signatories. Overall, while there have been a few serious accidents involving a hazardous materials release in the last few years, the rail safety record has been extremely good (Orum, 2007). In 2008, 99.99% of rail hazardous substances shipments reached their final destination without a release caused by an accident. Furthermore, railroads have reduced hazmat accident rates by 88% from 1980 through 2008 (Assoc. of Am. Railroads, 2009a).

Additionally, the Freight Rail Security Program is a public-private partnership dedicated to assessing policies and technologies for enhancing security throughout the freight rail industry. One product of this partnership is the development of the Rail Corridor Risk Management Tool (RCRMT). The RCRMT will leverage existing technologies and accepted risk management practices where feasible, and incorporate new technologies and elements as appropriate. A second project of the Freight Rail Security Program is the Rail Corridor Hazmat Response and Recovery Tool (RCHRRT), which will integrate geographical information and risk modeling. The RCHRRT is being developed through a grant to the Railroad Research Foundation and will include participation from the rail industry. When fully developed, these tools will provide a formal methodology to assist the rail carriers in complying with the enhanced safety and security planning requirements.

Asbestos-Containing Materials and Lead-Based Paint

Disturbance of materials that contain asbestos or lead is controlled by many different agencies and regulations. Most asbestos and lead laws originated from two main federal regulatory agencies, OSHA and the EPA. In addition to OSHA and the EPA, lead regulations established by the US Department of Housing and Urban Development (HUD) have paved the way for other federal, state, and local lead laws. OSHA's primary focus is worker safety. The EPA's primary focus is ecological and environmental conditions. HUD's primary focus is federally-owned or funded housing. In many instances, regulations set forth by theses three main agencies and by the laws enacted by other federal, state, and local

agencies overlap. It is prudent to establish applicable regulations before taking any action involving the disturbance of asbestos and lead containing materials or wastes.

Several regulations and guidelines pertain to the abatement of and protection from exposure to ACM and lead-based paint. These include Construction Safety Orders 1529 and 1532.1 from CCR Title 8, Part 61, CFR Subpart M, and lead-based paint exposure guidelines provided by HUD. These rules and regulations prohibit emissions of asbestos from asbestos-related demolition or construction activities, require medical examinations and monitoring of employees engaged in activities that could disturb asbestos, specify precautions and safe work practices that must be followed to minimize the potential for release of asbestos fibers, and require notice to federal and local government agencies prior to beginning renovation or demolition that could disturb asbestos.

STATE

The California Environmental Protection Agency (CalEPA) and the State of California Office of Emergency Services (OES) establish rules governing the use of hazardous substances in the state. The State Water Resources Control Board (SWRCB) has primary responsibility to protect water quality and supply.

Applicable State laws include the following:

- Porter Cologne Water Quality Act
- Public safety and fire regulations and building codes
- Hazardous Substance Control Law (HWCL)
- Hazardous Substances Information and Training Act
- Hazardous Substances Release Response Plans and Inventory Act
- Air Toxics Hot Spots and Emissions Inventory Law
- Underground Storage of Hazardous Substances Act

Within CalEPA, the Department of Toxic Substance Control (DTSC) has primary regulatory responsibility for the generation, transport, and disposal of hazardous substances under the authority of the HWCL. The DTSC can delegate this enforcement role to local jurisdictions that enter into agreements with the state agency. State regulations applicable to hazardous substances are indexed in CCR Title 26. CCR Title 22 and 26 pertain to hazardous substances and the management of hazardous substances. CCR Title 8 contains Construction Safety Orders pertaining to asbestos and lead.

Hazardous Substances Handling Requirements

In California, the Hazardous Waste Management Program (HWMP) regulates hazardous waste through its permitting, enforcement, and Unified Program activities. The HWMP is authorized by the EPA to implement the RCRA program in California and develops regulations, policies, guidance, technical assistance, and training to ensure the safe storage, treatment, transportation, and disposal of hazardous wastes.

Regulations implementing the HWCL list 791 hazardous chemicals and 20 or 30 more common substances that may be hazardous; establish criteria for identifying, packaging and labeling hazardous substances; prescribe management of hazardous substances; establish permit requirements for hazardous substances treatment, storage, disposal, and transportation; and identify hazardous substances that cannot be deposited in landfills.

Under both the RCRA and the HWCL, the generator of a hazardous substance must complete a manifest that accompanies the waste from the point of generation to the ultimate treatment, storage, or disposal location. The manifest describes the waste, its intended destination, and other regulatory information about the waste. Copies must be filed with the DTSC. Generators must also match copies of waste manifests with receipts from the treatment, storage, or disposal facility to which it sends waste.

Hazardous Substances Worker Safety Requirements

California Occupational Health and Safety Administration (Cal/OSHA) assumes primary responsibility for developing and enforcing workplace safety regulations within California. Cal/OSHA standards are more stringent than the federal regulations.

Cal/OSHA regulations concerning the use of hazardous substances include requirements for safety training, availability of safety equipment, hazardous substances exposure warnings, and emergency action and fire prevention plan preparation. Cal/OSHA enforces the hazard communication program regulations, which include provisions for identifying and labeling hazardous substances, describing the hazards of chemicals, and documenting employee-training programs.

Both federal and state laws include special provisions for hazards communication to employees who work with and/or encounter hazardous materials and wastes. The training must include safe methods for handling hazardous substances, an explanation of Material Safety Data Sheets, use of emergency response equipment, implementation of an emergency response plan, and use of personal protective equipment.

Asbestos-Containing Materials and Lead-Based Paint

In California, ACM and lead-based paint abatement must be performed and monitored by contractors with appropriate certification from the California Department of Health Services.

LOCAL REGULATIONS

The Santa Clara County Department of Environmental Health Hazardous Materials Compliance Division (HMCD) is charged with the responsibility of enforcing pertinent California health laws, rules, regulations, and County Ordinances governing hazardous substance generators, hazardous substance storage, and USTs (including inspections, enforcement, and removals). This responsibility covers the County and the 15 incorporated cities within the County. The HMCD regulates the use, storage, and disposal of hazardous substances in the County by issuing permits, monitoring regulatory compliance, investigating complaints, and other enforcement activities. HMCD is also responsible for providing technical assistance to public and private entities that seek to minimize the generation of hazardous substances.

The HMCD Hazardous Materials Program was established in 1983 with the adoption of the local Hazardous Materials Storage Ordinance, which regulates the storage of hazardous materials both above- and below-ground. This ordinance, the first of its kind in the state, had several key provisions that when implemented by regulated facilities provided protection of the environment and public health. The HMCD also administers the County's Local Oversight Program (i.e., LUST cleanup program), the Household Hazardous Waste Program, and the Solid/Medical Waste Program.

In addition to enforcing County Ordinance Code requirements governing the storage and handling of hazardous materials, HMCD is a Certified Unified Program Agency (CUPA) responsible for enforcing specified State laws and regulations governing the management of

hazardous materials and wastes and overseeing the activities of Participating Agencies (PA) within the County's Unified Program.

The City of Milpitas Fire Department (MFD) Fire Prevention – Hazardous Materials Underground Tanks Program regulates the underground storage of hazardous material within the City. The requirements for the safe storage of hazardous material in USTs are specified in the California Underground Storage Tank Regulations and Articles 52, 79 and 80 of the California and Milpitas Fire Codes. The Hazardous Materials and Environmental Services Unit administer the UST program within the City.

The MFD is also responsible for fire suppression, emergency medical services, rescue services, hazardous and toxic materials emergency response, coordination of City-wide disaster response efforts, enforcement of fire and life safety codes, enforcement of State and Federal hazardous materials regulations, and investigation of fire cause, arson, and other emergency events for cause and origin.

City of Milpitas General Plan

Goals and policies also have been developed by the City concerning the management of hazardous substances to protect human health and the environment. The following are relevant General Plan Guiding Principals and Implementing Policies that apply to the Analysis Area:

Chapter 4 Open Space and Environmental Conservation Element

4.8 Waste Management and Recycling

The City and County Integrated Waste Management Plans (IWMPs) comply with state-mandated waste reduction goals specified in Public Resources Code 40500 (Assembly Bill (AB) 939). As a part of PRC 40500, each city and county is required to prepare a Source Reduction and Recycling Element (SRRE) and a Household Hazardous Waste Element (HHWE). Together, the SRRE and HHWE comprise the City's IWMP.

In 1986, AB 2984 (Tanner Bill) was passed, establishing a process for the development of HWMPs for all California counties, regional councils of government and the state. In 1989 Milpitas participated with other Santa Clara County cities in developing the Santa Clara County Hazardous Waste Management Plan (CHWMP). This plan was subsequently approved by the County Board of Supervisors and the City Councils of every participating city, including Milpitas. In 1991 the CHWMP was amended by the County and cities. The State's review and approval of the CHWMP was finally obtained on January 6, 1995. In addition to becoming the County Plan, the CHWMP was designed as a plan which could be adopted by participating cities for their own use. The City of Milpitas has adopted the CHWMP as the policy document and planning guide for all decisions regarding the development of off-site hazardous waste management facilities and programs related to the management of hazardous waste within the City.

Chapter 5 Seismic and Safety Element

5.4 Emergency Management

In the event of a hazardous material emergency, several agencies are responsible for timely response depending on the extent, and type, of the incident. The Santa Clara County Hazardous Materials Response Team composed of representatives of the Santa Clara County Fire Department, California Department of Forestry (CDF)[2], and member cities,

[2] Now known as CAL FIRE

responds to large scale, emergency hazardous material incidents within the Analysis Area. The MFD is responsible for non-emergency hazardous materials reports within the City. If and when these non-emergency incidents become a threat to groundwater supplies, the Regional Water Quality Control Board (RWQCB) takes control of the case. The Fire Department also monitors above ground and underground storage tanks and combustible and flammable liquids for leaks and spills.

ENVIRONMENTAL IMPACTS

METHODOLOGY

This analysis is based on a review of current lists made available by regulatory agencies with jurisdiction over storage, monitoring, and cleanup of hazardous wastes. The boundaries of the Analysis Area were reviewed to determine existing and planned land use and potential exposure to hazardous materials.

THRESHOLDS OF SIGNIFICANCE

A project would normally have a significant hazards impact if, through construction activities, attracting people to the site, or use of hazardous materials, it would:

- Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment
- Expose people (e.g., residents, pedestrians, construction workers) to ACM, lead based paint, or other hazardous substances
- For a project located within a known or potentially contaminated site, the project results in a safety hazard for people residing or working in the Analysis Area

PROJECT-SPECIFIC IMPACTS AND MITIGATION MEASURES

Impact 6.4-1 Redevelopment-engendered development and infrastructure project construction could disturb unidentified contaminated soil and structures. This would be a significant impact.

Redevelopment activities often involve the rehabilitation or reuse of older properties that may result in the discovery of previously unidentified contaminated properties or provide for reuse of identified, but not yet remediated sites. Historical uses, which have created releases of hazardous substances or petroleum products, may be masked by the present or recent uses of the property. Excavation could damage unidentified USTs with some remaining petroleum products that could result in the exposure of construction workers and result in the associated significant adverse health effects. In addition, construction activity could uncover unknown sites of soil contamination that could result in the exposure of construction workers and result in associated significant adverse health effects. This would be a ***significant impact***.

<u>Mitigation</u>

6.4-1a A thorough examination of past property uses shall be required for redevelopment projects involving demolition or reuse of older properties or construction on vacant parcels, prior to demolition or construction. This examination shall conform to the Phase I Environmental Site Assessment (ESA) process established by the American Society for Testing and Materials (ASTM),

and shall include a site reconnaissance, a review of regulatory databases, interviews with persons knowledgeable of the property, and a review of past property uses using appropriate historical sources. A Phase II ESA shall be conducted if deemed necessary based on the Phase I ESA results.

6.4-1b *If discolored soil, vapors, or contaminated groundwater are encountered during construction activities, all work shall cease until a qualified environmental professional assesses the situation and appropriate action is taken to ensure the safety of workers and the public.*

6.4-1c *If the Phase I/II indicates the potential for unremediated soil and/or groundwater contamination or underground storage tanks to be disturbed during construction, the Milpitas Redevelopment Agency (Agency) shall require in construction contract documents that a hazardous materials removal team be on-call and available for immediate response during site preparation, excavation, and other construction activities. Hazardous material removal activities must be contracted to a qualified hazardous materials removal contractor.*

Construction contract documents shall require the hazardous material removal contractor or subcontractor to comply with the following:

(1) Prepare a hazardous material discovery and response contingency plan for review by the MFD. The MFD will act as the first responder to a condition of extreme emergency (i.e., fire, emergency medical assistance, etc).

(2) In the event that a condition or suspected condition of soil and/or groundwater contamination are discovered during construction, work shall cease or be restricted to an unaffected area of the site as the situation warrants and the City shall be immediately notified. Upon notification, the City shall notify the HCMD of the contamination condition, and the hazardous material removal contractor shall prepare a site remediation plan and a site safety plan, the latter of which is required by OSHA for the protection of construction workers. Similarly, the hazardous material removal contractor shall follow and implement all directives of the HCMD and any other jurisdictional authorities that might become involved in the remediation process.

(3) Preparation of any remediation plan shall include in its focus measures to be taken to protect the public from exposure to potential site hazards and shall include a certification that the remediation measures would clean up the contaminants, dispose of the wastes properly, and protect public health in accordance with federal, state, and local requirements.

(4) Obtain closure and/or No Further Action letters from the appropriate agency(ies).

(5) Construction contract documents shall include provisions for the proper handling and disposal of contaminated soil and/or dewatering water (including groundwater and contaminated rainwater) in accordance with federal, state, and local requirements.

Significance after Mitigation

Less than significant

Impact 6.4-2 Redevelopment could result in the rehabilitation or demolition of buildings likely to contain asbestos, lead-based paint, or other hazardous substances. This would be a potentially significant impact.

The Analysis Area contains a large number of residential and commercial structures built before 1975, which are likely to contain asbestos, lead-based paint, or other hazardous substances. The deteriorated condition of many of these buildings presents an ongoing risk of release of these materials into the environment. Demolition or rehabilitation of such structures could also result in a release of hazardous materials into the environment.

Asbestos, a naturally-occurring fibrous material, was used as a fireproofing and insulating agent in building construction before such uses were terminated due to liability concerns in the late 1970s. Because it was widely used prior to the discovery of its health effects, asbestos may be found in a variety of building materials and components such as insulation, walls and ceilings, floor tiles, and pipe insulation. Friable (easily crumbled) materials are particularly hazardous because inhalation of airborne fibers is the primary mode of asbestos entry into the body. Non-friable asbestos is generally bound to other materials, such that it does not become airborne under normal conditions. Non-friable asbestos and encapsulated friable asbestos do not pose substantial health risks.

Asbestos exposure is a human respiratory hazard. Asbestos-related health problems include lung cancer and asbestosis. Cal/OSHA considers ACM a hazardous substance when a bulk sample contains more than 0.1% asbestos by weight. Cal/OSHA requires that a qualified contractor licensed to handle ACM deal with any material containing more than 0.1% asbestos by weight. Any activity that involves cutting, grinding, or drilling during building renovation or demolition or relocation of underground utilities could release friable asbestos fibers unless proper precautions are taken. Inhalation of airborne fibers is the primary mode of asbestos entry into the body, making friable materials the greatest potential health risk.

There are currently federal laws and regulations in place that regulate the use, removal, and disposal of ACM. Such laws and regulations include:

US Department of Labor, Occupational Safety & Health Administration

- 29 CFR Part 1910.1001 (Asbestos Regulations)
- 29 CFR Part 1910.134 (Respirator Regulations)
- 29 CFR Part 1926.1101 (Construction Asbestos Regulations)

US Environmental Protection Agency

- 40 CFR Part 61 Subpart M, National Emissions Standards for Hazardous Air Pollutants (NESHAPs)
- 40 CFR Part 763 Subpart E, Asbestos Emergency Response Act (AHERA), and reauthorization through ASHARA
- Various EPA Guidance Documents/Books

California Labor Code

- Sections 6501.5, 6501.7, 6501.8, and 6505.5

California Code of Regulations

- Title 8, Title 17, Title 22 and Title 26

Other major lead regulations, both Federal and specific to the State of California, include:

- The Residential Lead-Based Paint Hazard Reduction Act of 1992 (16 CFR 1303)
- US Department of Housing and Urban Development (24 CFR Part 35 - Sept. 15, 1999)
- Toxic Substances Control Act (TSCA) Section 402, 403, 404, 405 and 406
- California Health & Safety Code, Sections 1367.3, 17961, 17980, 105185 to 105197, 105250, 105251 to 105257, 105275 to 105310, 108550 to 108580, 110552, 116875 to 116880, 124130, 124125 to 124165, 17920.10, and 25214.1 to 25214.4.2
- California Civil Code, Sections 1102 to 1102.16
- California Insurance Code, Section 10119.8
- California Education Code 32240 to 32245
- California Labor Code 6716 to 6717

Lead is also likely to be present in older structures. Among its numerous uses and sources, lead can be found in paint, water pipes, solder in plumbing systems, and in soils around buildings and structures painted with lead-based paint. In 1978, the federal government required the reduction of lead in house paint to less than 0.06% (600 parts per million [ppm]). However, some paints manufactured after 1978 for industrial or marine uses legally contain more than 0.06% lead. Excessive exposure to lead (even low levels of lead) can result in the accumulation of lead in the blood, soft tissues, and bones. Children are particularly susceptible to potential lead-related health problems because it is easily absorbed into developing systems and organs.

Heavy metals can also be found in and around older structures. Old light tubes, thermostats, and other electrical equipment typically contain heavy metals such as mercury. Elemental mercury can also be found in many electrical switches. Due to accidental spills and historic disposal practices before the adoption of more stringent disposal regulations, it is possible elemental mercury may be present in older commercial and industrial properties. Mercury liquid evaporates slowly if exposed to air, and, at certain levels of exposure, mercury vapors are toxic and can cause kidney and liver damage.

Another common contaminate found in older structures is Polychlorinated biphenyl (PCB). PCB is an organic chemical, usually in the form of oil that was historically used in electrical equipment. PCBs are most commonly associated with pole-mounted electrical transformers, but they were also used in insulators and capacitors in building electrical equipment. PCBs are highly persistent in the environment, and exposure to PCBs can cause serious liver, dermal, and reproductive system damage. PCBs are also a suspected human carcinogen.

Although there is a regulatory framework in place that governs the removal and disposal of these hazardous items once identified, most structures in the Analysis Area have not been thoroughly investigated to determine the types, amounts, and locations of hazardous substances that could be present in building materials. Therefore, redevelopment activities such as demolition, rehabilitation, and housing construction could expose construction workers and future residents to unmitigated hazards associated with the presence of hazardous substances (e.g., asbestos, lead, PCBs, etc.) during demolition. This is a ***potentially significant impact.***

Demolition activities would be subject to all applicable federal, state, and local regulations to minimize potential risks to human health and the environment, and worker and public safeguards would be included in the demolition contract.

Mitigation

6.4-2a *Prior to any Agency rehabilitation or demolition activities, the Agency shall conduct an interior survey to evaluate the presence of ACM, lead based paint, PCB-containing electrical and hydraulic fluids, and/or chlorofluorocarbons (CFCs), as well as any other potential environmental concerns (i.e., aboveground/underground fuel tanks, elevator shafts/hydraulic lifts, floor drains/sumps, chemical storage/disposal) which may be present within structures on a project site.*

6.4-2b *A project applicant for a project subject to the Redevelopment Plan for Project Area No. 1 shall provide written documentation to the Agency that ACM and lead-based paint has been abated and any remaining hazardous substances and/or waste have been removed in compliance with applicable federal, state, and local laws and regulations.*

Significance after Mitigation

Less than significant

CUMULATIVE IMPACTS AND MITIGATION MEASURES

Impact 6.4-3 Redevelopment of the Analysis Area would contribute to cumulative increases in the use of hazardous substances during construction and occupancy. This would be a less-than-significant impact.

As redevelopment activities remove barriers to General Plan build-out, the construction and operation of current and future projects within the City would continue to involve the use of hazardous substances. Projects that use, store, transport, or dispose of hazardous substances would be required to comply with federal, state, and local regulations to ensure the safe handling of these materials. Due to strict regulation, the risk of release or exposure to hazardous substances within the Analysis Area would be minimized. Associated health and safety risks would generally be limited to those individuals using the substances or to persons in the immediate vicinity of the substances. Although the risk of accident or inadvertent releases cannot be completely avoided, hazardous substances incidents would typically be site-specific, generally one-time occurrences that would not combine with similar effects elsewhere. Implementation of applicable hazardous materials management laws and regulations adopted at the federal, state, and local levels, which are monitored by the City, HCMD, and the California Highway Patrol (CHP), would ensure cumulative impacts related to hazardous substances use remain less than significant. The proposed Amendments' net contribution to this cumulative impact would be a small increment, and would be less than cumulatively considerable and is therefore ***less than significant***.

Mitigation

None required

Impact 6.4-4 Redevelopment of the Analysis Area would contribute to cumulative increases in the number of people who could be exposed to accidental or intentional release of hazardous substances on rail lines and roadways. This would be a less-than-significant impact.

The release of a hazardous material to the environment as a result of a transportation accident could cause a multitude of problems to the environment, property, or human health – the significance of which would be dependent on the type, location, and quantity of

the material released. Although hazardous material incidents can happen almost anywhere, urbanized areas such as the City are at higher risk.

The Analysis Area contains three major transportation arteries, I-680, I-880, and the UPRR. Each mode would involve the transportation of hazardous substances through and into the City each year. Therefore, the Analysis Area is already at risk of the effects of a major catastrophic hazardous materials emergency due to the proximity of the transportation routes to populated areas, and as the City's population grows, more people could be at risk of exposure to a catastrophic incident.

When a hazardous material emergency occurs, multiple resources are available, with the MFD leading the response activities. The response to an incident may be in the territory of the City, the County, and on mutual aid calls.

Redevelopment activities in the Analysis Area would not result in any changes in the regional transportation of hazardous substances via roadway, rail, air, or water. If a hazardous materials incident were to occur within the Analysis Area – or anywhere else in the City – it would be unpredictable and the effects site-specific, such that there would not be a combined effect. Redevelopment activities are anticipated to remove barriers to development, but only within the limits planned for in the General Plan. No changes in land use are proposed as a part of the Amendments. Public facilities improvements could improve emergency access and safety improvements at rail crossings. The proposed Amendments would be a less than cumulatively considerable contribution to transportation risks, and therefore would have a ***less-than-significant cumulative impact.***

Mitigation

None required

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6.5

NOISE

Milpitas Redevelopment Amendments

CHAPTER 6

ENVIRONMENTAL ANALYSIS

6.5 NOISE

INTRODUCTION

This Subchapter of the Environmental Impact Report (EIR) describes the existing noise environment for the Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 and the Sixth Amendment to the Great Mall Redevelopment Plan (proposed project or Amendments). The potential of individual project development to increase noise levels significantly due to construction and operation of redevelopment-engendered development, and the effects of traffic and rail noise were considered. This Subchapter also presents a discussion of noise fundamentals, the existing noise environment in the project vicinity, and applicable federal, state, and local noise regulations.

No comments pertaining to noise were received during circulation of the Notice of Preparation for the proposed Amendments.

ENVIRONMENTAL SETTING

FUNDAMENTALS OF ENVIRONMENTAL SOUND AND NOISE

Noise is defined as unwanted sound. Sound, traveling in the form of waves from a source, exerts a sound pressure level (referred to as sound level) which is measured in decibels (dB), with 0 dB corresponding roughly to the threshold of human hearing.

Environmental noise is typically measured in A-weighted decibels (dBA). A dBA is a decibel corrected for the variation in frequency response of the typical human ear at commonly encountered noise levels. In general, A-weighting of environmental sound consists of evaluating all of the frequencies of a sound, taking into account the fact that human hearing is less sensitive at low frequencies and extremely high frequencies than in the frequency mid-range (much like a bell shaped curve – an A-weighted curve). In practice, the level of a sound source is measured using a sound level meter that includes an electrical filter corresponding to the A-weighting curve.

The decibel scale is logarithmic, not linear. In other words, two sound levels 10 dB apart differ in acoustic energy by a factor of 10. When the standard logarithmic decibel is A-weighted, an increase of 10 dBA is generally perceived as a doubling in loudness. For example, a 70 dBA sound is half as loud as an 80 dBA sound, and twice as loud as a 60 dBA sound.

Environmental noise within an urbanized area typically fluctuates over time. Table 6.5-1 lists several examples of the noise levels associated with common situations. This time-varying characteristic of environmental noise is described using statistical noise descriptors.

TABLE 6.5-1
TYPICAL NOSE LEVELS

Common Outdoor Activities	Noise Level (dBA)	Common Indoor Activities
	--110--	Rock Band
Jet Fly-over at 300 m (1,000 ft)	--100--	
Gas Lawn Mower at 1 m (3 ft)	--90--	
Diesel Truck at 15 m (50 ft), at 80 km/hr (50 mph)	--80--	Food Blender at 1 m (3 ft) Garbage Disposal at 1 m (3 ft)
Noisy Urban Area, Daytime Gas Lawn Mower, 30 m (100 ft)	--70--	Vacuum Cleaner at 3 m (10 ft)
Commercial Area Heavy Traffic at 90 m (300 ft)	--60--	Normal Speech at 1 m (3 ft)
Quiet Urban Daytime	--50--	Large Business Office Dishwasher in Next Room
Quiet Urban Nighttime	--40--	Theater, Large Conference Room (Background)
Quiet Suburban Nighttime	--30--	Library
Quiet Rural Nighttime	--20--	Bedroom at Night, Concert Hall (Background)
	--10--	Broadcast/Recording Studio
Lowest Threshold of Human Hearing	--0--	Lowest Threshold of Human Hearing

Source: Caltrans, Technical Noise Supplement to the 1998 Traffic Noise Analysis Protocol. October 1998.

Descriptors used include L_{eq}, L_{dn}, CNEL, L_{50}, and L_{max}, which are described below. These statistical noise descriptors are often used in noise policies and regulations in order to set limits on environmental noise.

L_{eq}: the average A-weighted noise level measured over a given period of time.

L_{dn}: 24-hour day and night noise measurement, which accounts for the greater sensitivity of most people to nighttime noise by weighting noise levels at night (penalizing nighttime noises). Noise between 10:00 p.m. and 7:00 a.m. is weighted (penalized) by adding 10 dBA to take into account the greater annoyance of nighttime noises.

CNEL: (Community Noise Equivalent Level): 24-hour day and night noise measurement which adds a 5 dBA penalty for the evening hours between 7:00 p.m. and 10:00 p.m. and a 10 dBA penalty for noise between 10:00 p.m. and 7:00 a.m.

L_{50}: the A-weighted noise level that is equaled or exceeded 50% of the stated time period.

L_{max}: the A-weighted maximum noise level for a given period of time.

EFFECTS OF NOISE ON PEOPLE

The effects of noise on people can be placed in three categories:

- Subjective effects of annoyance, nuisance, or dissatisfaction
- Interference with activities such as speech, sleep, or learning
- Physiological effects such as hearing loss or sudden startling

Environmental noise typically produces effects in the first two categories. Workers in industrial plants can experience noise in the last category. There is no completely satisfactory way to measure the subjective effects of noise, or the corresponding reactions of annoyance and dissatisfaction. A wide variation in individual thresholds of annoyance exists, and different tolerances to noise tend to develop based on an individual's past experiences with noise.

Thus, an important way of predicting a human reaction to a new noise environment is the way it compares to the existing environment to which one has adapted – the so-called ambient noise level. In general, the more a new noise exceeds the previously existing ambient noise level, the less acceptable the new noise will be judged by those hearing it. With regard to increases in A-weighted noise level, the following relationships occur:

- Except in carefully controlled laboratory experiments, a change of 1 dBA cannot be perceived
- Outside of the laboratory, a 3 dBA change is considered a just-perceivable difference
- A change in level of at least 5 dBA is required before any noticeable change in human response would be expected
- A 10 dBA change is subjectively heard as approximately a doubling in loudness, and can cause adverse response (Federal Highway Administration, 1995)

Stationary point sources of noise, including stationary mobile sources such as idling vehicles, attenuate (lessen) at a rate of 6 to 9 dBA per doubling of distance from the source, depending on environmental conditions (i.e. atmospheric conditions and either vegetative or manufactured noise barriers, etc.). Widely distributed noises, such as a large industrial facility spread over many acres, or a street with moving vehicles, would typically attenuate at a lower rate.

EXISTING NOISE SOURCES

Significant noise sources in the Analysis Area[1] include traffic on major roadways and highways, railroad operations, light rail, construction activities, and representative industrial activities. The Union Pacific Railroad (UPRR) mainline runs both Amtrak and freight trains between portions of the Analysis Area; distance from the nearest residences to the rail tracks is as close as 50 feet in some locations.

The closest airport is the Norman Y. Mineta San Jose International Airport (SJC), located approximately four miles to the southwest. Sporadic noise from aircraft can contribute to the noise environment but is not consistent. Aircraft travel at over 7,000 feet above the Analysis Area, and the Analysis Area is far outside the Airport's 65 dB CNEL noise contour (SJC, 2009).

Transportation Noise

The most significant traffic noise within the Analysis Area is generated by vehicular traffic along Interstate 880 (I-880), Interstate 680 (I-680), State Route 237 (SR-237), and busy arterials such as Milpitas Boulevard, McCarthy Boulevard, Tasman Drive/Great Mall Parkway, and Montague Expressway. The primary transportation corridors in the City currently exceed 60dB L_{dn} within 50 feet of the roadway centerline. As assessed in the Midtown Specific Plan EIR, noise levels were determined to increase by less than 3 dBA for each of the modeled roadway segments under General Plan build-out conditions in 2020 (City of Milpitas, 2001, pg. 3.11-7). This was further verified by the Transit Area Specific Plan (TASP) EIR (City of Milpitas, 2007, Appendix D).

Railroads

The UPRR mainline and railroad spur run north-south adjacent to portions of the Analysis Area between I-880 and I-680. Amtrak and freight trains operate on the main line through the City. Railroad tracks run just east of Main Street and along the western border of the Amendment Areas north of E. Calaveras Boulevard/SR-237. The freight-serving spur runs in a north-northwest direction generally east of and parallel to Milpitas Boulevard. According to the Santa Clara Valley Transportation Authority (VTA), approximately 578 trains used the freight spur tracks in 2003; 557 train cars used the tracks in 2004; and approximately 564 train cars used the tracks in 2005 (City of Milpitas, 2007, pg. 3.7-5). Freight operation noise levels are in excess of 70 dBA DNL immediately adjacent to the tracks, decreasing to 60 dBA DNL at 300 feet. Light rail, which runs along Tasman Drive/Great Mall Parkway, generates noise levels of 54 to 56 dBA DNL at a distance of 285 feet from the tracks. The most intrusive noise rail-related noise is the train whistle, which typically ranges from 90 dB to 100 dB at 140 feet.

Stationary Sources

Existing uses in the Analysis Area south of Calaveras Boulevard/SR-237 are primarily light industrial (manufacturing, distribution, and storage), research and development (R&D), and

[1] The areas eligible for amendment within Project Area No. 1 are referred to as the Amendment Areas. The Amendment Areas and the Added Area are collectively referred to as the Analysis Area.

retail uses whose activities also contribute to the noise environment. Mechanical equipment is used extensively in buildings to provide heating, cooling, air circulation, and water supply; such equipment that produces noise includes motors, pumps, and fans. Frequently, this equipment includes components of pure tone noise from the rotational frequency of motors. Although noise levels from these sources are generally low at nearby properties, the fact that such sources may operate continuously and may include pure tones that make them audible at a substantial distance makes them a potentially important noise source.

Many parcels in the Analysis Area also include service commercial uses such as automotive repair facilities, which more typically accompany residential uses. Noise generated at these types of uses is dependent on many factors, and is therefore difficult to quantify. Nonetheless, noise generated by the intermittent use of impact wrenches, tire breakers, and other pneumatic tools contributes to the ambient noise environment.

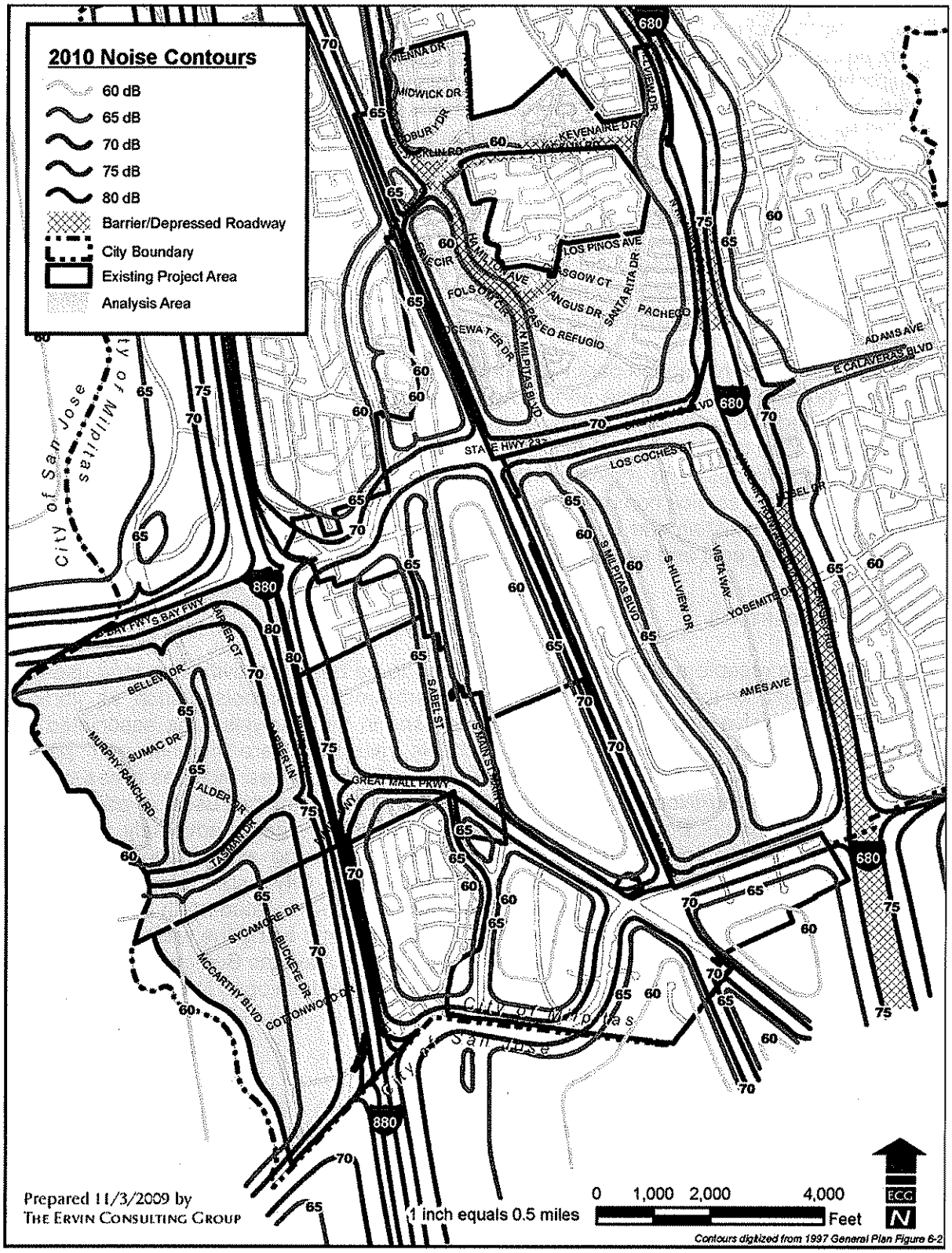
There is one active recreation park within the Amendment Areas, Gill Memorial Park (Paseo Refugio and Santa Rita). Noise generated by this use depends on the age and number of people utilizing the respective facility at a given time, and the types of activities they are engaged in. At a distance of 100 feet from an elementary school playground being used by 100 students, average and maximum noise levels of 60 and 75 dB, respectively, can be expected. As with service commercial uses, the noise generation of parks and playing fields is variable. This existing site is surrounded by residential uses to the west and north, and open space to the east and south.

SENSITIVE RECEPTORS

Noise sensitive receptors are generally considered to be human activities on land uses that may be subject to the stress of significant interference from noise, such as libraries, hospitals, or passive recreational areas. Land uses in the Analysis Area associated with sensitive receptors include residences, schools, assisted care homes, and passive recreation areas (3.5 acre Sandlewood Park). The Analysis Area includes areas of older residential areas intermixed with existing industrial and/or commercial uses, or adjacent to I-680 and E. Calaveras Boulevard/SR-237, which are already being adversely affected by traffic and stationary noise under current conditions. Housing along major roadways is currently exposed to traffic noise levels, which exceed the City's standards for residential exposure. Existing single and multi-family residential uses are located north of E. Calaveras Boulevard/SR-237 along the east boundary of the UPRR, and along the west boundary of I-680. Multi-family residential uses are located south of E. Calaveras Boulevard and east of I-680 in the Added Area. Some residential uses may also be developed in commercial zoning categories with a use permit.

EXISTING AND PROJECTED NOISE LEVELS

Projected 2010 Noise Contours prepared for the General Plan Noise Element (1997) are identified in Figure 6.5-1. The most recent available noise measurements and 2020 cumulative forecasts were conducted for the Midtown Specific Plan, as identified in Figure 6.5-2. Without build-out of the Midtown Specific Plan area, the entire Added Area was anticipated to lie outside the 60 dB L_{dn} noise contours by 2020 General Plan build-out conditions. Only a portion of the residential areas in the Amendment Areas, north of E. Calaveras Boulevard/SR-237, are within the 60 dB contour.



Source: The Ervin Consulting Group, 2009
City of Milpitas, 1997

FIGURE 6.5-1
PROJECTED 2010 NOISE CONTOURS

Source: The Ervin Consulting Group, 2009
City of Milpitas, 2001

FIGURE 6.5-2
PROJECTED 2020 NOISE CONTOURS

REGULATORY SETTING

Federal, state, and local agencies regulate different aspects of environmental noise. Federal and state agencies generally set noise standards for mobile sources such as aircraft and motor vehicles, while regulation of stationary sources associated with industrial, commercial, and construction activities is left to local agencies. Local regulation of noise involves implementation of general plan policies and noise ordinance standards.

The Midtown Specific Plan will add another 56,000 daily vehicle trips to anticipated General Plan build-out, but was determined to increase noise levels by less than 3 dBA on each of the modeled street segments. Subsequent site specific analyses for Analysis Area roadway conditions in the TASP EIR (2006) and Milpitas Square Mixed-Use Project Draft EIR (2009) identified cumulative traffic levels that would result in a more than 3 dBA increase in the PM peak hour on Alder Drive; however, this street segment is in an industrial area subject to a 5 dBA threshold.

FEDERAL REGULATIONS

Railroad Noise

Federal regulations for railroad noise are contained in 40 Code of Federal Regulations (CFR), Part 201 and 49 CFR, Part 210. Noise limits for locomotives manufactured during or after 1980 are as follows: stationary locomotives (at idle throttle setting) are not to exceed 70 dB at 15 meters (approximately 50 feet) from the track pathway centerline. Stationary locomotives (at all other throttle settings) are not to exceed 87 dB at 15 meters; and moving locomotives are not to exceed 90 dB at 15 meters. These noise limits are implemented through regulatory controls on locomotive manufacturers.

The sounding of locomotive horns or whistles in advance of highway rail grade crossings has been used as a safety precaution by railroads since the late 1880s. The manner in which horns have been sounded (two longs, one short and one long) was standardized in 1938. In response to a growing national trend towards restrictions on the use of locomotive horns under local ordinances and a related increase in collisions, Congress passed the Swift Rail Development Act, which directs the Federal Railroad Administration (FRA) to develop rules addressing this issue. In January 2000, the FRA published a proposed rule requiring the use of the horns or whistles on approaches to every public road/rail grade crossing. An exception is made in approved quiet zones, where supplementary safety measures have been installed or adopted by the state or locality. The proposed rule would also establish an upper limit for the loudness of train horns. Quiet zones are adopted by local governments, and approved by FRA.

Vehicular Noise

Federal regulations establish noise limits for medium and heavy trucks (more than 4.5 tons, gross vehicle weight rating) under 40 CFR, Part 205, Subpart B. The federal truck passby noise standard is 80 dB at 15 meters from the vehicle pathway centerline. These controls are implemented through regulatory controls on truck manufacturers. In addition to noise standards for individual vehicles, under regulations established by the U.S. Department of Transportation's Federal Highway Administration (FHWA), noise abatement must be

considered for certain federal or federally-funded projects. Abatement is an issue for new highways or significant modification of an existing freeway. The agency must determine if the project would create a substantial increase in noise or if the predicted noise levels approach or exceed the Noise Abatement Criteria. Under the regulations, a substantial increase is defined as an increase in L_{eq} 12 dB during the peak hour of traffic noise. The Noise Abatement Criteria differ among various activity categories; for sensitive uses, such as residences, schools, churches, parks, and playgrounds, the Noise Abatement Criteria is L_{eq} 57 (interior) and 67 dB (exterior) during the peak hour of traffic noise.

The National Environmental Policy Act (NEPA), signed into law on January 1, 1970, directs federal agencies to carry out their regulations, policies, and programs in accordance with NEPA's environmental protection policies. Although NEPA does not establish specific noise standards, the noise impacts of projects are routinely considered as one of the potential environmental consequences of federal actions subject to NEPA (such as certain federally funded highway or rail projects). These standards would apply to all federally funded projects within the Analysis Area.

STATE

State of California Noise Insulation Standards

The State Building Code, Title 24, Part 2 (updated August 1, 2008) of the State of California Code of Regulations (CCR) establishes uniform minimum noise insulation performance standards to protect persons within new buildings which house people, including hotels, motels, dormitories, apartment houses, and dwellings other than single-family dwellings. Title 24 mandates that interior noise levels attributable to exterior sources shall not exceed 45 dB L_{dn} or CNEL in any habitable room. Title 24 also mandates that for structures containing noise-sensitive uses to be located where the L_{dn} or CNEL exceeds 60 dB, an acoustical analysis must be prepared to identify mechanisms for limiting exterior noise to the prescribed allowable interior levels. If the interior allowable noise levels are met by requiring that windows be kept closed, the design for the structure must also specify a ventilation or air conditioning system to provide a habitable interior environment.

Roadway Noise Limits

The State establishes noise limits for vehicles licensed to operate on public roads. For heavy trucks, the State passby standard is consistent with the federal limit of 80 dB. The State passby standard for light trucks and passenger cars (less than 4.5 tons, gross vehicle rating) is also 80 dB at 15 meters from the centerline. These standards are implemented through controls on vehicle manufacturers and by state and local laws enforced against vehicle operators. For new roadway projects, the California Department of Transportation (Caltrans) employs the Noise Abatement Criteria, discussed above in connection with the Federal Highway Administration.

LOCAL

City of Milpitas General Plan

General plans recognize that different types of land uses have different sensitivities toward the surrounding noise environment. Residential areas are generally considered to be the

most noise sensitive type of land use, and industrial/commercial areas are generally considered to be the least sensitive. Local noise ordinances typically set forth standards related to construction activities, nuisance-type noise sources, and industrial property-line noise levels. The General Plan Noise Element has adopted standards for evaluating the compatibility of land uses with respect to noise levels. These standards, shown in Table 6.5-2, are derived from guidelines published by the California Office of Planning and Research (OPR). In addition, the General Plan Noise Element contains the guiding principles and policies applicable to the Amendments, as outlined below.

Guiding Principles

6-G-1 Maintain land use compatibility with noise levels similar to those set by State guidelines.

6-G-2 Minimize unnecessary, annoying, or injurious noise.

Implementing Policies

6-I-2 Require an acoustical analysis for projects located within a conditionally acceptable or normally unacceptable exterior noise exposure area. Require mitigation measures to reduce noise to acceptable levels.

6-I-3 Prohibit new construction where the exterior noise exposure is considered clearly unacceptable for the use proposed.

6-I-4 Where actual or projected rear yard and exterior common open space noise exposure exceeds the normally acceptable levels for new single-family and multifamily residential projects, use mitigation measures to reduce sound levels in those areas to acceptable levels.

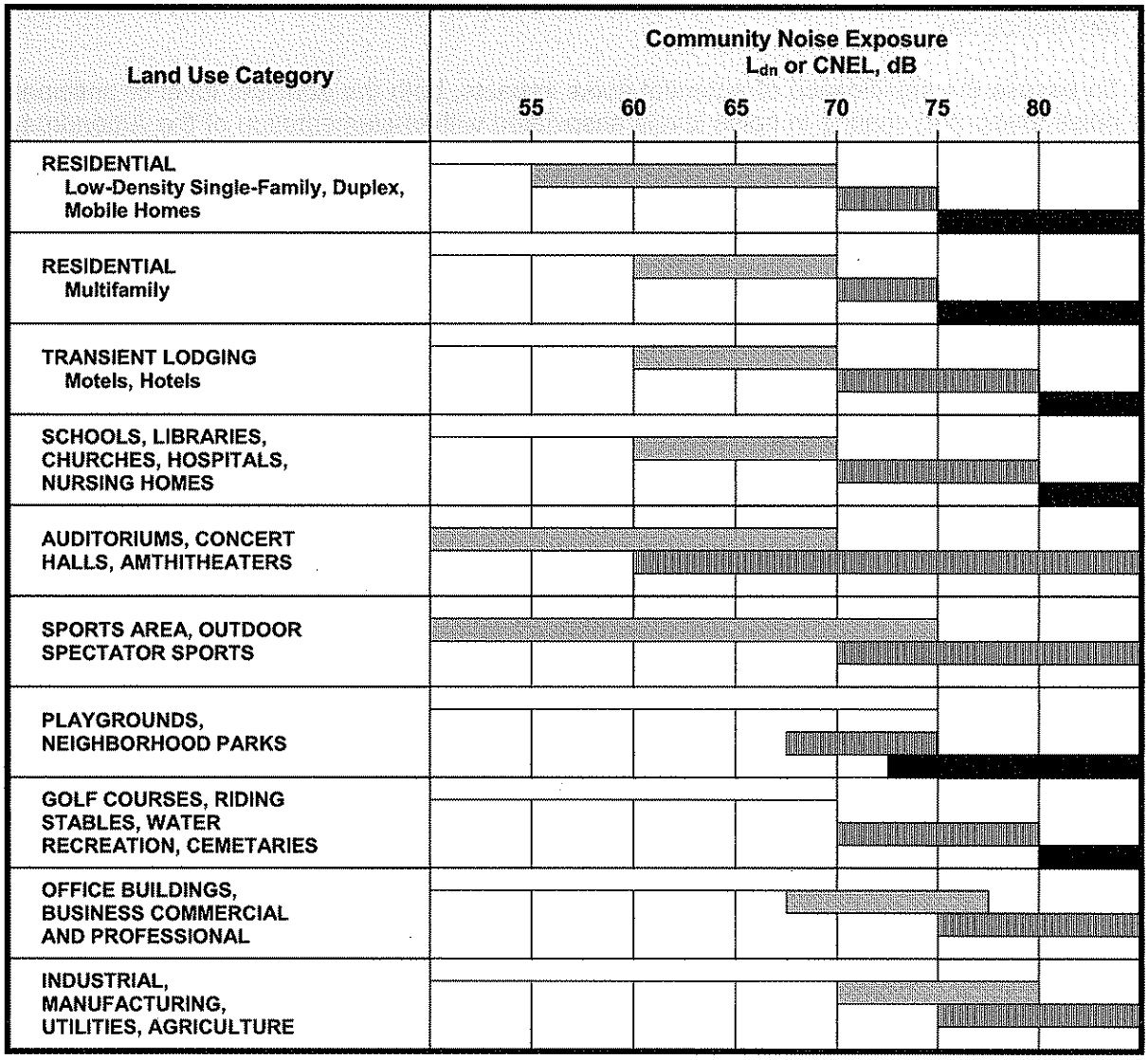
6-I-5 All new residential development (single family and multifamily) and lodging facilities must have interior noise levels of 45 dB DNL or less. Mechanical ventilation will be required where use of windows for ventilation will result in higher than 45 dB DNL interior noise levels.

6-I-7 Avoid residential DNL exposure increases of more than 3 dB or more than 65 dB at the property line, whichever is more restrictive.

Milpitas Noise Abatement Ordinance

The General Plan Noise Element is implemented through the Milpitas Noise Abatement Ordinance (City of Milpitas, 1954, Title V, Chapter 213, Noise Ordinance). The Noise Ordinance establishes that it is unlawful to create or permit disturbing noise in a residential district. Additionally, the Noise Ordinance restricts the hours that construction work can take place to 7:00 a.m. to 7:00 p.m. weekdays and weekends. No construction work shall be conducted or performed on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

TABLE 6.5-2
LAND USE COMPATIBILITY FOR COMMUNITY NOISE ENVIRONMENTS



NORMALLY ACCEPTABLE

Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise requirements

NORMALLY UNACCEPTABLE

New construction or development should be discouraged. If new construction or development does proceed, a detailed analysis of the noise reduction requirement must be made and needed noise insulation features included in the design.

CONDITIONALLY ACCEPTABLE

New construction or development should be undertaken only after a detailed analysis of the noise reduction requirements is made and needed noise insulation features included in the design.

CLEARLY UNACCEPTABLE

New construction or development clearly should not be undertaken.

Source: City of Milpitas General Plan Noise Element, Table 6-1, 1997.

ENVIRONMENTAL IMPACTS

METHODOLOGY

To assess the significance of potential noise impacts, both the absolute level of anticipated noise levels and change in noise levels associated with implementation of the Amendments were assessed. For noise sources such as surface traffic, a 3 dBA change in noise is generally perceived as being a barely perceptible change, a 5 dBA change is considered to be a distinctly perceptible change, and a 10 dBA change is perceived as a doubling of sound level.

Consideration in defining impact significance is based on the degradation of the existing noise environment. Ambient noise degradation is considered generally less than significant if no noise-sensitive sites are located in the area, or if increases in community noise level with implementation of a project are expected to be 3 dBA or less at noise-sensitive locations, and the proposed project will not result in violations of local ordinances or standards. Noise-sensitive sites include residences, motels, public meeting rooms, auditoriums, schools, churches, libraries, hospitals, and other areas where low noise levels are essential.

The significance of a change in noise levels is somewhat subjective. However, both the Caltrans and the FHWA have published general criteria, applicable to roadway noise that can also be used to define noise impacts associated with other community noise increases.

In general, if the increase in noise exposure level is greater than 3 dBA, the significance of impact will depend on the ambient noise level and the presence of noise-sensitive uses. Noise impacts can be considered potentially significant if increases in noise exposure levels are expected to be greater than 5 dBA with implementation of the Amendments. Noise impacts can be considered generally significant if a project causes noise standards or ordinances to be exceeded, increases community noise levels by 6 to 10 dBA in urban areas, or increases noise levels by 10 dBA or more in rural areas.

THRESHOLDS OF SIGNIFICANCE

The California Environmental Quality Act (CEQA) Guidelines define a significant adverse impact on the environment as an impact that would:

- Expose persons to or generate noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies
- Cause a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project
- Cause a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project

The City's General Plan, in Policy 6-I-7, sets criteria to avoid exposing residential uses to noise increases of more than 3 dB or noise above 65 dB at the property line, whichever is more restrictive. The General Plan does not have noise standards regarding the level of acceptable increase in noise levels for non-residential uses, so this analysis will use an increase of 5 dBA or greater, which is considered to be the minimum required increase for a

change in community reaction by the United States Department of Transportation (DOT; 1990), as a significant noise impact.

A project would also be considered to have a significant impact if it would introduce new noise-sensitive uses into an area that does, or would have, unacceptable noise levels. Unacceptable noise levels would be those that would exceed the normally acceptable and conditionally acceptable noise/land use compatibility standards presented in Table 6.5-2.

PROJECT-SPECIFIC IMPACTS AND MITIGATION MEASURES

Impact 6.5-1 Redevelopment-engendered development and infrastructure projects could result in construction noise at sensitive receptors. This would be a short-term significant impact.

Construction activities related to public and private projects undertaken as a result of the Amendments could result in an increase in ambient noise levels during construction. This would be a short-term significant impact.

Preliminary ground work activities would involve excavation, grading, earth movement, stockpiling, and haul-vehicle travel. Construction activities such as foundation-laying, road building, building construction, and finishing operations would generate noise at construction sites. Construction equipment would also generate vehicular noise both on- and off-site. Construction-related material haul would raise ambient noise levels along haul routes, depending on the number of haul trips made and types of vehicles used. Construction equipment and activities would likely have more of an intrusive and disturbing effect on nearby sensitive receptors than actually raise time-averaged noise levels. Typical noise levels associated with construction equipment is shown in Table 6.5-3.

Assuming a maximum noise level of 90 dBA, L_{eq} at about 50 feet from the source for standard construction equipment, and a noise attenuation of about six dBA for every doubling of the distance, noise levels from construction activities would drop to about 60 dBA, L_{eq}, (the maximum normally acceptable noise level in residential areas) at about 1,500 feet from the source. This worst-case estimate assumes that sound waves travel undisturbed from the source to the receptor over ground that has poor sound absorptive properties; local terrain characteristics, such as earth berms that provide a shielding effect by blocking the line-of-sight to noise sources, and soft vegetation-covered earth with good sound absorptive tendencies, would reduce noise propagation. Under a worst-case scenario, noise-sensitive land uses or activities within about 1,500 feet of construction sites within the Analysis Area could be exposed to noise levels above the recommended standards during the construction period.

The construction schedules for individual projects carried out in furtherance of the Amendments would vary from project-to-project. The duration of construction noise effects and the impacts would differ for each type of construction (new building construction, rehabilitation, public infrastructure, etc.) and project location. Noise from construction activities in the Analysis Area would have the potential to raise ambient noise levels above recommended standards and to have an intrusive and disturbing noise effect at nearby sensitive receptor locations.

TABLE 6.5-3
NOISE LEVELS OF TYPICAL CONSTRUCTION EQUIPMENT

Equipment Type	Typical Equipment Level (dBA)
Air Compressor	81
Backhoe	85
Concrete Pump	82
Concrete Breaker	82
Truck Crane	88
Dozer	87
Generator	78
Loader	84
Paver	88
Pneumatic Tools	85
Water Pump	76
Power Hand Saw	78
Shovel	82
Trucks	88
Pile Driver	90

Source: Bolt, Beranek and Newman, Noise from Construction Equipment and Operations, Building Equipment and Home Appliances, U.S. EPA, 1971.

Excessive noise levels occurring during the evening and nighttime hours can result in sleep disruption and would have the greatest impact and annoyance to these noise-sensitive receptors. The City of Milpitas Municipal Code (Municipal Code) restricts construction activities to the hours of 7:00 a.m. to 7:00 p.m. each day. This restriction would ensure that sleep disruption would generally not occur, and that annoyance related to construction activities would be minimized.

Although the restriction of construction to specific daylight hours minimizes the annoyance from temporary noise impacts resulting from construction activities, construction activities could temporarily and intermittently increase noise levels at nearby sensitive receptor locations, and cause a disruption to some local businesses, such as those providing outdoor dining. This would be a ***short-term significant impact.***

Mitigation

Future redevelopment construction activities within 1,500 feet of residential units or other sensitive receptors, as determined by the Planning Director, shall implement the following measures for the duration of the construction period:

6.5-1a *Properly muffle and maintain all construction equipment powered by internal combustion engines.*

6.5-1b *Prohibit unnecessary idling of internal combustion engines.*

6.5-1c *Locate all stationary noise-generating construction equipment, such as air compressors, as far as practical from existing nearby residences and other noise sensitive land uses. Such equipment shall also be acoustically shielded.*

6.5-1d *Select quiet construction equipment, particularly air compressors, whenever possible. Fit motorized equipment with proper mufflers in good working order.*

6.5-1e *A noise disturbance coordinator responsible for responding to any local complaints about construction noise shall be designated. The noise disturbance coordinator shall determine the cause of any noise complaint (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. A telephone number for the disturbance coordinator shall be posted at the construction site.*

Significance after Mitigation

Less than significant

Impact 6.5-2 Redevelopment engendered development could result in increased ambient noise levels at noise-sensitive land uses. This would be a less-than-significant impact.

Implementation of the Amendments will eliminate barriers to development in the Analysis Area by providing funding for infrastructure improvements and development assistance. This would allow development to occur consistent with the adopted General Plan. By removing existing barriers to development, the Amendments will potentially stimulate increased population and employment growth in the Analysis Area to the levels projected for General Plan build-out. The Amendments would help remove barriers to development of residential, commercial, and industrial infill parcels, which could result in increased stationary noise at commercial and industrial sites, as well as increased traffic noise along major roadways and local streets.

Infill development would be consistent with General Plan land use designations and policies, and is therefore anticipated and addressed by existing plans, policies, and ordinances. The increase in vehicle trips along a particular roadway as the General Plan land use densities are reached would depend on the number of additional trips generated (which would depend on the types of land uses developed), and the distribution of these trips on the area roadway network (which would depend on future land use patterns).

An analysis of vehicular traffic can be used to determine whether ambient noise levels would increase significantly under the General Plan. Year 2030 travel demand forecasts were prepared for the TASP EIR AM and PM peak hour screenline volumes at eight major locations in the Analysis Area (TASP EIR, Appendix D, 2006). During the AM peak hour, total travel demand at the eight screenline is forecast to increase from 164,000 trips under year 2000 conditions to 243,200 under General Plan plus TASP build-out. This is a 48% increase in travel demand. Under year 2030 PM peak hour conditions, travel demand at the eight screenline is forecast to increase to over 285,000 trips from 170,000 under year 2000 conditions. This is a 69% increase in travel demand.

A 10-fold increase in vehicle volume equates to a noise level increase of approximately 10 dBA, or a perceptible doubling of noise level (or volume). Generally, a tripling of average

daily traffic volumes (ADT) would result in an ambient noise level increase of 4.5 to 5 dB. The greatest individual peak hour volume increase in the Analysis Area was an approximately 3-fold increase along S. Park Victoria Drive south of E. Calaveras Boulevard. The residential portions of the Added Area along this roadway segment are already within the 65-75 dB noise contours of I-680, which would obscure the street volume noise increase under General Plan build-out conditions.

Increases in the number of stationary noise sources in the Analysis Area as barriers to infill development are removed would produce noise levels primarily during the day and evening hours and less frequently at night as perceived at the closest noise-sensitive land uses. Noise typically associated with residential land uses includes adult and children voices and noise generated by lawn maintenance equipment. Noise levels generated by residential land uses typically average less than 50 dBA at 10 feet and would not be anticipated to result in a noticeable increase (e.g., 3 dBA or greater) in ambient noise levels. Operational noise associated with non-residential land uses, including operation of building mechanical equipment, material loading and unloading activities, pneumatic equipment, and processing equipment could generate high noise levels depending on the type of equipment and when, how often, and for what duration they are used. Such stationary noise is governed by the Zoning Ordinance regulations.

The proposed BART extension would also represent a future noise source for existing residential uses in the Amendment Areas north of E. Calaveras Boulevard/SR-237. Electrified BART trains would operate alongside the existing freight rail line alignment. Because it is electrified, noise from BART operations would be substantially less than those of the operating freight lines. The addition of noise from BART train operations to residences along this corridor could be expected to result in a noise environment that would be considered conditionally acceptable for residential uses with respect to the General Plan. The Supplemental EIR for the BART Extension to Milpitas, San José, and Santa Clara indicates that sound walls constructed as part of the BART project will mitigate noise impacts to the existing ground floor residences along the route. Sound walls already exist along the rail line from the commercial area north of E. Calaveras Boulevard/SR-237 to north of Edgewater Drive, protecting all residences closer than 200 feet to the rail line.

The Amendments would remove barriers to industrial and commercial development within areas zoned for such uses; no residential uses are allowed in the industrial zone, and only multi-family residential is allowed with a permit in commercial zones. General Plan policies require specific development projects be analyzed when proposed to determine if projected noise levels at nearby receptors would comply with the City's noise control standards. Mitigation measures will be required to reduce projected interior and exterior noise levels to within acceptable levels. Mitigation could include sound walls, dual-pane noise-rated windows, use of mechanical air systems, and use of other building materials that would feasibly reduce interior noise levels to acceptable levels.

Compliance with the City's noise standards, State Title 24 requirements, and implementation of any additional project-specific mitigation measures for the control of stationary source noise in compliance with General Plan measures, would reduce potential noise impacts from redevelopment-engendered projects to less-than-significant levels. Traffic generated by development projects within the Analysis Area would not cause a 3 dBA increase in traffic noise on any Analysis Area roadways. Therefore, the Amendments would have a ***less-than-significant*** noise impact on existing and future uses in the Analysis Area.

Mitigation

None required

CUMULATIVE IMPACTS AND MITIGATION MEASURES

Impact 6.5-3 Redevelopment engendered development could result in an increase in cumulative community noise impacts. This would be a less-than-significant impact.

The contribution of redevelopment activities and General Plan development in furtherance of the Amendments to cumulative community noise conditions would be secondary and incremental. Only a small percentage of the additional noise would be caused by traffic of projects engendered by the Amendments, and even build-out was determined to result in less than a 3 dBA noise increase along Analysis Area roadways, except for a 3.5 dBA increase along S. Park Victoria Drive. Any new stationary sources must be mitigated per General Plan and Zoning Ordinance policies, and zoning provides logical buffers between new residential and industrial land uses. The Amendments must be consistent with the General Plan per California Community Redevelopment Law, and would not result in violations of local ordinances or standards. Cumulative community impacts are considered ***less than significant***.

Mitigation

None required

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6.6

PUBLIC SERVICES AND UTILITIES

Milpitas Redevelopment Amendments

CHAPTER 6
ENVIRONMENTAL ANALYSIS

6.6 PUBLIC SERVICES AND UTILITIES

INTRODUCTION

This Subchapter of the Environmental Impact Report (EIR) addresses public services and utilities for the proposed Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 and the Sixth Amendment to the Great Mall Redevelopment Project (proposed project or Amendments). The settings for each topic are discussed first, followed by the analysis of potential impacts and mitigation measures. The issues addressed in this Public Services and Utilities section includes:

- Public Safety (Fire, Police)
- Public schools
- Solid waste disposal
- Wastewater
- Stormwater, drainage, and flooding
- Water service

There were no comments on the Notice of Preparation regarding hazards or hazardous materials.

ENVIRONMENTAL AND REGULATORY SETTING

PUBLIC SAFETY

Fire Services

Fire protection in the Analysis Area is provided by the Milpitas Fire Department (MFD), which has four fire stations and an administration facility. The MFD is responsible for emergency medical services, rescue services, hazardous and toxic materials emergency response, coordination of Citywide disaster response efforts, enforcement of fire and life safety codes, enforcement of state and federal hazardous materials regulations, and investigation of fire cause, arson and other emergency events for cause and origin (City of Milpitas, n.d.).

The City of Milpitas (City) is involved in a Statewide Mutual Aid Agreement and Auto Aid & Mutual Aid with surrounding cities, including the Santa Clara County Mutual Aid Plan and Bay Area Intercounty Fire Mutual Aid Plan for Local Resources. The San Jose Fire Department and/or the Fremont Fire Department provide mutual aid to Milpitas in emergencies.

Three of the City's fire stations are located within the Analysis Area, including Fire Station 1 at 777 South Main Street, Fire Station 3 at 45 Midwick Drive, and Fire Station 4 at 775 Barber Lane. Fire Station 2 at 1263 Yosemite Drive is located just south of the Adams and Selwyn/Shirley areas on the east side of Interstate 680 (I-680).

The emergency response time goal of MFD is to deploy one engine to the scene of an emergency within four minutes (City of Milpitas, 2009a). MFD anticipates requiring additional staffing for another engine-company in the vicinity of the Analysis Area depending on the actual population growth due to approved land use designations in the Milpitas Midtown Specific Plan (Midtown Specific Plan) and Transit Area Specific Plan (TASP).

Regulatory Setting

City of Milpitas General Plan

The following General Plan Guiding Principle and Implementing Policies are applicable to the proposed Amendments:

Guiding Principle

5.c-G-1 Provide high quality, effective and efficient fire protection services for the Milpitas area residents.

Implementing Policies

5.c-I-1 Maintain a response time of four minutes or less for all urban service areas.

5.c-I-2 Maintain mutual aid agreements with other agencies in the County.

5.c-I-3 Require automatic fire sprinklers for all new development in the Hillside Area that is not within 1.5 miles of an existing or planned fire station, and fire-resistive construction and compliance with California high-rise building requirement for buildings over three stories in height.

Milpitas Fire Code

The City of Milpitas Municipal Code Title V, Chapter 300 is related to the Milpitas Fire Code. The Fire Code adopts and amends the 2007 California Fire Code (City of Milpitas, n.d.).

Police Services

Police protection services would be provided to the Analysis Area by the Milpitas Police Department (MPD). Additionally, the California Highway Patrol provides law enforcement services in the Analysis Area, and the Transit Patrol Division of the Santa Clara County Sheriff provides contract security and law enforcement services for the Valley Transportation Authority.

MPD services are provided from one central station, located at 1275 North Milpitas Boulevard. In 2005, the MPD employed 95 sworn officers and operated 26 marked patrol cars. The MPD's Patrol Bureau provides twenty-four hour a day uniformed police protection for the City. The Patrol Bureau is organized into three Patrol Shifts, each including a supervisory team of a Lieutenant, two Sergeants, and a number of police and patrol officers.

The City is divided into six geographical beats and on most shifts and most days each beat is filled. Officers are assigned to a shift are assigned to 'primary' beats and serve that beat for their full work week for the whole six month shift assignment. The officers are encouraged to stop by and interact with students in schools on their beats; attend the D.A.R.E. graduations at schools on their beats; meet residents, attend homeowner's associations meetings, and attend neighborhood watch meetings so that they become aware of what occurs within their assigned beats. Some officers are also assigned a specified shopping area – generally a smaller strip mall of no more than 25 – to bring the working police and patrol officers into closer, regular contact with members of the local business community.

The average response time within the City is approximately four minutes and 40 seconds. Highest priority is assigned to emergency calls where life-threatening conditions occur. The target response time for such emergency calls is three minutes. Currently, the average

police response time for non-emergency calls within the City is estimated to be approximately five minutes.

Based on crime incidents reported within the Adams and Selwyn/Shirley areas (2004-2008), the largest numbers of crimes were assaults and auto thefts. During the five-year period, there was an average of three crimes per property in the Adams Area, and six crimes per property in the Selwyn/Shirley Area compared to 0.8 crimes per property Citywide. In the five-year period, there were 30 assaults in the Adams Area and 178 in the Selwyn/Shirley Area, which is roughly twice as many per property than Citywide. In terms of population, there were 46.9 assaults per 1,000 in the Adams Area and 81.6 assaults per 1,000 in the Selwyn/Shirley Area compared to 39.0 assaults per 1,000 Citywide.

This is consistent with the proportion of gang related crimes in these areas. Although the Adams Area has less than 1% of the population, it has 6% of the gang related crimes. In the Selwyn/Shirley Area the proportion of gang related crimes was even higher at 10% compared to 6% of the population. These crimes are consistent with City's on-going efforts to reduce crime and more specifically gang related crimes.

Regulatory Setting

City of Milpitas General Plan

The following General Plan Guiding Principle and Implementing Policies are applicable to the proposed Amendments:

Guiding Principle

2.d-G-1 Provide all possible community facilities and utilities of the highest standards commensurate with the present and anticipated needs of Milpitas, as well as any special needs of the region.

2.d-G-2 Develop adequate civic, recreational, and cultural centers in locations for the best service to the community and in ways which will protect and promote community beauty and growth.

Implementing Policies

2.d-I-1 Coordinate capital improvement planning for all municipal service infrastructure with the location and timing of growth.

PUBLIC SCHOOLS

Public education services within the Analysis Area are provided by the Milpitas Unified School District (MUSD), Santa Clara Office of Education, and San Jose/Evergreen Community College District. MUSD operates nine elementary (grades K-5; Burnett, Curtner, Pameroy, Randall, Rose, Sinnott, Spangler, Weller and Zanker), two middle (grades 6-8; Rancho Milpitas and Russell) and two high (grades 9-12; Milpitas High and Calaveras Hills) schools. In addition to public schools, private and parochial schools also serve the Analysis Area.

In 2006-2007, when the TASP was adopted to increased residential land use in the enrollment area, enrollment in MUSD was approximately 5,043 elementary (grades K-6) school students, 1,462 middle school (grades 7-8) students, and 3,177 high school students, for a total of approximately 9,682 students. The total capacity for the district is 11,493 students, meaning that the district was at 84% of capacity overall. However, enrollment is not distributed evenly over school type. Using enrollment numbers from 2006/07, the MUSD

elementary schools were at 88% of capacity (room for 690 additional students), middle schools were at 89% of capacity (room for 180 additional students), and the high school system of Milpitas High plus alternatives is at 95% of capacity (room for 165 additional students).

Between the TASP and Midtown Specific Plan, around 8,000 housing units are projected to occur in the next 20 years within MUSD. The school facility need for students generated from housing units in the Analysis Area that is part of the TASP have already been taken into account in the District's Enrollment Growth Facility Study (June 11, 2007) which was prepared to assess the impact of the TASP as a cumulative addition to enrollment growth otherwise expected in the community. The results of that study indicate the following facility needs:

- New elementary school in the TASP area to serve 766 students
- Zanker Elementary: new multi-purpose building and 2 additional classrooms
- Spangler Elementary: replacement of old portable classrooms with a permanent 10 classroom building
- Expansion of Murphy site to serve as a Middle School (relocate Rancho students); joint use of City park for fields
- Russell Middle: add four portable classroom buildings
- Expansion of the Rancho Middle site to serve as a High School. (MUSD, 2009).

TASP policy requires the City to ensure that all school impacts fees are paid from individual projects prior to the issuance of any building permits. TASP Policies 6.43 and 6.45 further support cooperation with the MUSD to identify and evaluate potential sites for a new elementary school within or close proximity to the TASP. Midtown Specific Plan Policy 6.20 requires the City to coordinate with the school districts in planning for adequate public school facilities.

Regulatory Setting

City of Milpitas General Plan

The following General Plan Guiding Principle and Implementing Policies are applicable to the proposed Amendments:

Guiding Principle

2.c-G-1 Provide adequate school facilities for the City's residents.

The quality of educational programs and facilities is an important component of the community's quality of life and the desirability of the City to new residents and businesses.

Implementing Policies

2.c-I-1 Continue working with MUSD, Berryessa Union High School District, and East Side Union School District in its update of the comprehensive facilities plan and to ensure adequate provision of school facilities.

2.c-I-3 Work with MUSD, Berryessa Union High School District, and East Side Union School District to monitor statutory changes and modify school fees when necessary to comply with statutory changes.

SOLID WASTE DISPOSAL

The City and Santa Clara County Integrated Waste Management Plans (IWMP) comply with state-mandated waste reduction goals specified in Public Resources Code (PRC) 40500 (Assembly Bill (AB) 939). PRC 40500 requires local agencies to implement source reduction, recycling, and composting activities to reduce solid waste generation by 50% by the year 2000. As a part of PRC 40500, each city and county is also required to prepare a Source Reduction and Recycling Element (SRRE) and a Household Hazardous Waste Element (HHWE). Together, the SRRE and HHWE comprise the City's IWMP.

Solid Waste Disposal Facilities

The City disposes of all solid waste at the Permitted Class III, Subtitle D facility, the Newby Island Sanitary Landfill (NISL), administered by Browning-Ferris Industries of California, Inc. The NISL accepts solid waste, recyclables, and compostable materials; it does not accept hazardous waste. The facility is 342 acres, of which waste has been placed on approximately 270 acres. The permitted footprint covers 313 acres, and the facility is permitted to accept up to 4,000 tons of Municipal Solid Waste (MSW) per day.

Newby Island can accept industrial wastes, wastewater treatment sludge, grit, screenings, construction/demolition debris, contaminated soils, clean soils, and MSW. The NISL has an extensive recycling program for construction/demolition debris, metal, drywall, asphalt, concrete, and wood debris; and a recycling facility that handles glass, plastics, cardboard, aluminum cans, mixed paper, green waste, and a composting operation.

Newby Island is part of a group of Allied Waste Bay Area Landfills. The other landfills are Ox Mountain Sanitary Landfill in Half Moon Bay, Keller Canyon Landfill in Pittsburg, and Forward Landfill in Manteca (Allied Waste Services of Santa Clara County, n.d.).

The City also participates in Santa Clara County's Hazardous Waste Program, which provides a drop-off site for residents and small generators.

Source Reduction and Recycling

The City's SRRE provides a summary and analysis of existing and needed source reduction, recycling, and composting programs and facilities, strategies for handling special wastes, and for funding. Implementation measures are specified and include multi-family residential and non-residential recycling, public awareness, and regulatory programs. Goals adopted as part of the SRRE include the following:

- Meet or exceed state-mandated solid waste disposition rates by maximizing source reduction, recycling and composting opportunities for Milpitas residents and businesses;
- Motivate the residential and business sectors to reduce and recycle solid waste;
- Ensure that all land development projects provide adequate space and design for waste reduction and management activities and equipment;
- Encourage the development and expansion of local and regional markets for diverted materials;
- Provide solid waste management services that minimize environmental impacts, ensure public health and safety and facilitate waste reduction efforts; and
- Increase residents' awareness of proper disposal and reduction methods for wastes (City of Milpitas, 1994).

Regulatory Setting

City of Milpitas General Plan

The following General Plan Guiding Principle and Implementing Policies are applicable to the proposed Amendments:

Guiding Principle

4.h-G-1 Undertake efforts to reduce the generation of waste, increase recycling and slow the filling of local and regional landfills, in accord with the California Integrated Waste Management Act of 1989.

Implementing Policies

4.h-I-1 Implement measures specified in the City's Source Reduction and Recycling Element and the City's Household Hazardous Waste Element.

Milpitas Green Building Ordinance

The City adopted an intermediate level Green Building compliance ordinance as Title II, Chapter 20 of the Municipal Code, effective August 1, 2009. The purpose and intent of the ordinance "is to enhance the public health and welfare by promoting the environmental and economic health of the City through the design, construction, maintenance, operation and deconstruction of buildings and other site development by incorporating green building practices into all development." The green building provisions in the Ordinance are designed to reduce waste generated by construction projects.

WASTEWATER

The City's sanitary sewer/wastewater treatment system has two distinct components: 1) a network of sewer mains/pipes that collects and conveys effluent from its source to the treatment plant, and 2) the water pollution control plant that treats the effluent, including a system of mains/pipes that transports a portion of the treated wastewater for non-potable uses (e.g., irrigation of landscaping, agricultural irrigation, dust suppression during construction, etc.).

Sanitary Sewer Mains

The Milpitas Sanitary Sewer Collection System is owned and maintained by the City. The 2004 Sewer Master Plan Revision is a re-evaluation of the 2002 Sewer Master Plan and provides information required for the City planning and financial efforts. The 2004 Sewer Master Plan Revision defines the sanitary sewer system improvements necessary to accommodate the City's future land use development plans to the year 2018 (build-out) including the Midtown redevelopment as described in the Midtown Specific Plan.

San Jose/Santa Clara Water Pollution Control Plant

The San Jose/Santa Clara Water Pollution Control Plant (WPCP), which is located at the northerly end of San Jose, cleans the wastewater of over 1,500,000 people that live and work in the 300-square mile area encompassing San José, Santa Clara, Milpitas, Campbell, Cupertino, Los Gatos, Saratoga, and Monte Sereno. The WPCP has existing capacity to treat 167 million gallons per day (mgd) of effluent. Of this total amount, the capacity allocated to the City is roughly 13.5 mgd.

While the capacity of the WPCP is 167 mgd, the amount of treated wastewater that can be discharged to San Francisco Bay by the WPCP is limited to 120 mgd (dry weather peak). This limitation is based upon the concerns of the State Water Resources Control Board (SWRCB) and the Regional Water Quality Control Board (RWQCB) over the effects of additional freshwater discharges from the WPCP on saltwater marsh habitat, as well as pollutant loading to the Bay from the WPCP. This limitation has led to the development of programs to reduce the volume of wastewater generated at the source, as well as a system that recycles some of the wastewater for non-potable uses.

The City of Milpitas estimates that at build-out the City's wastewater treatment demand will reach 14.2 mgd. The City currently has 13.5 mgd of capacity at the WPCP. The City is in the process of purchasing additional allocated capacity of 750,000 gallons per day from the Cupertino Sanitary District to meet the projected increase in demand. As of December 2007, the City's sanitary sewer discharge was 10.2 mgd which indicates the City currently has remaining capacity of 3.3 mgd (City of Milpitas, 2009a).

Regulatory Setting

City of Milpitas General Plan

The following General Plan Guiding Principle and Implementing Policies are applicable to the proposed Amendments:

Guiding Principle

2.d-G-1 Provide all possible community facilities and utilities of the highest standards commensurate with the present and anticipated needs of Milpitas, as well as any special needs of the region.

2.d-G-2 Develop adequate civic, recreational, and cultural centers in locations for the best service to the community and in ways which will protect and promote community beauty and growth.

Implementing Policies

2.d-I-1 Coordinate capital improvement planning for all municipal service infrastructure with the location and timing of growth.

2.d-I-2 Periodically update the City's water and sewer master plans.

STORMWATER, DRAINAGE, AND FLOODING

Drainage

Urbanization tends to increase the rate of runoff generated from local precipitation due to the predominance of impermeable surface area (e.g., pavement). Storm runoff in the City's developed areas is collected in a system of underground pipes and a network of street gutters. Local runoff from storm drains flows into creeks and channels that run through the city, ultimately discharging into the San Francisco Bay. Drainage in Milpitas generally is from the southeast to the northwest. Storm drains close to the San Francisco Bay tend to rely heavily upon pumping facilities to move water, rather than gravity.

The City owns and maintains the municipal storm drainage system that serves the Analysis Area. This system collects and disposes storm water via an extensive storm drainage network consisting of catch basins, conveyance piping, pump stations, and outfalls to creeks. The system currently includes approximately 125 miles of storm pipe, approximately

3,000 catch basins, approximately 4 miles of drainage ditches and creeks, and an associated system of storm water pump stations.

Pipelines ranging in diameter from 12-inches to 60-inches convey stormwater runoff to the five creeks within or adjacent to the Analysis Area: Lower Penitencia, Berryessa, Piedmont, Arroyo, and Wrigley-Ford creeks. All creeks are tributary to Coyote Creek. The creeks are largely modified in form to straight trapezoidal channels, and are concrete-lined within and adjacent to the Analysis Area. The structurally channelized watercourse and culverts retain few natural attributes of the original creeks.

Flooding

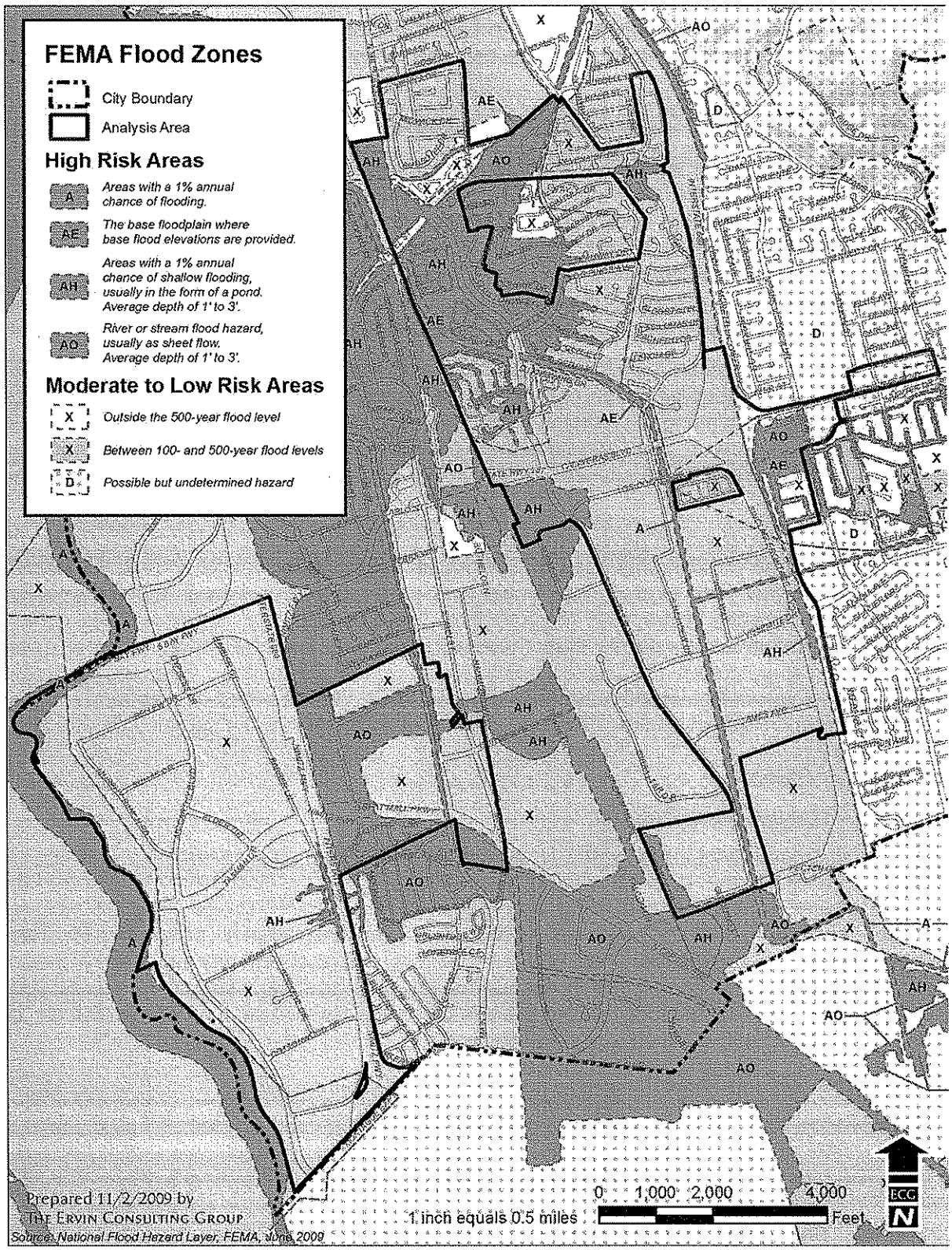
The City, including the Analysis Area, is located within the East Zone of the Flood Control Benefit Assessment District. The Santa Clara Valley Water District (SCVWD) is responsible for maintenance and measures for flood protection within the Assessment District. The City owns and maintains Wrigley-Ford Creek, while the SCVWD maintains both Lower Penitencia and Berryessa creeks. The upstream areas of Berryessa Creek (Upper Berryessa) have planned improvements developed by the United States Army Corps of Engineers (USACE). SCVWD is responsible for improvements to Penitencia Creek, although no improvements are planned for Lower Penitencia Creek at this time.

Flooding within the Analysis Area is highly dependent on conditions in the drainage areas upstream of the Analysis Area, and to a lesser extent the condition of the creeks within the Analysis Area. The current condition and design of the creeks flowing into the Analysis Area are not sufficient to prevent 100-year flood conditions, and will require improvements to remove the area completely from the Federal Emergency Management Agency (FEMA)-designated flood zones. Berryessa Creek is subject to flooding on the average every four years, and in 1998, significant damage occurred to homes and automobiles. Both the Town Center Area and the Amendment Areas near Elmwood Correctional Facility are subject to flooding.

Because the Analysis Area is within the lower floodplain areas of local watersheds, it is subject to flood hazards. The majority of the Analysis Area is indicated by FEMA as being within flood zones A, AO, AH, and AE of the 100-year floodplain, as shown in Figure 6.6-1 (National Flood Insurance Program (NFIP), Flood Insurance Rate Map (FIRM), Community-Panel Numbers 06085C0058H, 06085C0059H, 06085C0066H, 06085C0067H, and 06085C0068H, dated May 18, 2009). Zone A only occurs along the Analysis Area's creek beds. The 100-year flood is the largest event likely to occur once every 100 years, which is an event with a 1% chance of flood occurrence in any given year.

The buildable flood zones in low-lying areas that are subject to ponding during the 100-year event, and are defined by FEMA as follows:

- ***Zone A***
  Areas subject to inundation by the 1-percent-annual-chance flood event generally determined using approximate methodologies. Because detailed hydraulic analyses have not been performed, no Base Flood Elevations (BFEs) or flood depths are shown. Mandatory flood insurance purchase requirements and floodplain management standards apply.
- ***Zone AE***
  Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet, where BFEs are provided. Mandatory flood insurance purchase requirements and floodplain management standards apply.



Source: The Ervin Consulting Group, 2009
Data Source: NFHL, June 2009.

FIGURE 6.6-1
FLOOD ZONES IN THE ANALYSIS AREA

- ***Zone AH***
  Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. BFEs derived from detailed hydraulic analyses are shown in this zone. Mandatory flood insurance purchase requirements and floodplain management standards apply.
- ***Zone AO***
  Areas subject to inundation by 1-percent-annual-chance (100-year) shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown in this zone. Some Zone AO has been designated in areas with high flood velocities such as alluvial fans and washes. Communities are encouraged to adopt more restrictive requirements for these areas. Mandatory flood insurance purchase requirements and floodplain management standards apply.

The City's location within a FEMA-designated floodplain means that areawide planning is required, and special construction methods must be applied to development within much of the City. Regional flooding mitigation will be handled by the SCVWD and USACE for creeks improvements. However, localized flooding mitigations will need to be handled by individual developers for necessary on-site and off-site improvements as development occurs within the Analysis Area.

Major capital improvements have been completed on Coyote Creek the from San Francisco Bay to Montague Expressway, Lower Penitencia Creek from Coyote Creek to Tasman Drive, and Wrigley Ford Creek. The Upper and Lower Berryessa Creek Flood Protection Projects are currently in progress to protect major portions of the City from flood events. The Lower project area extends from the confluence with Lower Penitencia Creek (near Milmont Drive) upstream to Calaveras Boulevard (about 2.1 miles). The Upper project begins at Calaveras Boulevard and ends upstream of Old Piedmont Road; the length of this reach is approximately 4.3 miles. These projects are anticipated to be completed in 2019.

Regulatory Setting

National Flood Insurance Program

The City is a participant in the NFIP. Drainage and related flooding hazards are managed in response to requirements established by the National Flood Insurance Act of 1986 and the Flood Disaster Protection Act of 1973, as amended. Requirements of the NFIP are included in the Building Code and through overall City and interagency programs for flood management. In implementing the NFIP, FEMA requires that new construction in a flood hazard area meet minimum design standards to place occupied structures above flood hazard areas. A special flood hazard area is defined as a 100-year floodplain, which, on average, is likely to flood once every 100 years.

City of Milpitas General Plan

The following General Plan Guiding Principle and Implementing Policies are applicable to the proposed Amendments:

Guiding Principle

2.d-G-1 Provide all possible community facilities and utilities of the highest standards commensurate with the present and anticipated needs of Milpitas, as well as any special needs of the region.

2.d-G-2 Develop adequate civic, recreational, and cultural centers in locations for the best service to the community and in ways which will protect and promote community beauty and growth.

Implementing Policies

2.d-I-1 Coordinate capital improvement planning for all municipal service infrastructure with the location and timing of growth.

2.d-I-2 Periodically update the City's water and sewer master plans.

Milpitas Municipal Code

FEMA-designated flood hazard zones are considered to be areas of special flood hazard according to Section XI-15-3.2 of the Municipal Code. As a result, all development activity within the Analysis Area is subject to the provisions specified in Section XI-15: Floodplain Management Regulations of the Municipal Code. These provisions require each developer to submit a permit application showing the development plans, in particular the measures that will be taken to prevent flood hazards or elevate buildings out of the floodplain.

WATER SERVICE

The City of Milpitas provides water to the Analysis Area. Currently, the sources of domestic water used in Milpitas include the San Francisco Public Utility Commission (SFPUC), delivered through the Hetch Hetchy Water system, and the SCVWD, delivered through the South Bay Aqueduct. The City's emergency supply consists of one local groundwater well – with a second one under construction – and three emergency interties, one with the San Jose Water Company and two with the Alameda County Water District.

Local water from SFPUC is treated at its Sunol Valley Filtration Plant and water from SFPUC's Hetch Hetchy supply in the Sierra is chlorinated and pH adjusted, prior to its delivery to the City. Water delivered by SCVWD is treated at its Penitencia Water Treatment Plant or the Santa Teresa Water Treatment Plant before being piped to the City. The SFPUC and SCVWD potable water supply sources are not blended under normal operating conditions due to the different corrosion control methods used for each source.

The City owns and operates the municipal water system which provides potable water to the Analysis Area. The City has a distribution system consisting of four turnouts delivering wholesale water to 193 miles of water mains with approximately 15,000 service connections.

The City also purchases water from the South Bay Water Recycling program (SBWR). The SBWR is an on-going, multi-year effort to use high quality recycled water from the WPCP for irrigation, industrial, and other purposes. Recycled water use has surpassed 600 acre-feet per year (AFY) since 2000 and is expected to rise to approximately 1,100 AFY by 2010. The City will be working with SBWR to connect approximately 70 customers over the next few years (City of Milpitas, 2009a).

As described in the City of Milpitas 2005 Urban Water Management Plan (UWMP), based upon ABAG 2002 population projections, potable water demand is estimated to be 15.33 mgd in 2029-2030, an increase of 3.88 mgd compared to 11.45 mgd in 2000/2001. The 3.8 mgd increase was determined to be adequate to meet the demands of anticipated future developments as identified in the 2002 Water Master Plan, Midtown Specific Plan, TASP, and other minor general plan amendments (City of Milpitas, 2005, pg. 21).

Water demands within the City are expected to steadily increase from current levels. Demand is expected to reach 17.10 mgd by 2030, up from the current demand of

approximately 11.3 mgd. The projected normal year demand is not expected to exceed projected supplies as far out as 2030, although during drought years the demand will exceed supply, depending on the severity of the drought. Options for alleviating this deficit include imposing allocations within the SFPUC service area, operating supplemental emergency wells, adjusting SFPUC and SCVWD service areas to supplement supplies with more SCVWD water, or a combination of these options (City of Milpitas, 2007, pg. 3.11-2).

Regulatory Setting

City of Milpitas General Plan

The following General Plan Guiding Principle and Implementing Policies are applicable to the proposed Amendments:

Guiding Principle

2.d-G-1 Provide all possible community facilities and utilities of the highest standards commensurate with the present and anticipated needs of Milpitas, as well as any special needs of the region.

2.d-G-2 Develop adequate civic, recreational, and cultural centers in locations for the best service to the community and in ways which will protect and promote community beauty and growth.

Implementing Policies

2.d-I-1 Coordinate capital improvement planning for all municipal service infrastructure with the location and timing of growth.

2.d-I-2 Periodically update the City's water and sewer master plans.

IMPACTS AND MITIGATION

METHODOLOGY

Redevelopment would remove barriers to planned development within the Analysis Area, which would generate demands on public services and utilities consistent with the adopted General Plan. However, redevelopment also directly funds infrastructure improvements to serve existing and projected development within the Analysis Area. The adequacy of existing plans, policies, and ordinances to provide for public services and utilities within the Analysis Area was assessed in reference to redevelopment objectives and projects.

Because redevelopment encourages development of blighted and underutilized properties to uses consistent with the General Plan, thresholds of significance have been selected that are appropriate for programmatic documents. No specific projects have been identified; therefore, the following activities were evaluated at the programmatic level:

- Property acquisition and land assemblage
- Demolition or rehabilitation of structures
- Installation of streets, utilities, and other public facilities and infrastructure
- Funding construction and development assistance for community centers, recreation centers, childcare centers, parks, urban design plans, master plans, streetscapes and facility improvements

- Financial development assistance for private projects
- Construction of affordable housing

SIGNIFICANCE CRITERIA

The Amendments would have a significant impact on the environment related to public services and utilities if they would:

- Result in substantial adverse physical impacts associated with the provision of or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, to maintain acceptable service ratios, response times, or other performance objectives for fire and police protection
- Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects
- Have insufficient water supplies available to serve the project from existing entitlements and resources, such that new or expanded entitlements were needed
- Result in a determination by the wastewater treatment provider that serves or may serve the project that it has inadequate capacity to project demand in addition to the provider's existing commitments
- Violate applicable federal, state, and local statutes and regulations related to solid waste

FISCAL EFFECTS NOT DISCUSSED

This EIR does not discuss the fiscal effects of the proposed Amendments. CEQA does not require an evaluation of economic or social effects unless they are related to a physical change. As described in the Project Description (Chapter 3), adoption of the proposed Amendments will authorize the Milpitas Redevelopment Agency (Agency) to finance improvements and programs through tax increment financing in the Added Area and in the Amendment Areas; the Agency will collect tax increment from the Added Area for 45 years (to FY 2055, if the Amendments are adopted in 2010) and from the Amendment Areas for an additional 10 years (to FY 2027, if the Amendments are adopted in 2010). Tax increment financing reallocates a portion of the future growth in property tax revenue to the Agency instead of other taxing entities. To mitigate any potential fiscal burden or detriment on those taxing entities, the California Community Redevelopment Law (CRL) requires the Agency to make certain mandatory payments to the taxing entities throughout the life of the Redevelopment Plan and for as long as the Agency receives tax increment revenues. In enacting the mandatory payment requirement, the Legislature declared that a redevelopment agency shall not be required, as a measure to mitigate a significant environmental effect or otherwise, to make any other payments to, or pay for any facilities that will be owned by, an affected taxing entity (CRL Section 33607.5(f)).

The fiscal effects of the proposed Amendments will be evaluated in two separate reports that will be prepared by the Agency as part of the process leading to adoption of the proposed Amendments. The first report is a Preliminary Report to the Affected Taxing Entities pursuant to CRL Section 33344.5. The Preliminary Report will be transmitted to the affected taxing entities in December 2009, and the Agency will consult with each affected taxing entity concerning the financial and other effects of the Amendments as provided in CRL Section 33328. The second report is a Report to the City Council pursuant to CRL Section 33352. The Report to the City Council, which will incorporate this EIR by reference,

serves as the major evidentiary document supporting the proposed adoption of the Amendments. It is anticipated that the Report to the City Council will be made available for public review in February 2010 and that a joint public hearing of the Agency and City Council to consider the adoption of the proposed Amendments will be held in April 2010.

IMPACT STATEMENTS AND MITIGATION MEASURES

Impact 6.6-1 Redevelopment-engendered development could increase general population demands on public safety. This would be a less-than-significant impact.

Studies have shown that areas experiencing economic downturns are more likely to encounter higher rates of criminal activity (Amburgey, 2002). Redevelopment in the Analysis Area would therefore be a positive tool for combating crime and reducing demand on police services, since it will primarily provide the financial resources necessary for rehabilitating and redeveloping areas where crime is more likely to continue taking place. Redevelopment is intended to steer the economy of the Analysis Area in a positive direction, ultimately revitalizing an area for an active commercial sector. The proposed extension of plan effectiveness in the Amendment Areas would continue to provide similar redevelopment benefits for an additional 10 years.

The proposed Amendments would result in the elimination of barriers to General Plan development, and thus could allow a planned increase in City population over existing conditions. These population increases and the demand for police services were considered in the City of Milpitas General Plan EIR (GP EIR) and subsequent Specific Plan EIRs at time land use changes were adopted. Redevelopment tools would allow for private assistance and public improvements to eliminate existing blight and structural deficiencies that leads to higher crime rates, increased fire risk, and health and safety problems. Redevelopment may also assist with the construction of fire and police facilities. Overall, the use of redevelopment to eliminate blight in the Analysis Area and provide new public facilities and service programs may have a beneficial impact on police and fire service levels.

Any proposed new development or major rehabilitation in the Analysis Area will be required to incorporate design features identified in the Uniform Building Code (UBC) and the Uniform Fire Code (UFC), and both the MFD and the MPD are given the opportunity to review and comment on the design of any redevelopment project that could affect public or fire safety. The incorporation of safety measures required by the UBC, the UFC, City permitting requirements, and redevelopment assistance with building improvements and facility needs, are expected to ensure any physical public safety impacts associated with redevelopment projects are ***less than significant***.

Mitigation

None required

Impact 6.6-2 Redevelopment-engendered development could increase general population demands for school facilities. This would be a less-than-significant impact.

Under AB 1290, which amended the CRL, the Legislature provided for mandatory payments to affected taxing entities, including schools, to mitigate any potential fiscal burden or detriment caused by redevelopment. At the same time, the Legislature specifically found in Article 16.5, Section 31, adding Section 33607.5(f)(2) of the Health and Safety Code, that

"(n)otwithstanding any other provision of law, a redevelopment agency shall not be required, either directly or indirectly, as a measure to mitigate a significant environmental effect or as part of any settlement agreement or judgment brought in any action to contest the validity of a redevelopment plan pursuant to Section 33501, to make any other payments to affected taxing entities, or to pay for public facilities that will be owned or leased to an affected taxing entity." Whereas the potential new students in the Added Area were anticipated when the General Plan and Specific Plans were adopted, and AB 1290 provides for a mandatory payment to mitigate potential fiscal burdens or detriments, the Amendments would have a ***less-than-significant impact*** on school facilities.

Mitigation

None required

Impact 6.6-3 Redevelopment-engendered development could increase solid waste generation and demands on existing solid waste facilities. This would be a less-than-significant impact.

Development engendered by the Amendments would increase solid waste generation in the Analysis Area, consistent with General Plan and Specific Plan projections. The NISL serves the Analysis Area. Newby Island is also part of a group of Allied Waste Bay Area Landfills, which includes Ox Mountain Sanitary Landfill in Half Moon Bay, Keller Canyon Landfill in Pittsburg, and Forward Landfill in Manteca.

The expected closure date for NISL is 2025. Future reductions in the waste stream through increased recycling and reuse, and application of the Green Building Ordinance, are anticipated to further extend the life of this landfill. The Green Building Ordinance requires conservation credits to reduce waste during both the construction and operations phases of development; buildings generate large quantities of waste and use large quantities of materials and resources. This credit category encourages the selection of sustainably grown, harvested, produced, and transported products and materials. It promotes the reuse, recycling, and the reduction of waste, and it takes into account the reduction of waste at a product's source.

The proposed Amendments will not promote population levels beyond that which is planned for in the General Plan and Specific Plans. Therefore, the Amendments will have a ***less-than-significant impact*** on solid waste facilities.

Mitigation

None required

Impact 6.6-4 Redevelopment-engendered development could increase general population demands on wastewater collection and treatment. This would be a less-than-significant impact.

The proposed Amendments would not intensify land uses beyond those planned for in the General Plan and Specific Plans. Treatment plant capacity is planned to accommodate planned growth as the City develops. Existing customers pay for their portion of their respective relief projects via their monthly user charges. Future customers will pay for their portions through impact fees (most relief projects are allocated to both existing and future customers).

The Municipal Code specifies construction requirements for wastewater infrastructure and connection as development occurs. The Green Building Ordinance requires conservation

credits to increase water conservation during both the construction and operation phases of development, including innovative wastewater technologies. Redevelopment funds may be used to assist in the design and development of new collection, treatment, and disposal/reuse systems and development and improvement of sewer mains and laterals to serve the Analysis Area, consistent with the City's Capital Improvements Program (CIP). Therefore, the proposed Amendments would have a ***less-than-significant*** impact on wastewater collection and treatment.

Mitigation

None required

Impact 6.6-5 Redevelopment-engendered development and infrastructure projects could affect stormwater and drainage systems, and be subject to localized flooding. This would be a less-than-significant impact.

The proposed Amendments would not intensify land uses beyond those planned for in the General Plan and Specific Plans. Redevelopment funds may be used to assist in the design and development of new drainage infrastructure and improvement of existing drainage systems to improve service in the Analysis Area. This would have a beneficial impact on the City's drainage infrastructure.

New development engendered by the Amendments could remove barriers to more people being exposed to flooding. The Municipal Code contains provisions pertaining to developments constructed within the 100-year flood zone. The provisions are designed to reduce future losses associated with flooding events and to comply with regulations stipulated by FEMA and the NFIP. Applications for a development permit shall be made on forms furnished by the City's Floodplain Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

a) Proposed elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures in Zone AO, elevation of highest adjacent grade and proposed elevation of lowest floor of all structures; or

b) Proposed elevation in relation to mean sea level to which any structure will be floodproofed, if required in Section XI-15-5.1(c)(3); and

c) All appropriate certifications listed in Section XI-15-4.3(d); and

d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development (Ord. 209.3(A) (part), 5/4/93).

The permit application will be reviewed by the City Manager who is appointed as the Floodplain Administrator to enforce Section XI-15 of the Municipal Code. The administrator will determine whether all requirements stated in the Section XI-15 have been satisfied and either grant or deny the permits.

The areas of special flood hazards are subject to a number of standards as specified in the Municipal Code. All new residential construction must have the lowest floor built to at least one foot above the BFE, or in the case of areas within Zone AO, at least one foot above the depth number listed on the FIRM, or three feet above the highest adjacent grade if no depth number is shown. For non-residential construction, the lowest floor elevation can be at BFE but the structure needs to be floodproofed and designed for buoyancy.

All new construction (residential and non-residential) with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, must be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Within Zone AE, AH, or AO, improvements must be constructed so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures. Further details of these provisions can be found in the following sections of the Municipal Code:

a) Standards of Construction (§XI-15-5.1) – specify requirements for anchoring, construction materials and methods, and elevation and flood-proofing

b) Standards for Utilities (§XI-15-5.2) – specify requirements for new and replacement water supply and sanitary sewage systems, and on-site waste disposal systems

c) Standards for Subdivisions (§XI-15-5.3)

d) Floodways (§XI-15-5.6) – specify requirements and constraints for encroachments, and other flood hazard reduction provisions

In addition, while regional flooding mitigation will be handled by the SCVWD and the USACE for creeks improvements, localized flooding mitigations will be handled by individual developers in accordance with a developer-funded and City-approved Storm Drainage Plan for each subdistrict.

The proposed Amendments would not intensify land uses beyond those planned for in the General Plan. New development must adhere to the flood zone requirements identified above, as well as existing stormwater drainage design standards as defined in the drainage ordinance and the Zoning Ordinance, and must pay a drainage impact fee to help pay for system-wide improvements. Drainage fees from redevelopment-engendered development and redevelopment infrastructure improvements would improve stormwater and drainage facilities and service throughout the Analysis Area. In addition, redevelopment may fund drainage infrastructure improvements to reduce localized flooding. The Amendments would therefore have a ***less-than-significant*** impact on stormwater, drainage, and flood hazards.

Mitigation

None required

Impact 6.6-6 Redevelopment-engendered development could increase general population demands on water service. This would be a less-than-significant impact.

All development within the proposed Analysis Area must be consistent with the General Plan and the UWMP, and would be required to contribute its fair share to the expansion of water treatment facilities to accommodate increases in flow through the system. Redevelopment funds may be used to assist in the design and development of new wells and improvement of delivery systems including water mains and laterals to better serve the Analysis Area. New construction would be required under existing City requirements to ensure an adequate water supply prior to permit approvals. The Green Building Ordinance further requires conservation credits to increase water conservation during both the construction and operations phases of development.

The Amendments would assist in the upgrading of existing properties to City Green Building standards, and promote infill development consistent with adopted plans and policies. In

addition, redevelopment may fund water supply infrastructure improvements. Therefore, the Amendments would have a ***less-than-significant*** impact on water service.

Mitigation

None required

6.7

TRANSPORTATION AND CIRCULATION

Milpitas Redevelopment Amendments

CHAPTER 6

ENVIRONMENTAL ANALYSIS

6.7 TRANSPORTATION AND CIRCULATION

This Subchapter of the Environmental Impact Report (EIR) describes the transportation setting and potential impact of implementing the Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 and the Sixth Amendment to the Great Mall Redevelopment Plan (proposed project or Amendments). The analysis focuses on the segments of the transportation networks that serve as direct or key indirect linkages to the Amendment Areas and Added Area, collectively called the Analysis Area. Whereas the Amendments do not directly propose new development but would encourage development consistent with the City of Milpitas General Plan (General Plan) by funding incentives, programs, and public improvements in the Analysis Area, this section assumes the Amendments would remove barriers to General Plan buildout, as defined by the Housing Element update (2009).

The programmatic analysis in this Subchapter was drawn from existing City documentation, including the General Plan and Housing Element, the traffic impact analysis prepared for the Transit Area Specific Plan EIR (TASP; 2008), the Final Report – Milpitas Square (December 22, 2008) traffic impact analysis (City of Milpitas, 2009a, Appendix A)[1], the Midtown Specific Plan EIR (2001), and the Milpitas Bikeway Master Plan Update (Bikeway Master Plan) Mitigated Negative Declaration (April 2009). These traffic impact analyses cover all the key intersections and freeway segments that would be impacted by development engendered by the Amendments.

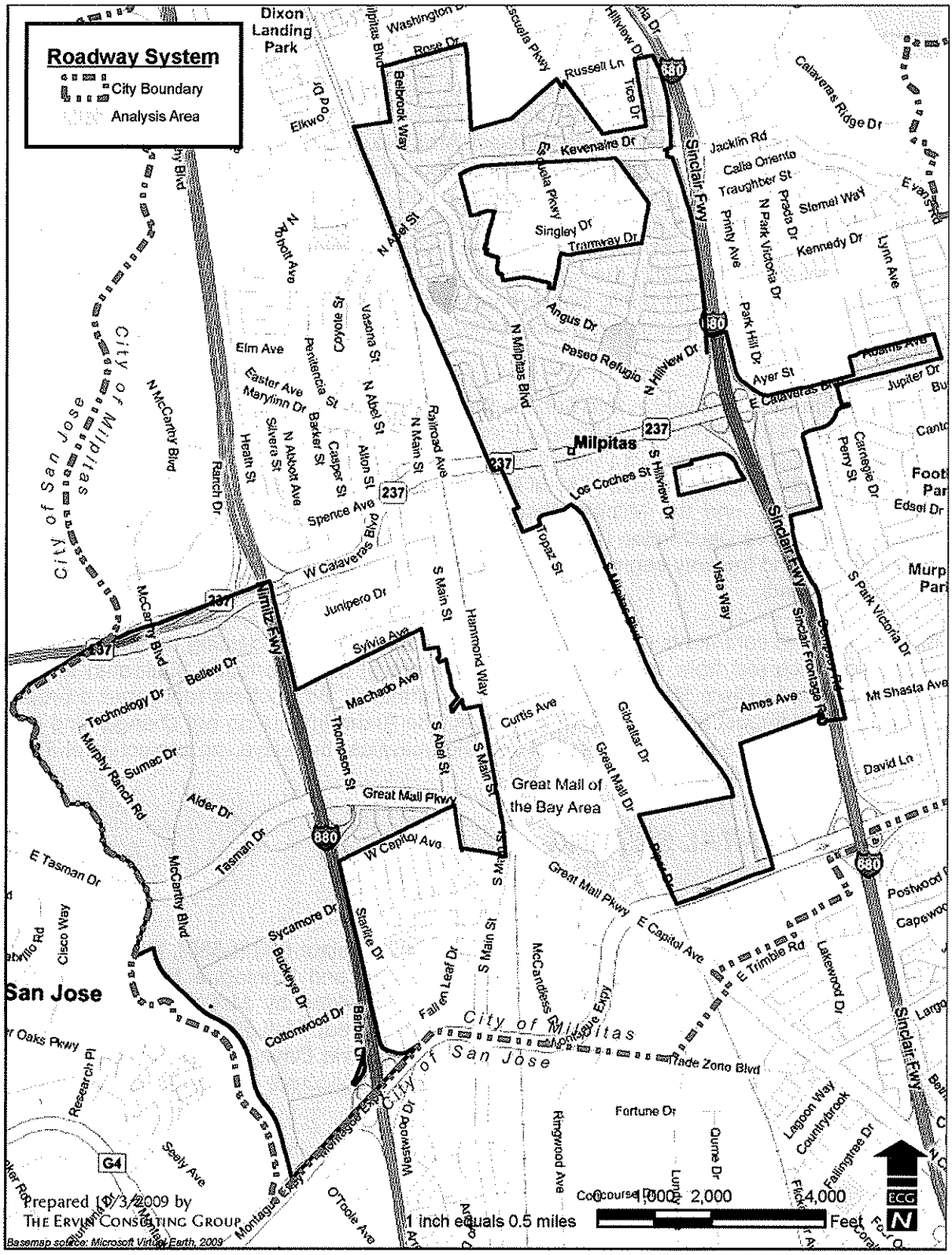
There were two comments on the Notice of Preparation (NOP) regarding transportation and circulation received from the California Department of Transportation (Caltrans) and the County of Santa Clara Roads and Airports Department. Both letters requested a project-specific traffic impact analysis (TIA). However, the Amendments do not change land uses and propose no site-specific or project-specific activities; therefore, no project-level TIA is warranted or feasible at this time.

ENVIRONMENTAL SETTING

ROADWAY SYSTEM

Regional access to the Analysis Area is provided by Interstate 880 (I-880), Interstate 680 (I-680), State Route 237 (SR-237)/Calaveras Boulevard, and Montague Expressway (G4). Primary local access to the Amendment Areas is provided by McCarthy Boulevard, N. Milpitas Boulevard, Abel Street, East Tasman Drive/Great Mall Parkway. Primary local access to the Added Area is provided by S. Park Victoria Drive, Yosemite Drive, and S. Milpitas Boulevard. These roadways and other local collectors are described below and shown in Figure 6.7-1.

[1] As of November 16, 2009, the Milpitas Square EIR had been circulated for public review and comment but had not been certified by the City.



Source: Ervin Consulting Group, 2009
Data: Microsoft Virtual Earth (Bing), 2009

FIGURE 6.7-1
ANALYSIS AREA ROADWAY SYSTEM

Freeways

I-880 is a north-south freeway extending south to the City of San Jose and north to the City of Oakland. In the Analysis Area, the freeway includes eight lanes north of SR-237/Calaveras Boulevard and six lanes to the south, with access provided via the interchange at Tasman Drive/Great Mall Parkway. The I-880/SR-237 interchange includes direct ramp connections for High Occupancy Vehicle (HOV) lanes between the west and north legs of the interchange. The peak direction of travel is southbound during the AM peak hour and northbound during the PM peak hour; though both travel directions are congested during the PM peak hour. Interstate-880 carries an annual average daily traffic (AADT)[2] of 190,000 north and 158,000 south of SR-237, and 158,000 north/161,000 AADT south at the Great Mall Parkway (Montague Expressway) interchange (Caltrans, 2008). I-880 southbound, Great Mall Parkway to Montague Expressway (PM peak hour) is currently operating at an unacceptable level of service (LOS).

I-680 is a north-south freeway extending south to the City of San José and north to Solano County. In the Analysis Area, the freeway includes six mixed-flow lanes plus a southbound HOV lane north of SR-237/Calaveras Boulevard and eight mixed-flow lanes to the south. Access to the Analysis Area is provided via an interchange at SR-237/Calaveras Boulevard. Commute direction on I-680 is southbound during the AM peak hour and northbound during the PM peak hour. I-680 carries 139,000 AADT north and 144,000 south of SR-237, and 131,000 north/139,000 AADT south of Jacklin Road, and 131,000 north/139,000 AADT south of Montague Expressway interchanges (Caltrans, 2008). I-680 northbound, SR-237/Calaveras Boulevard to Jacklin Road and I-680 southbound, Yosemite Drive to Montague Expressway adjacent to the Analysis Area is currently operating at an unacceptable LOS in the PM peak hour.

Arterials[3]

SR-237/Calveras Boulevard is an east-west roadway that includes two distinct facilities: a six-lane freeway extending from I-880 west to United States Highway 101 (US 101), and a four- to six-lane arterial roadway between I-880 and I-680 with an elevated section over the Union Pacific Railroad (UPRR) tracks. The arterial section is locally designated as Calaveras Boulevard, which is six lanes except on the bridge over the UPRR tracks and Main Street, where it is four lanes. SR-237/Calaveras Boulevard serves as a major commute route with heavy directional travel during the peak hours (westbound in the morning and eastbound in the afternoon). Regional access to the Analysis Area is provided via the interchange at McCarthy Boulevard. Daily traffic volumes on SR-237/Calaveras Boulevard range between 74,000 and 79,000 ADT between I-680 and I-880. West of I-880, SR-237/Calaveras Boulevard carries 149,000 ADT (Caltrans, 2008).

Montague Expressway is an east-west, six- to eight-lane divided arterial roadway extending from US 101 east to I-680. This facility is designated San Tomas Expressway west of US 101 and Landess Avenue east of I-680. Montague Expressway connects with I-880 via a full cloverleaf interchange. The HOV lane on the 6-lane segments of Montague Expressway between I-680 and I-880 has been converted to mixed use as part of a pavement resurfacing project. The HOV lane will be added back on a trial basis as part of the 8-lane

[2] Annual average daily traffic (AADT) is the total volume for the year divided by 365 days. The traffic count year shown is from October 1st through September 30th, 2008.

[3] City of Milpitas, 2009b, pp. 28-31; 2009c, pg. 28

widening project, which has been funded for future construction (Santa Clara County, 2008). Montague Expressway carries between 47,000 and 68,200 ADT between I-680 and I-880. This facility carries 76,800 ADT west of McCarthy Boulevard. Montague Expressway carries the most traffic of any Santa Clara County (County) expressway and is the most congested during the commuter peak periods.

Great Mall Parkway/Tasman Drive is an east-west, six-lane divided arterial roadway extending from I-880 east to Montague Expressway through the Amendment Areas. Great Mall Parkway is designated Tasman Drive west of I-880 and extends into the cities of San Jose, Santa Clara, and Sunnyvale. Great Mall Parkway becomes Capitol Avenue east of Montague Expressway and continues south through the City of San Jose. Santa Clara Valley Transportation Authority (VTA) operates light-rail transit (LRT) service along the median of Tasman Drive/Great Mall Parkway/Capitol Avenue. Great Mall Parkway carries 19,500 ADT west of Montague Expressway and 16,700 ADT east of I-880 (City of Milpitas, 2009b, p. 28).

McCarthy Boulevard is a north-south, four- to six-lane arterial roadway extending from Dixon Landing Road (north of Ranch Drive) south to Montague Expressway through the Amendment Areas. McCarthy Boulevard is designated as O'Toole Avenue south of Montague Expressway. The southbound approach at the intersection of McCarthy Boulevard and Tasman Drive will be restriped from its current geometry (two left-turn lanes, one through lane, and one shared through-right turn lane) to a geometry that includes two left-turn lanes, one through lane, and one right turn lane with a corresponding overlap phase (City of Milpitas, 2009a, Appendix A-1 p. 25). Although congestion is experienced at Montague Expressway and at SR-237, McCarthy Boulevard generally operates within capacity.

Alder Drive is a north/south two-lane arterial connecting McCarthy Boulevard to Barber Lane within the Amendment Areas. This roadway serves a limited amount of industrial development at this time, but is planned for expansion to four lanes in the future. There are no traffic counts available for this facility; however, it appears to operate within its design capacity.

Main Street is a north-south, two- to four-lane arterial roadway parallel to Abel Street in the Amendment Areas, extending from Railroad Avenue (north of Calaveras Boulevard) south to Montague Expressway. This street is designated as Marylinn Drive north of Railroad Avenue and Oakland Road south of Montague Expressway. Main Street includes two lanes north of Curtis Avenue and four lanes with a two-way left-turn lane and bike lanes south of Curtis Avenue. Access to east SR-237/Calaveras Boulevard is provided via ramps at Carlo Street. This roadway carries 20,600 ADT north of Montague Expressway and 12,000 ADT north of Curtis Avenue. Main Street experiences peak hour congestion at its signalized intersection with Montague Expressway; however, all other segments generally operate within capacity.

Milpitas Boulevard is a north-south, four-lane arterial extending from the Milpitas-Fremont City limit line (also the Santa Clara-Alameda County limit line) south to Montague Expressway. Milpitas Boulevard is designated Warm Springs Boulevard north of the City/County limit. N. Milpitas Boulevard serves the Amendment Areas, and S. Milpitas Boulevard serves the Added Area. North of SR-237, N. Milpitas Boulevard generally provides a center median island serving commercial and residential land uses in the Amendment Areas. Milpitas Boulevard carries 32,200 ADT north of Montague Expressway

and 25,900 ADT north of SR-237/Calaveras Boulevard. This roadway generally operates within capacity; however, peak hour congestion occurs at signalized intersections with Montague Expressway and SR-237/Calaveras Boulevard.

Jacklin Road is an east/west divided arterial providing connection from North Milpitas Boulevard and Abel Street to a diamond interchange at I-680 in the Amendment Areas. Jacklin Road carries 21,900 ADT west of I-680. In general, this roadway is operating below capacity and does not experience peak hour congestion.

Collectors[4]

Barber Lane is generally a north/south two-lane collector roadway connecting Bellew Drive to McCarthy Boulevard within the Amendment Areas. This facility serves industrial land uses and is grade separated from Tasman Drive. Barber Lane carries 3,900 ADT south of Sycamore Drive. This roadway is operating within its design capacity.

Bellew Drive is an east/west two- and four-lane collector roadway which turns into Technology Drive west of McCarthy Boulevard. This roadway provides four travel lanes between Cypress Drive and McCarthy Boulevard and two travel lanes west of McCarthy Boulevard and east of Cypress Drive. Bellew Drive carries 3,700 ADT west of Barber Lane. Although this facility does not directly experience peak hour congestion, congestion at the I-880/SR-237 interchange causes traffic to queue on the Cypress Drive on-ramp to Bellew Drive.

Abel Street is a north-south, four-lane roadway parallel to Main Street in the Amendment Areas, extending from Milpitas Boulevard (north of Calaveras Boulevard) south to Main Street (south of Great Mall Parkway). The section of Abel Street between Corning and Curtis avenues includes four travel lanes plus a two-way left-turn lane. Abel Street carries 23,800 and 23,200 ADT north and south of SR-237/Calaveras Boulevard, respectively. This roadway generally accommodates local traffic and operates within its design capacity.

Park Victoria Drive is a north-south roadway that begins at the northern border of Milpitas and extends southward bisecting the eastern boundary of the Added Area to where it transitions into Morrill Avenue at Landess Avenue. Park Victoria Drive is a four-lane roadway. In 2006, the City recorded a volume of 7,740 vehicles along Park Victoria Drive. For this segment, the Milpitas Bikeway Master Plan recommends reducing the four travel lanes to two lanes in each direction with a center turn lane to allow for Class II bike lanes on either side of the street.

Dempsey Road is a north/south collector parallel and east of I-680 serving a mix of residential and commercial land uses in the Added Area. This roadway connects Landess Avenue to Park Victoria Drive just south of Calaveras Boulevard. This facility provides two travel lanes, except for a short segment north of Landess Avenue which is four lanes. Dempsey Road accommodates 19,200 ADT north of Landess Avenue with traffic volumes decreasing substantially to the north. Generally, this roadway operates within its capacity.

Los Coches Road is an east/west two-lane collector connecting South Milpitas Boulevard to Sinclair Frontage Road within the Added Area. This facility serves industrial land uses and carries 5,700 and 5,200 ADT east and west of South Hillview Drive, respectively. Los

[4] City of Milpitas, 2009b, pp. 28-31.

Coches Road does not generally experience congestion during the peak hours and operates within its design capacity.

Hillview Drive is a north/south collector roadway serving industrial, commercial, and residential land uses in the Added Area. This two-lane roadway connects Yosemite Drive to Jacklin Road and carries less than 4,000 ADT on all segments. This facility does not generally experience congestion during the peak hours and operates within its design capacity.

UNION PACIFIC RAILROAD

The UPRR and railroad spur run north-south adjacent to portions of the Analysis Area between I-880 and I-680. Amtrak and freight trains operate on the main line through the City. Railroad tracks run just east of Main Street, and the freight-serving spur runs in a north-northwest direction parallel to Great Mall Drive. According to the VTA, approximately 578 trains used the freight spur tracks in 2003; 557 train cars used the tracks in 2004; and approximately 564 train cars used the tracks in 2005 (City of Milpitas, 2007, p. 3.7-5).

The VTA acquired the right-of-way (ROW) in December 2002 from the UPRR to create a north/south transit corridor for the County. The Freight Railroad Relocation (FRR) Project spans approximately eight miles of railroad from Fremont to Milpitas and includes eight creek crossings plus multiple intersecting roads. The purpose of the FRR Project is to relocate existing freight rail tracks to a parallel location within the railroad ROW from Warm Springs to south of the UPRR Milpitas Yard within the Analysis Area. The tracks would be reconstructed approximately 45 feet to the west, where they would be parallel to a second set of existing freight tracks approximately 15 feet to the west (SCVTA, 2009b).

This project will help secure space for a future mass transit system to be built alongside the existing railroad tracks. The VTA plans to relocate the existing freight tracks in the railroad corridor from north of the UPRR Warm Springs Yard, in the City of Fremont in Alameda County, to north of Montague Expressway, in the City of Milpitas in Santa Clara County. The project, known as the Bay Area Rapid Transit (BART) Silicon Valley Extension Project is an extension of the existing BART system to San Jose, Milpitas, and Santa Clara (SCVTA, 2009a). This project plans to extend the current BART system 16 miles beginning at the future BART Warm Springs Station in Fremont and proceed on the former UPRR ROW through Milpitas to south of Mabury Road in San Jose. Construction of grade separations is planned also for several intersections along the corridor to separate car and pedestrian traffic from freight and future mass transit trains. When completed, the train service will be completely isolated from car traffic. The new line will include: six stations - one in Milpitas, four in San Jose, and one in Santa Clara; a 5-mile tunnel in Downtown San Jose; and a new maintenance and storage facility in Santa Clara. VTA is currently in the process of station area planning, environmental clearance, engineering work, securing funding, and real estate activities.

PUBLIC TRANSPORTATION

Public transit within the Analysis Area is provided by a combination of services by various transit operators. The VTA operates bus and LRT service in the County; bus service includes local and community bus routes, express buses on W. Main and the freeways, and limited stop bus routes on Montague Expressway. Figure 6.7-2 shows the existing transit

facilities serving the Analysis Area. The Great Mall/Main Transit Center is located on the north side of Great Mall Parkway and east of Main Street. This multimodal transit hub consists of an elevated light rail station above Great Mall Parkway and a bus transfer facility and park-and-ride lot located on the northeast corner of the Great Mall Parkway/Main Street intersection. The Montague light rail station is located just south of the Analysis Area, elevated above Capitol Avenue (southeast extension of Great Mall Parkway). No bus or park-and-ride facilities are provided at this location.

The Analysis Area is also served by the Altamont Commuter Express (ACE) Purple Shuttle (Route 825) and ACE Violet Shuttle (Route 831). ACE passenger rail service between Stockton and San Jose can be accessed from Milpitas by a VTA-operated shuttle service between local employment centers and the Great America rail station in the City of Santa Clara. Routes 140 and 330 and the Santa Teresa-Alum Rock light rail line operate along Tasman Drive with stops located at Alder Drive. Bus routes 180 and 181 pass through the I-880/Tasman Drive interchange without making stops in the project area. VTA bus routes 33, 46, 47, 66, 70, 71, 77, 104, 120, 140, 180, 330, and 321, as well as AC Transit route 217, serve the Great Mall/Main Transit Center and provide bus service within the Analysis Area. A future BART station is also proposed between Montague Expressway, Capitol Avenue, and the existing railroad line.

BIKEWAYS

The Milpitas Bikeway Master Plan Update (Master Plan Update; 2009) includes goals, objectives and benchmarks for bicycling, existing bicycling conditions, current local and regional plans related to bicycling, analysis of bicycling needs, and recommended bicycle projects, cost estimates, and priorities for implementation. The City's existing bikeway network consists of approximately eight miles of off-street paved bicycle paths, nearly 20 miles of bike lanes and nine miles of bike routes. The Master Plan Update recommends an additional seven miles of off-street paved bicycle paths, nearly nine miles of bike lanes, and approximately 18 miles of bike routes. It capitalizes on Milpitas' strengths including existing bikeway network, potential bicyclist use of creek and railroad ROW, existing and future transit connections, neighborhood schools, and access to regional trails.

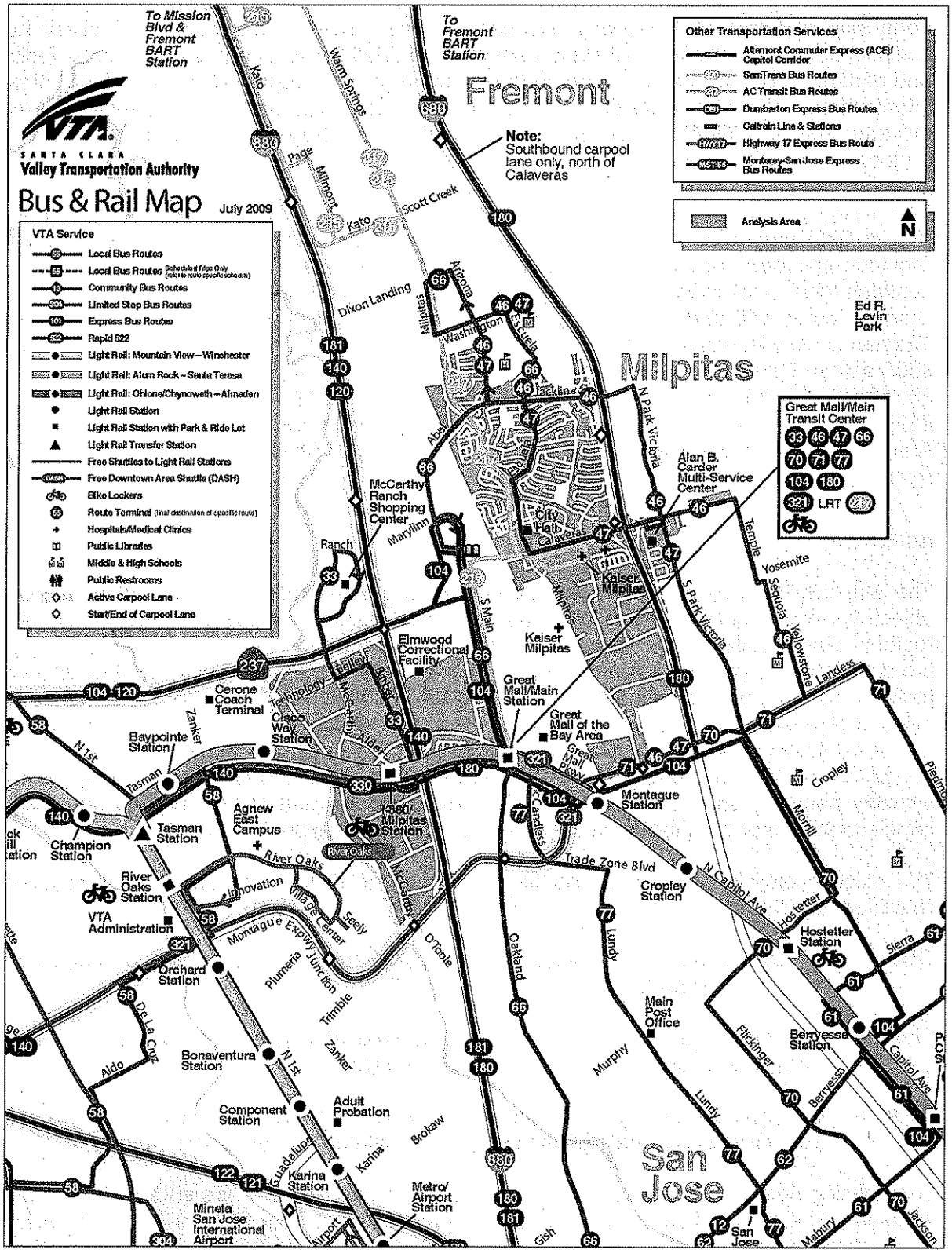
The existing bicycle network in Milpitas consists of officially designated bicycle facilities, classified as follows:

Class I — Off-street bike trails or paths are physically separated from streets or roads used by motorized traffic.

Class II — On-street bike lanes with signs, striped lane markings, and pavement legends designed for one-way travel on a street or highway.

Class III — On-street bike routes marked by signs and shared with motor vehicles and pedestrians; optional four-inch edge lines painted on the pavement.

The existing network consists primarily of Class II on-street bike lanes on the City's major arterials. The major Class I bike path connects southeast from Russell Lane, to Jacklin Road, through Oliver Jones Park, to Peter Gill Park and along Coyote Creek from Dixon Landing Road to Highway 237, primarily within the northern portion of the Amendment Areas.



Source: Santa Clara Valley Transportation Authority, June 2009 (modified)

FIGURE 6.7-2
PUBLIC TRANSIT

Existing Class II bike lanes within the Analysis Area are provided along Jacklin Road, Milpitas Boulevard to Yosemite Drive, Yosemite Drive, Park Victoria Drive, Barber Lane, South Abel Street, South Main Street south from Curtis Avenue, Sumac Drive, and Tasman Drive/Great Mall Parkway. Class III bicycle routes are located on Bellew Drive, McCarthy Boulevard and Juniper Drive.

Under the Master Plan Update, the Class I bike trail would be extended along Calera Creek north of Jacklin Road. Class II bikeways would be extended north on S. Abel to Calaveras Boulevard, S. Milpitas Boulevard from Yosemite to Montague Expressway, along Sera Way, Bellew Drive, Murphy Ranch Road, and McCarthy Boulevard. Class III bike routes would be added along Dempsey Road, Calaveras Boulevard, S. Main Street to Curtis Avenue, and along Tramway Drive. The existing and proposed bikeways are identified on Figure 6.7-3.

In August 2008, VTA adopted the Santa Clara Countywide Bicycle Plan (CBP). The CBP complements local agency bicycle plans, which are more focused on improvements serving local needs. The CBP contains policies and implementing actions designed to improve bicycle facilities and interagency coordination, and will promote bicycling and bicycle safety in Santa Clara County. The CBP guides the development of major bicycle facilities by identifying regional needs and new capital projects, including a financially unconstrained master list of bicycle infrastructure projects.

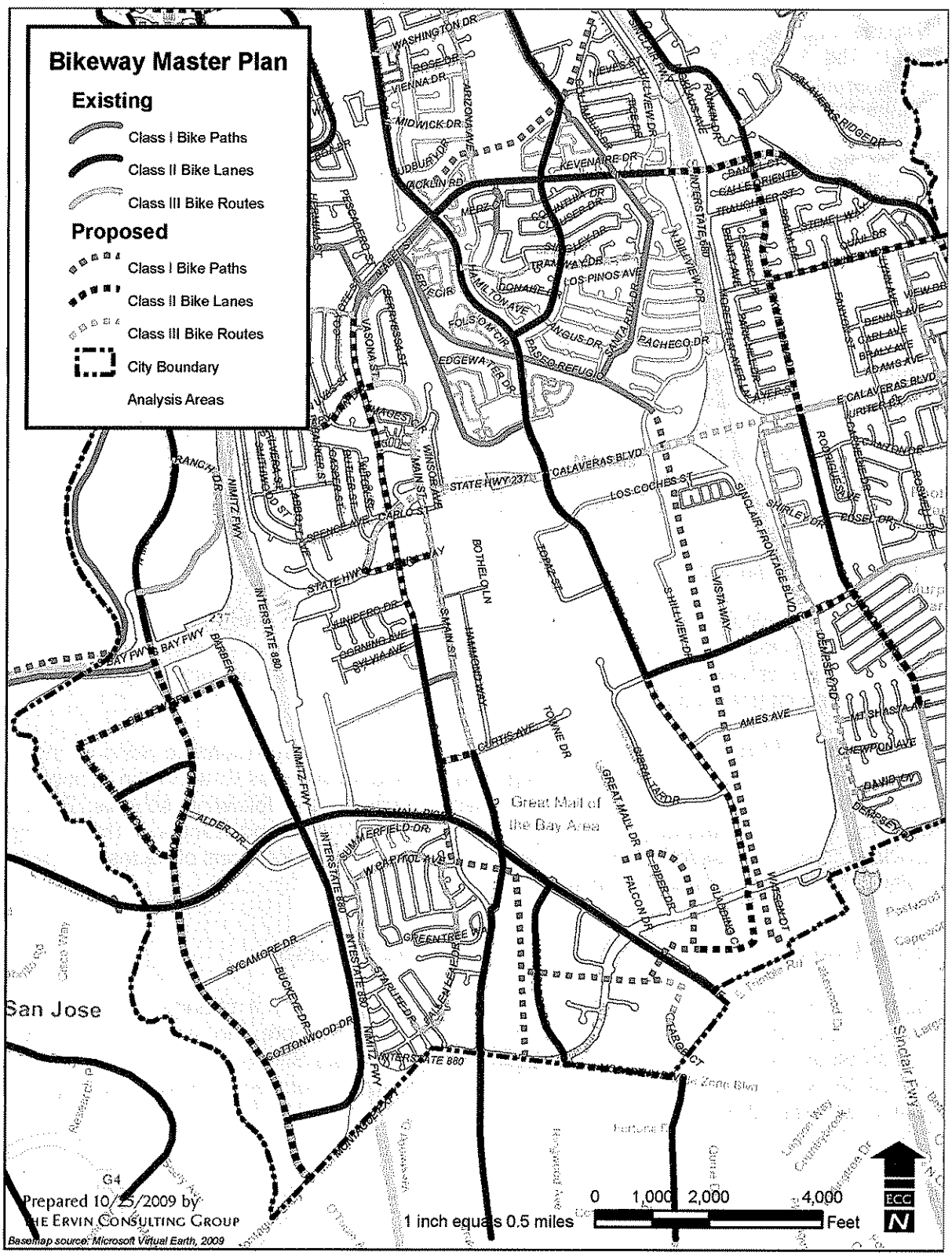
PEDESTRIAN FACILITIES

Pedestrian facilities within the Analysis Area include sidewalks, crosswalks, and off-street paths as identified in the Bikeway Master Plan. Sidewalks are discontinuous throughout the Analysis Area, or located on just one side of a street. Crosswalks are provided, however, at all signalized intersections.

The City of Milpitas Traffic Engineering Division has a *Suggested Routes to School* program to help educate students about traffic safety and travel awareness to and from school. As part of this program, the City developed nine maps for the following schools: Burnett, Curtner, Pomeroy, Randall, Rose, Sinnott, Spangler, Weller, and Zanker. These maps provide the best routes for students to walk to school, showing locations of pedestrian paths, traffic lights, crossing guards, and school crosswalks.

EXISTING AND FUTURE TRAFFIC CONDITIONS

As noted in the introduction, the proposed Amendments do not change land uses and propose no site-specific or project-specific activities; therefore, no project-level TIA is warranted at this time. Recent TIAs prepared for the Milpitas Square Mixed Use Project and the TASP were used to identify existing and future traffic conditions in the Analysis Area (City of Milpitas, 2007; 2009a, p. 65).



Source: The Ervin Consulting Group, 2009
Data: City of Milpitas, 2009

FIGURE 6.7-3
BIKEWAY MASTER PLAN

LEVEL OF SERVICE

The operations of roadway facilities are described with the term Level of Service (LOS). LOS is a qualitative description of traffic flow based on such factors as speed, travel time, delay, and freedom to maneuver. Six levels are defined from LOS A, with the best operating conditions, to LOS F, with the worst operating conditions. LOS E represents at-capacity operations. Operations are designated as LOS F when volumes exceed capacity, resulting in stop-and-go conditions.

TRAFFIC OPERATION STANDARDS

The City has established a minimum acceptable operating level of LOS D for intersections excluded from the Congestion Management Program (CMP). The minimum acceptable level for CMP-monitored intersections is LOS E.

EXISTING FREEWAY SEGMENT LEVELS OF SERVICE

Freeway segment densities reported in VTA's 2006 Monitoring and Conformance Report were used to calculate the LOS during the AM and PM peak hours for the key freeway segments. Several freeway segments serving the Analysis Area were identified by the VTA as currently operating at unacceptable LOS (i.e. LOS F).

- I-880 Northbound, SR-237 to Dixon Landing Road (PM peak hour)
- I-880 Southbound, Great Mall Parkway to Montague Expressway (PM peak hour)
- I-880 Southbound, Montague Expressway to Brokaw Road (PM peak hour)
- SR-237 Westbound, I-880 to Zanker Road (AM peak hour)
- SR-237 Westbound, McCarthy Boulevard to Zanker Road (AM and PM peak hours)
- I-680 Northbound, Calaveras Boulevard to Jacklin Road (PM peak hour)
- I-680 Northbound, Jacklin Road to Scott Creek Road (PM peak hour)
- I-680 Southbound, Yosemite Drive to Montague Expressway (PM peak hour)

EXISTING INTERSECTION CONDITIONS

The majority of the study intersections operate at acceptable LOS according to their designated LOS standard. The intersection of SR-237/I-880 Northbound Ramp is operating at LOS E (LOS D standard) during the PM peak hour. However, traffic volumes were estimated for the most recent TIAs by adding traffic generated by approved but not yet constructed or occupied developments to existing traffic volumes. Anticipated improvements either under construction or funded within the Analysis Area include the following:

- Montague Expressway will be widened from six to eight lanes between Lick Mill Boulevard and I-680 to provide three mixed-flow lanes and one HOV lane in each direction. Several of the intersections along Montague Expressway have already been widened to accommodate the additional lanes, and these improvements have already been accounted for under existing conditions and included in background

conditions. The HOV lanes are expected to operate in both directions during AM and PM commute periods on Montague Expressway at Great Mall Parkway.

- The southbound approach at the intersection of McCarthy Boulevard and Tasman Drive will be restriped from its current geometry (two left-turn lanes, one through lane, and one shared-through-right turn lane) to a geometry that includes two left-turn lanes, one through lane, and one right turn lane with a corresponding overlap phase.

The following intersections within the Analysis Area are expected to exceed their LOS standards and operate at unacceptable LOS upon completion of already approved and not yet constructed or occupied development in the City:

- E. Calaveras Boulevard / S. Milpitas Boulevard (LOS F, AM peak)
- McCarthy Boulevard / Bellew Drive (LOS F, PM peak)
- Alder Drive / McCarthy Boulevard (LOS F, PM peak)
- Alder Drive / Tasman Drive (LOS F, PM peak)
- Tasman Drive / I-880 SB Ramps (LOS F, PM peak)
- Great Mall Parkway / I-880 NB Ramps (LOS F, AM peak; LOS E, PM peak)

FUTURE CONDITIONS

Year 2030 General Plan Volumes

Year 2030 AM and PM peak hour roadway segment traffic volumes were analyzed in the recent TIAs from the VTA's regional travel demand model. This regional model is used by the VTA to produce traffic projections for use in transportation and air quality planning and includes build-out of the City according to its General Plan. The TIAs used General Plan plus approved and anticipated project trip assumptions to estimate future traffic volumes for major intersections within the Analysis Area.

Year 2030 Network Assumptions

The Year 2030 roadway network includes any planned transportation improvements that have a high probability of receiving funding in the future. Within the Analysis Area, the following improvements were identified:

- I-880 Widening Projects – I-880 will be widened to include a HOV lane and auxiliary lane in each direction from Montague Expressway in the south into Alameda County in the north.
- Calaveras Boulevard – Calaveras Boulevard will be widened to six lanes between Milpitas Boulevard and Abel Street. Operation improvements are also planned for intersections along Calaveras Boulevard between I-680 and I-880.
- Montague Expressway – Montague Expressway will be configured to provide eight mixed-flow lanes between I-680 and I-880.

Acceptable operations are defined as LOS D or better for City roadway segments (e.g. McCarthy Boulevard, Milpitas Boulevard, Tasman Drive, Great Mall Parkway, and Abel

Street) and LOS E or better for CMP roadway segments (e.g. I-880, SR-237/Calaveras Boulevard, Montague Expressway). Unacceptable operations are defined as LOS E or F for City roadway segments and LOS F for CMP roadway segments. As assessed for the Milpitas Square Mixed-Use Project TIA (City of Milpitas, 2009a, Appendix A, p. 67), under build-out conditions in Year 2030, 22 roadway segments in the Analysis Area would operate at unacceptable LOS during the AM peak hour, and 31 roadway segments would operate at unacceptable LOS during the PM peak hour.

The City requires projects to pay their fair share of the improvement costs to mitigate the anticipated cumulative impacts of traffic from new developments on future deficient intersections. Each developer will be required to pay an impact fee to provide mitigation for future deficiencies in traffic operations.

REGULATORY SETTING

REGIONAL

Metropolitan Transportation Commission Regional Transportation Plan

The Metropolitan Transportation Commission (MTC) is the transportation planning authority for the nine county San Francisco Bay Area, of which Santa Clara County (County) is a part. The MTC serves as the state designated regional transportation planning agency and the federally designated metropolitan planning organization (MPO). The MTC provides oversight on all transportation projects in the region and is responsible for preparing the Regional Transportation Plan (RTP).

Transportation 2035 Plan for the San Francisco Bay Area (2035 Plan), the current RTP, was finalized in April 2009 and updates the previous 2030 RTP from 2005 (MTP, 2009). The RTP sets forth regional transportation policy and provides capital program planning for all regional, state, and federally funded projects. In addition, the 2030 Plan provides strategic investment recommendations to improve regional transportation system performance over the next 25 years. Investments in regional highway, transit, local roadway, bicycle, and pedestrian projects are set forth in the 2035 Plan. These projects have been identified through regional and local transportation planning processes. Project recommendations are premised upon factors related to existing infrastructure maintenance, increased transportation system efficiencies, improved traffic and transit operations, and strategic expansions of the regional transportation system.

The 2035 Plan includes programs and projects that provide or contribute to a safe and well maintained transportation system, a reliable commute, access to mobility, livable communities, clean air, and efficient freight travel. Among the key elements of the new plan are a joint regional planning initiative known as FOCUS, which provides incentives for cities and counties to promote future growth near transit in already urbanized portions of the Bay Area. The plan also launches a Transportation Climate Action Campaign to reduce transportation-related greenhouse gas (GHG) emissions. In addition, a new market-based pricing system would – with legislative authorization – convert and expand current carpool lanes into a Regional Express Lane Network that continues to grant carpoolers and buses free access to the lanes but permits solo drivers to pay to use available space in the carpool lanes. Revenue generated by the tolls would pay for the completion of the planned express

lane network sooner and fund other mobility improvements, such as more express bus and rail services in the region's most heavily traveled corridors.

The 2035 Plan also recommends that existing transportation infrastructure be utilized efficiently while new investment is coordinated regionally. This includes new public transit service supporting existing transit centers and densification of development around existing transit infrastructure. Projects that benefit the Analysis Area include:

- Extend BART from Fremont (Warm Springs) to San Jose/Santa Clara (includes environmental, preliminary engineering, property acquisition and construction phases)
- Widen I-880 for HOV lanes in both directions from SR-237 in Milpitas to US 101 in San Jose
- Replace Calaveras Boulevard 4-lane bridge over the UPRR tracks with new six-lane structure with bicycle and pedestrian facilities and circulation improvements
- Local streets and roads maintenance
- Construct interchange at I-880 and Montague Expressway (includes improvements to Montague Expressway)
- Regional Bicycle Program: provide capital funds to fully build out the Regional Bikeway Network as defined in MTC's Regional Bicycle Plan for the San Francisco Bay Area, 2009 Update
- Install and modify VTA facilities to support the Zero Emissions Bus (ZEB) program
- Make local streets and roads improvements (includes street channelization, overcrossings, bicycle and pedestrian access, and safety improvements)
- Intelligent Transportation System improvements - South Milpitas Boulevard

STATE

California Department of Transportation

California Department of Transportation (Caltrans) has jurisdiction over State-designated routes including I-680, I-880, and SR-237 (Calaveras Boulevard up to the I-680 interchange).

LOCAL

The City maintains and has jurisdiction over all roadways within the planning area with several exceptions. The Santa Clara County Roads and Airports Department has jurisdiction over local county roads and the expressway system that includes Montague Expressway.

Santa Clara Valley Transportation Authority

The VTA is an independent special district responsible for congestion management, countywide transportation planning, and bus and light rail operations in Santa Clara County. As the Congestion Management Agency (CMA) for the County, the VTA determines with

input from the member agencies, State and Federal funding priorities for transportation improvements. The CMA monitors CMP facilities that include the freeways/key intersections along state routes listed above, the County expressways, and other arterial roads that serve regional traffic. In Milpitas, these intersections include Milpitas Boulevard/Calaveras Boulevard, Abel Street/Calaveras Boulevard, Milpitas Boulevard/Montague Expressway, and Great Mall Parkway/Montague Expressway. Based on City policy and VTA guidelines, a TIA is required for all projects that are expected to generate more than 100 peak hour trips.

Santa Clara County Congestion Management Program

The Santa Clara County Congestion Management Program (CMP) promotes an integrated approach to transportation planning decision-making and seeks to maintain mobility in the County by establishing traffic and transit standards, trip-reduction and travel-demand requirements, and by incorporating the transportation implications of land-use decisions in planning efforts. Cities within the County are responsible for conformance with the adopted LOS standards on the principal arterial system defined by the CMP, and for transit standards. They are also responsible for the adoption and implementation of a trip-reduction and travel-demand ordinance and for developing a program to analyze the impacts of land use decisions. Where deficiencies in the system exist, deficiency plans must be adopted and methods of correcting the deficiencies identified. If deficiencies go unmitigated, a city could lose its entitlement to a portion of its gas tax revenues.

As required by state law, the CMP includes LOS standards for the designated CMP Roadway System as follows:

- The basic traffic LOS is E
- The LOS standard for locations with a baseline (1991) LOS F is LOS F
- The LOS goal for the CMP system is LOS D

If the baseline LOS for a CMP System facility was LOS F, then any development project that impacts the facility at or greater than 1% of facility capacity must implement mitigation measures to reduce the development project's impacts below the 1% level or implement the mitigation measures as prescribed in an approved Deficiency Plan. If such a plan is unavailable, the affected cities are required to complete one. Deficiency Plans allow local jurisdictions to implement innovative solutions to transportation problems where specific project mitigation is infeasible and project denial would conflict with other community goals. Deficiency Plans are designed to improve system-wide LOS and contribute to a significant improvement in air quality.

Capital Improvements Program

The CMA maintains a Capital Improvements Program (CIP) which includes a list of transportation facility improvements that is submitted to the MTC for inclusion in the Regional Transportation Improvement Program (RTIP), or for funding from the state (Flexible Congestion Relief Funds) or from the federal Surface Transportation and the Congestion Mitigation/Air Quality programs.

Valley Transportation Plan 2035

The Valley Transportation Plan 2035 (VTP 2035) is the long-range vision for transportation in the County. The VTA, in its role as the County's CMA, is responsible for preparing and updating the VTP on a cycle coinciding with the update of the Bay Area's RTP.

VTP 2035 identifies the programs, projects, and policies VTA's Board of Directors would like to pursue over the lifetime of the VTP 2035. It connects projects with anticipated funds and lays out a framework for the development and maintenance of the County's transportation system over the next 25 years. It considers all travel modes and addresses the links between transportation and land use planning, air quality, energy use, and community livability. VTP 2035 is not a programming document and does not include precise schedules for project implementation or assumptions regarding financing costs that may be needed to implement specific projects in specific years.

VTP 2035 and the 2009 RTP share common themes, including the reduction of GHG emissions, an Express Lane network, focused growth, and the use of technology to improve congestion. A shift in development patterns from spreading out to growing up with future development clustered in core areas and downtowns, along main streets and major transportation corridors, and around rail and BART station areas, is envisioned. Existing and future resources would be used more efficiently, and people would have greater choices to reduce vehicle miles traveled (VMT) and energy use.

VTA's Transportation and Land Use Goal is to provide transportation investments and services that support the maintenance and creation of vibrant urban communities, and protect the County's natural and economic resources. Applicable objectives include:

- Use land efficiently and support concentrated development with strategies including land use intensification and reuse, transportation investments that minimize right-of-way requirements and limiting land area dedicated to surface parking
- Support development that expands housing supply relative to transportation alternatives, proximity to job and activity centers, child care and other essential services, and that provides a range of affordability options and opportunities for both rental housing and home ownership

CITY OF MILPITAS GENERAL PLAN

The General Plan Circulation Element designates the general location and extent of existing and proposed major thoroughfares, transportation routes – including those for bicycles and pedestrians – and other local public facilities. The Circulation Element provides a framework to guide growth of Milpitas' transportation-related infrastructure over the next 20 years. The Circulation Element is closely integrated with the Land Use Element to maintain acceptable LOS as the City grows and to plan an adequate street network to serve future development. The Land Use Element includes policies related to the physical framework for development that the circulation system is designed to serve. The trails and bikeways identified in this element are also related to the recreational plans and policies identified in the Open Space and Environmental Conservation Element.

Circulation principles and policies applicable to the proposed Amendments include:

a. Guiding Principles - Standards for Traffic Safety

3.a-G-1 Continue to utilize the City's adopted Level of Service standards in evaluating development proposals and capital improvements.

3.a-G-2 Maintain acceptable service standards for a major streets and intersections.

b. Guiding Principles - Street Network and Classification Principles and Policies

3.b-G-1 Develop a street network integrated with the pattern of living, working and shopping areas, and which provides for safe, convenient, and efficient vehicular movement within the City and to other parts of the region.

3.b-G-2 Direct special consideration toward the circulation needs of a modern, convenient central business district, including adequate off-street parking.

3.b-G-3 Promote a street pattern that encourages industrial growth.

3.b-G-4 Use the "Major Improvements Needed" subsection as a basis for identifying, scheduling, and implementing roadway improvements as development occurs in the future.

Implementing Policies

3.b-I-1 Require new development to pay its share of street and other traffic improvements based on its impacts.

3.b-I-2 Require all projects that generate more than 100 peak-hour (A.M. or P.M.) trips to submit a transportation impact analysis that follows guidelines established by CMP.

c. Guiding Principles – Transportation Systems Management

3.c-G-1 Promote measures that increase transit use and lead to improved utilization of the existing transportation system.

3.c-G-2 Cooperate with other agencies to promote local and regional transit serving Milpitas.

d. Guiding Principles – Pedestrian and Bicycle Circulation Principles and Policies

3.d-G-1 Promote walking and bicycling for transportation and recreation purposes by providing a comprehensive system of sidewalks, bicycle lanes and routs and off-street trails that connects all parts of the City.

3.d-G-2 Provide adequate bicycle parking and end-of-trip support facilities for bicyclists at centers of public and private activity.

3.d-G-3 Promote intermodal commuting options.

3.d-G-4 Encourage a mode shift to non-motorized transportation by expanding current pedestrian and bicycle facilities.

Implementing Policies

3.d-I-9 Require developers to make new projects as bicycle and pedestrian "friendly" as feasible, especially through facilitating pedestrian and bicycle movements within sites and between surrounding activity centers.

3.d-I-26 Require sidewalks on both sides of the street as a condition of development approval, where appropriate with local conditions.

ENVIRONMENTAL IMPACTS

METHODOLOGY

The Amendments do not propose to intensify land uses beyond those planned for in the General Plan, or to develop specific traffic generating projects in the Analysis Area; therefore, a quantitative analysis of intersection-specific traffic impacts due to Amendments implementation in the context of this programmatic EIR was not warranted. The Amendments are assessed against recent TIAs prepared for the Milpitas Square Mixed-Use Project (2009) and the TASP (2007), which analyzed long-term cumulative conditions based on General Plan build-out for Analysis Area intersections and roadways. In addition, this section considers the effect of redevelopment activities on existing and planned pedestrian and transit services at a programmatic level of analysis.

Because redevelopment encourages development of blighted and underutilized properties to uses consistent with the General Plan, thresholds of significance have been selected that are appropriate for programmatic documents. No specific projects have been identified; therefore, the following activities were evaluated at the programmatic level:

- Property acquisition and land assemblage
- Demolition or rehabilitation of structures
- Installation of streets, utilities, and other public facilities and infrastructure
- Funding construction and development assistance for community centers, recreation centers, childcare centers, parks, urban design plans, master plans, streetscapes and facility improvements
- Financial development assistance for private projects
- Construction of affordable housing

THRESHOLDS OF SIGNIFICANCE

Impacts to the transportation system are considered significant if redevelopment activities would result in development that could cause a significant increase in projected traffic volumes over current conditions or beyond those anticipated in the General Plan, or cause a deterioration of transit or pedestrian services and/or infrastructure.

IMPACTS OF THE PROPOSED PROJECT

Impact 6.7-1 Redevelopment activities and development engendered by the Amendments could result in increased traffic on currently impacted roadway segments and intersections where no mitigation is feasible. This would be a potentially significant and unavoidable impact.

The proposed Amendments are intended to remove existing barriers to planned development, and provide improved roadway and non-vehicular infrastructure in the Analysis Area. Traffic increases on Analysis Area roadways may result from infill development of underutilized properties within the Analysis Area on a project-by-project basis.

The recent TIAs[5] prepared for the roadways in and surrounding the Analysis Area determined that upon completion and operation of already approved projects, numerous intersections in and around the Analysis Area are expected to operate at unacceptable LOS according to their designated LOS standard. Several of the intersections cannot be mitigated to acceptable LOS due to physical and operational constraints, such as right-of-way constraints, pedestrian safety impacts, or requiring a relocation of VTA LRT system tracks and centenary power systems, reconstruction of the Great Mall Parkway bridges over I-880, relocation of existing sound walls and fences along the east-side of the off-ramp, or a reduction of neighborhood open space.

The City and VTA monitor roadway conditions and determine when improvements are warranted per City and VTA standards and criteria, and include such improvements in their CIP and RTP as appropriate. As site-specific development proposals are identified and submitted to the City for permits, the City has procedures and requirements in place to analyze operational impacts and impose mitigation measures or fees as required. Any project expected to generate more than 100 peak hour trips must prepare a TIA. The City requires projects to pay their fair share of the improvement costs to mitigate the anticipated cumulative impacts of traffic from new developments on future deficient intersections. Each developer will be required to pay an impact fee to provide mitigation for future deficiencies in traffic operations. If the baseline LOS for a CMP System facility was LOS F, then any development project that impacts the facility at or greater than one percent (1%) of facility capacity must implement mitigation measures to reduce the development project's impacts below the one percent (1%) level or implement the mitigation measures as prescribed in an approved Deficiency Plan.

The Amendments would provide tax increment funding for infrastructure projects and non-vehicular access improvements that would minimize the impact of infill development in the Analysis Area consistent with adopted plans. Although the Amendments would provide further funding assistance for the implementation of transportation projects within the Analysis Area, would assist in bringing existing roadways up to current street standards, and do not propose a change in land uses, site-specific development projects engendered by the Amendments could be individually large enough to have a ***significant impact*** on intersections that cannot be feasibly mitigated, based on existing City and VTA thresholds of significance. Redevelopment engendered projects must be analyzed on a case-by-case basis for localized impacts to determine the extent of potential impacts and feasible mitigation measures.

[5] TASP and Milpitas Square Mixed-Use Development Project TIAs, as discussed earlier in this Subchapter

Mitigation

Specific mitigation measures identified in the Transit and Midtown EIRs will be implemented as planned. Future redevelopment engendered projects will analyzed on a case-by-case basis for localized impacts and additional mitigation measures.

Significance after Mitigation

Because the addition of redevelopment project-specific vehicle trips could exceed City thresholds at currently impacted roadways and intersections where no mitigation is feasible, the Amendments may result in ***potentially significant and unavoidable*** localized traffic impacts.

Impact 6.7-2 Redevelopment activities and development engendered by the Amendments could result in increased traffic on currently impacted freeway segments where no mitigation is feasible. This would be a potentially significant and unavoidable impact.

As noted under Impact 6.7-1, the proposed Amendments are intended to remove existing barriers to planned development, and provide improved roadway and non-vehicular infrastructure in the Analysis Area. Traffic increases on I-880 and I-680, and SR-237 may result from infill development of underutilized properties within the Analysis Area on a project-by-project basis. Segments of the freeways and SR-237 are already experiencing unacceptable LOS.

Project mitigation measures are also defined as including programs used to reduce project vehicle trip generation, including TDM programs, capital improvements to roadways, transit facilities, and bike and pedestrian access improvements, if not already included in the proposed project description. Mitigation measures for roadway level of service should not adversely affect bicycle, pedestrian or transit access, and circulation. While implementation of these measures would incrementally reduce traffic, they may not be able to reduce freeway impacts to a less-than-significant level. For this reason, freeway impacts are significant and unavoidable.

The addition of freeway mainline capacity is beyond the scope of individual development projects. However, the City is a partner agency in the Calaveras Boulevard (SR-237) Overpass Widening project and has established an impact fee to collect funds for this project. Without any other current freeway improvement project to add mainline capacity or a funding mechanism to contribute towards such a project, project-specific impacts to the freeway system are potentially significant and unavoidable. As noted above, the City and VTA monitor roadway conditions and determine when improvements are warranted per City and VTA standards and criteria, and include such improvements in their CIP and RTP, as appropriate. As site-specific development proposals are identified and submitted to the City for permits, the City has procedures and requirements in place to analyze operational impacts and impose mitigation measures or fees as required. Any project expected to generate more than 100 peak hour trips must prepare a TIA. If the baseline LOS for a CMP System facility was LOS F, then any development project that impacts the facility at or greater than 1% of facility capacity must implement mitigation measures to reduce the development project's impacts below the 1% level or implement the mitigation measures as prescribed in an approved Deficiency Plan.

The Amendments would provide tax increment funding for infrastructure projects and non-vehicular access improvements that would minimize the impact of infill development in the Analysis Area consistent with adopted plans. Although the Amendments would provide further funding assistance for the implementation of transportation projects within the Analysis Area, would assist in bringing existing roadways up to current street standards, and do not propose a change in land uses, site-specific development projects engendered by the Amendments could be individually large enough to have a ***significant impact*** on freeway segments that cannot be cannot be feasibly mitigated, based on existing Caltrans thresholds of significance. Redevelopment engendered projects must be analyzed on a case-by-case basis for freeway impacts to determine the extent of potential impacts and feasible mitigation measures.

Mitigation

Specific mitigation measures identified in the Transit and Midtown EIRs will be implemented as planned. Future redevelopment engendered projects will analyzed on a case-by-case basis for freeway impacts.

Significance after Mitigation

Because the addition of redevelopment project-specific vehicle trips could exceed Caltrans thresholds at currently impacted freeway segments where no mitigation is feasible, the Amendments may result in ***potentially significant and unavoidable*** impacts on freeway segments.

Impact 6.7-3 Redevelopment activities and projects could result in increased demands on pedestrian, bicycle, and transit access and operations. This would be a less-than-significant impact.

Current conditions in the Analysis Area include roadways without curbs and gutters, and discontinuous sidewalks and bikeways. As redevelopment occurs in the Analysis Area, there would be an increased demand for pedestrian, transit, and bicycle facilities.

All new development in the Analysis Area will be required to undergo review by the Planning Department and Public Works to ensure compliance with local zoning and design criteria, and that adequate pedestrian, transit, and bicycle facilities are provided. The Amendments include potential projects and programs that would improve pedestrian, bicycle, and transit access by providing curbs, gutters, sidewalks, bike routes, bus stops, and streetscape improvements to enhance pedestrian access and cyclist safety. The Amendments would therefore have a beneficial effect on bicycle and pedestrian facilities within the Analysis Area by assisting in the construction of the bikeway, transit, and pedestrian enhancements. The Amendments would have a ***less-than-significant impact*** on pedestrian/cyclist safety and access to transit facilities.

Mitigation

None required

CUMULATIVE IMPACTS AND MITIGATION MEASURES

Impact 6.7-4 Redevelopment activities could remove barriers to development, resulting in cumulative increases in traffic in the Analysis Area. This would be a less-than-significant impact.

The Amendments are intended to remove existing barriers to planned development. The cumulative traffic increase anticipated for Analysis Area roadways would result from infill development of underutilized properties in the vicinity, and future growth within the City and surrounding unincorporated area. Future development in the vicinity will add cumulative traffic to area roadways such as Milpitas Boulevard, I-680, I-880, Tasman/Great Mall Parkway, and Montague Expressway. By General Plan build-out in 2030, most major roadway segments in the City are anticipated to be operating at an unacceptable LOS.

The Amendments do not propose any changes in land use, and must by law be consistent with the General Plan. All land use and zoning in the Analysis Area is consistent with the assumptions used in the VTA regional travel demand model. This regional model is used by the VTA to produce traffic projections for use in transportation and air quality planning and includes build-out of the City according to its General Plan, which means the underutilized properties are assumed in the model assumed to be developed at maximum extent possible under the General Plan.

The Amendments would remove barriers to development that was anticipated in the VTA regional travel demand model, and therefore development engendered by the Amendments would be consistent with, and not result in an increase in projected cumulative traffic volumes anticipated at General Plan build-out. Furthermore, the Amendments would remove barriers to infill development and densification in areas supported by transit and bike and pedestrian facilities, and would fund street improvements and provide incentives for new transit-oriented, mixed-use development. This promotes a reduction in cumulative VMT as the jobs/housing balance is improved in the urban core.

All land uses in the Analysis Area must be consistent with the General Plan land use designations. No development is proposed that would exceed development levels anticipated in the General Plan. The City monitors roadway conditions and determines when improvements are warranted per City standards and criteria, and includes such improvements in its CIP as appropriate. The City requires projects to pay their fair share of the improvement costs to mitigate the anticipated cumulative impacts of traffic from new developments on future deficient intersections. Project applicants will be required to pay an impact fee to provide mitigation for future deficiencies in traffic operations. The Amendments would provide tax increment funding for infrastructure projects that would minimize the impact of cumulative development consistent with adopted plans, and promote a reduction in VMT. Therefore, the Amendments would have a ***less-than-significant impact*** on cumulative traffic volumes.

Mitigation

None required

7.0

CEQA CONSIDERATIONS

Milpitas Redevelopment Amendments

CHAPTER 7

CEQA CONSIDERATIONS

7.0 CEQA CONSIDERATIONS

California Environmental Quality Act (CEQA) requires that each Environmental Impact Report (EIR) discuss the growth-inducing impacts of a proposed project, the significant cumulative impacts associated with development and operation of the proposed project, and identify impacts that could not be eliminated or reduced to a less-than-significant level by mitigation measures, as part of the project, or other mitigation measures that could be implemented. This Chapter discusses and summarizes the growth-inducing, cumulative, and significant and unavoidable impacts that could result from adoption and implementation of the Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 and the Sixth Amendment to the Great Mall Redevelopment Project (proposed project or Amendments).

GROWTH-INDUCING IMPACTS

Section 15126.2(d) of the CEQA Guidelines requires that an EIR discuss the growth-inducing impacts of the proposed project. Specifically, CEQA states that an EIR shall:

> Discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth (a major expansion of a wastewater treatment plant might, for example, allow for more construction in service areas). Increases in the population may tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects. Also discuss the characteristic of some projects which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.

Growth-inducing impacts can result from development that directly or indirectly induces additional growth pressures that are more intense than what is currently planned for in general and community plans. An example of this would be the re-designation of property planned for agricultural uses to urban uses. The growth inducement that may result, in this example, would be the development of services and facilities that may encourage the transition of additional land in the vicinity to more intense urban uses. Another example would be the extension of urban services to a site, which may encourage conversion of non-urban lands to urban lands.

SETTING AND POTENTIAL GROWTH-INDUCING IMPACTS

The Analysis Area[1] is located in an existing, relatively dense urbanized environment, and includes aging residential, commercial, and industrial properties within the City limits of the City of Milpitas (City). Implementation of the Amendments would provide tax increment

[1] The areas eligible for amendment within Project Area No. 1 are referred to as the Amendment Areas. The Amendment Areas and the Added Area are collectively referred to as the Analysis Area.

funding for projects such as infrastructure improvements, development assistance, property acquisition, and economic development assistance, which would eliminate blight and encourage infill development and rehabilitation consistent with adopted plans and policies. It would neither require extension nor expansion of services to an area where none is provided nor involve substantial improvements to existing facilities, except where those facilities are upgraded to accommodate the City of Milpitas General Plan (General Plan) designated land uses, or remediate existing problems such as inadequate storm drains.

The current capacity of most services is sufficient to accommodate planned growth within the Analysis Area, consistent with the adopted land use and zoning. Upgrades to utilities, such as providing storm drains on existing roadways, are generally considered improved technology/rehabilitation efforts.

Redevelopment activities are consistent with the planned land uses in the Analysis Area as designated in the General Plan and the Milpitas Zoning Ordinance (Zoning Ordinance). Implementation of the Amendments would meet the objectives of the City, since it is consistent with growth forecasts and land uses as they have been planned in the General Plan, Specific Plans, and Zoning Ordinance.

Because of new employees transferring within the City and/or to the region, localized secondary impacts may also occur related to an increased demand for housing, public services, and utilities. Increases in the need for electricity, gas, water, sanitary sewer, public safety, and other services may create the need for service and maintenance employees. These potential secondary demands are consistent with growth forecasts and land uses, and were considered in the General Plan. The implementation of the Amendments would not result in substantial new demands that were not previously anticipated in adopted plans.

Although implementation of the Amendments would remove impediments to development, build-out of the Analysis Area would not exceed planned growth rates, and would not result in substantial regional demands on public services and infrastructure. No significant growth inducing impacts are anticipated due to implementation of the Amendments. This area is targeted to increase densities to the levels allowed by the Zoning Ordinance, specifically to encourage greater use of existing infrastructure and reduce growth impacts in outlying areas of the City and Santa Clara County (County). Growth-inducing impacts would be ***less than significant***.

CUMULATIVE IMPACTS

According to CEQA Guidelines Section 15355, "Cumulative impacts refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." CEQA Guidelines Section 15130(a) requires that cumulative impacts are discussed when the project's incremental effect is cumulatively considerable, as defined in Section 15065(c). "Cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. Section 15130 of the CEQA Guidelines states that "the discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone."

CUMULATIVE ENVIRONMENT

The CEQA Guidelines provide that a lead agency may describe the cumulative environment by either a listing of pending, proposed, or reasonably anticipated projects, or a summary of projections contained in an adopted general plan or a related planning document that describes area-wide or regional cumulative conditions.

For the purposes of this EIR, a projection of cumulative build-out based on the adopted General Plan for the City is used. Cumulative impacts resulting from General Plan build-out in the City were previously analyzed and anticipated by the City of Milpitas General Plan EIR (GP EIR), as updated by the Transit Area Specific Plan (TASP) and the Milpitas Midtown Specific Plan (Midtown Specific Plan). Cumulative growth impacts on public services and utilities, for example, have generally been anticipated.

Cumulative impacts were assessed in Chapter 6, Environmental Analysis. Identified cumulative impacts include the following:

Impact 6.1-5 Redevelopment-engendered project construction activities would contribute to cumulative increases in ozone precursors. This would be a less-than-significant impact.

Impact 6.2-3 The Amendments would engender redevelopment of the Analysis Area that could contribute to cumulative contributions to global climate change. This would be a less-than-significant cumulative impact.

Impact 6.3-4 Redevelopment projects and redevelopment-engendered development could contribute to the cumulative degradation or loss of paleontological or archaeological resources, including human remains. This would be a ***significant*** impact. Project by project mitigation measures would reduce this impact to less-than-significant.

Impact 6.4-3 Redevelopment of the Analysis Area would contribute to cumulative increases in the use of hazardous substances during construction and occupancy. This would be a less-than-significant impact.

Impact 6.4-4 Redevelopment of the Analysis Area would contribute to cumulative increases in the number of people who could be exposed to accidental or intentional release of hazardous substances on rail lines and roadways. This would be a less-than-significant impact.

Impact 6.5-3 Redevelopment-engendered development could result in an increase in cumulative community noise impacts. This would be a less-than-significant impact.

Impact 6.7-4 Redevelopment activities could remove barriers to development, resulting in cumulative increases in traffic in the Analysis Area. This would be a less-than-significant impact.

SIGNIFICANT AND UNAVOIDABLE ENVIRONMENTAL IMPACTS

CEQA requires the identification of impacts that could not be eliminated or reduced to less-than-significant levels by mitigation measures, as part of the project, or other mitigation measures that could be implemented. The significant and unavoidable impacts that would result from implementation of the Amendments include project-specific traffic and greenhouse gas (GHG) impacts, and a potential cumulative loss of cultural resources, as outlined below.

PROJECT-SPECIFIC SIGNIFICANT AND UNAVOIDABLE IMPACTS

The potentially significant and unavoidable environmental impacts of the proposed project identified in Chapter 6, Environmental Analysis include:

Impact 6.2-2 Individual redevelopment-assisted development projects could produce operational greenhouse gas emissions that contribute to global climate change. This would be a potentially significant and unavoidable impact.

Impact 6.7-1 Redevelopment activities and development engendered by the Amendments could result in increased traffic on currently impacted roadway segments and intersections where no mitigation is feasible. This would be a potentially significant and unavoidable impact.

Impact 6.7-2 Redevelopment activities and development engendered by the Amendments could result in increased traffic on currently impacted freeway segments where no mitigation is feasible. This would be a potentially significant and unavoidable impact.

CUMULATIVE SIGNIFICANT AND UNAVOIDABLE IMPACTS

The proposed Amendments would not result in any cumulatively significant and unavoidable environmental impacts, as identified and discussed in Chapter 6, Environmental Analysis.

8.0

REFERENCES

Milpitas Redevelopment Amendments

CHAPTER 8
REFERENCES

8.0 REFERENCES

Amburgey, Bryce H. (2002, March). "The Economy-Crime Rate Connection and Its Effects on DPA Caseloads: Does Crime Pay When the Market Doesn't?" *The Advocate*. Kentucky Department of Public Advocacy's Journal of Criminal Justice Education and Research. Vol. 24, No. 2.

Allied Waste Services of Santa Clara County. (n.d.). [Website]. Retrieved October 19, 2009 from http://www.alliedwastescco.com/.

Association of American Railroads.

(2009a, January). *Railroads, Moving America Safely.* [Electronic Version]. Retrieved November 17, 2009 from http://www.aar.org/Resources/~/media/AAR/PositionPapers/FreightRailroadSecurityAug2008.ashx.

(2009b, June). *Hazmat Transport by Rail.*

Association of Bay Area Governments (ABAG). (2009, October). *Multi-Jurisdictional Local Hazard Mitigation Plan for the San Francisco Bay Area*. Draft Update of 2005 Plan. Retrieved November 17, 2009 from http://quake.abag.ca.gov/mitigation/.

Bay Area Air Quality Management District (BAAQMD).

(n.d.). Community Air Risk Evaluation Program. [Webpage]. Retrieved October 2, 2009 from http://www.baaqmd.gov/Divisions/Planning-and-Research/Planning-Programs-and-Initiatives/CARE-Program.aspx.

(2009a). [Website]. Retrieved September 30, 2009 from http://www.baaqmd.gov/.

(2009b, August 20). Notice of Preparation and Initial Study for the Bay Area 2009 Clean Air Plan.

Bolt, Beranek, and Newman. (1971). *Noise from Construction Equipment and Operations, Building Equipment and Home Appliances*. U.S. EPA.

California Air Resources Board (CARB)

(2000, October). *Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles.* [Electronic Version]. Retrieved October 16, 2009 from http://www.arb.ca.gov/diesel/documents/rrpFinal.pdf.

(2005, April). *Air Quality and Land Use Handbook*

(2008, November 17). National and California Ambient Air Quality Standards. [Electronic Version]. Retrieved September 30, 2009 from http://www.arb.ca.gov/research/aaqs/aaqs2.pdf.

(2009a). iADAM Top Four Summary. Retrieved October 16, 2009 from http://www.arb.ca.gov/adam

(2009b, February 23). Maps of Estimated Cancer Risk from Air Toxics. Retrieved October 16, 2009 from http://www.arb.ca.gov/toxics/cti/hlthrisk/hlthrisk.htm.

(2009c, September 29). *SB 375 Regional Targets Advisory Committee*. [Webpage]. Retrieved October 11, 2009 from http://www.arb.ca.gov/cc/sb375/rtac/rtac.htm.

California Climate Action Team (CAT). (2006, March). *Climate Action Team Report to Governor Schwartzenegger and the Legislature.*

California Department of Transportation (Caltrans), Traffic Data Branch. (2008). 2008 Peak Hour Volume Data. Retrieved October 27, 2009 from http://www.dot.ca.gov/hq/traffops/saferesr/trafdata/index.htm

California Environmental Protection Agency (CalEPA).

(2007). *Assembly Bill 1493 Briefing Package: Global Warming and Greenhouse Gas Emissions from Motor Vehicles.* Retrieved November 17, 2009 from http://www.climatechange.ca.gov/publications/agencies.html.

(2009, August 28). *Climate Action Team & Climate Action Initiative.* [Webpage]. Retrieved November 17, 2009 from http://www.climatechange.ca.gov/climate_action_team/index.html.

California, State of. Governor's Office of Planning and Research (OPR). (2007). *CEQA Guidelines and Greenhouse Gases.* [Webpage]. Retrieved October 11, 2009 from http://opr.ca.gov/index.php?a=ceqa/index.html.

California State Senate. (2008, September 30). SB 375. [Electronic Version]. Retrieved November 17, 2009 from http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_0351-0400/sb_375_bill_20080930_chaptered.pdf

Federal Highway Administration. (1995, June). Highway Traffic Noise Analysis and Abatement Policy and Guidance. Retrieved October 2, 2009 from http://www.nonoise.org/library/highway/policy.htm.

ICLEI-Local Governments for Sustainability USA. (2005). 2005 Milpitas Government Operations Greenhouse Gas Emissions Inventory. Accepted by the City Council on October 6, 2009.

Intergovernmental Panel on Climate Change (IPCC).

(2004, December). *16 Years of Scientific Assessment in Support of the Climate Convention.*

(2007). "Summary for Policymakers". *Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change.* [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M.Tignor and H.L. Miller (eds.)]. Cambridge University Press. Cambridge, United Kingdom and New York, NY, USA.

Metropolitan Transportation Commission (MTC).

(2008, December 18). *Draft Environmental Impact Report for the Transportation 2035 Plan for the San Francisco Bay Area.* [Electronic Version]. SCH No 2008022101. Retrieved November 17, 2009 from http://www.mtc.ca.gov/planning/2035_plan/EIR.htm.

(2009, April). *Transportation 2035 Plan for the San Francisco Bay Area.* [Electronic Version]. Retrieved November 17, 2009 from http://www.mtc.ca.gov/planning/2035_plan/FINAL/T2035_Plan-Final.pdf.

City of Milpitas

(n.d.) City of Milpitas Website. Retrieved October 2, 2009 from http://www.ci.milpitas.ca.gov/

(1954). *Milpitas Municipal Code.* As amended through 8/18/2009. Retrieved October 2009 from http://www.municode.com

(1976). *Subdivision Ordinance of Milpitas.* Milpitas Municipal Code Title XI. As amended through 8/4/2009.

(1994). *City of Milpitas General Plan.* As revised through March 19, 2002.

(1997). Noise Element. *City of Milpitas General Plan.*

(2000, September 19). *Streetscape Master Plan.* Prepared by Amphion Environmental, Inc.

(2001, October). *Draft Environmental Impact Report for the Midtown Milpitas Specific Plan.* SCH #2000092027.

(2002a, January) *Final Environmental Impact Report for the Midtown Milpitas Specific Plan.* SCH #2000092027.

(2002b, March 19). Open Space and Conservation Element. *City of Milpitas General Plan.*

(2002c, October 22). Housing Element. *City of Milpitas General Plan.*

(2002d, December). *Water Master Plan.* Prepared by Raines, Melton & Carella, Inc.

(2004, August). *Sewer Master Plan Revision.* Prepared by Raines, Melton & Carella, Inc.

(2005, December 6). *2005 Urban Water Management Plan.*

(2007, October). *Milpitas Transit Area Specific Plan Draft Environmental Impact Report.* SCH #2006032091.

(2008, May). *Milpitas Transit Area Specific Plan Final Environmental Impact Report.* SCH #2006032091.

(2009a, April). *Milpitas Square Mixed-Use Development Draft Environmental Impact Report.* SCH #2008022065.

(2009b, April 3). *Initial Study and Negative Declaration for the Milpitas Bikeways Master Plan Update.*

(2009c, June). *Milpitas Bikeways Master Plan Update, Final Plan.* Prepared by Alta Planning + Design.

(2009d, July 28). *Redevelopment Feasibility Memorandum.* Prepared by Keyser Marston Associates, Inc.

(2009e, August). *Milpitas Square Mixed-Use Development Final Environmental Impact Report.* SCH #2008022065.

Milpitas Redevelopment Agency.

(2003, June). *Amended and Restarted Redevelopment Plan for Milpitas Redevelopment Project No. 1.*

(2006, September). *Draft Supplemental Environmental Impact Report for the Proposed Merger of Milpitas Redevelopment Project Area No.1 and the Great Mall Redevelopment Project Area.*

Milpitas Unified School District (MUSD). (2009, September 16). Response to Request for Information for Preparation of Report to the Department of Finance Pursuant to Section 33328.1(b)(2) of the California Health and Safety Code for the Thirteenth Amendment to the Redevelopment Plan for the Milpitas Redevelopment Project No. 1.

Monterey Bay Unified Air Pollution Control District. (1995). *CEQA Air Quality Guidelines.* As revised 2004. pp. 3-1 to 3-5.

National Research Council. (2005). *Radiative Forcing of Climate Change: Expanding the Concept and Addressing Uncertainties.*

Norman Y. Mineta San Jose International Airport (SJC). (2009, June 30). 65 CNEL Contour, Second Quarter Noise Monitoring Report. [Electronic Version]. Retrieved October 21, 2009 from http://www.sjc.org/community/maps/2q09.pdf.

City of Ontario. (2007, June 28). *Rich Haven Specific Plan EIR*, Global Climate Change Analysis.

Orum, Paul. (2007, April 2). *Toxic Trains and the Terrorist Threat: How Water Utilities Can Get Chlorine Gas Off the Rails and Out of American Communities.* [Electronic Version] Center for American Progress. Page 5.

Pew Center on Global Climate Change. (2009, November 10). *Climate Action Plans*. [Webpage] Retrieved November 17, 2009 from http://www.pewclimate.org/what_s_being_done/in_the_states/action_plan_map.cfm.

Pope III, C. A., Burnett, R. T., Thun, M. J., Calle, E. E., Krewski, D., Ito, K., et al. (2002). Cancer, cardiopulmonary mortality, and long-term exposure to fine particulate air pollution. *Journal of the American Medical Association* (287), 1132-1141.

Sacramento Metropolitan Air Quality Management District (SMAQMD). (2009, March). *Recommended Protocol for Evaluating the Location of Sensitive Land Uses Adjacent to Major Roadways*.

Santa Clara County Roads and Airports Department. (2008, October 9). *Comprehensive County Expressway Planning Study Draft 2008 Update*.

Santa Clara Valley Transportation Authority (SCVTA).

(2007, January). *BART Extension to Milpitas, San Jose and Santa Clara Draft Supplemental Environmental Impact Report*.

(2007, September). *Freight Railroad Relocation and Lower Berryessa Creek Project Initial Study with Mitigated Negative Declaration*.

(2009a). *BART to Silicon Valley: Project Overview*. [Webpage]. Retrieved October 6, 2009 from http://www.vta.org/bart/project_overview.html.

(2009b). Projects, Studies and Programs: Freight Railroad Relocation Project. [Webpage]. Retrieved October 6, 2009 from http://www.vta.org/projects/frr/index.html.

(2009c, January). "Transportation Analysis Guidelines, Final Draft." *Santa Clara Valley Transportation Authority Congestion Management Program*.

(2009d, January). *Valley Transportation Plan 2035*.

United States Environmental Protection Agency (EPA), Office of Atmospheric Programs

(2006a, April). *The U.S. Greenhouse Gas Emissions and Sinks: Fast Facts*

(2006b, June). Table 2-2: Global Warming Potentials. *Global Mitigation of Non-CO2 Greenhouse Gases*. EPA Report 430-R-06-005. Page I-5.

Wilmoth, Jerry. (2007, July 2). Personal Communication. Union Pacific Railroad.

9.0

REPORT PREPARATION

Milpitas Redevelopment Amendments

CHAPTER 9
REPORT PREPARATION

9.0 REPORT PREPARATION

LEAD AGENCY

Milpitas Redevelopment Agency
455 East Calaveras Boulevard
Milpitas, CA 95035

Economic Development Manager ..... Diana Barnhart
408-586-3059
dbarnhart@ci.milpitas.ca.gov

REDEVELOPMENT CONSULTANTS

Keyser Marston Associates, Inc.
500 South Grand Ave., Suite 1480
Los Angeles, CA 90071
Phone: (213) 622-8095 / Fax: (213) 622-5204

Manager ..... Paul Anderson
panderson@keysermarston.com

EIR AUTHORS

LEAD CONSULTANT

The Ervin Consulting Group
8561 Almond Bluff Court
Orangevale, CA 95662-4419
Phone: 916-989-0269 / Fax: 916-200-1371
info@ervincg.com

Principal-in-Charge ..... Gail Ervin
Senior Analyst ..... Laura Ervin
Senior Analyst / GIS / Air Quality ..... Travis Ervin

SUBCONSULTANTS

Hazards and Hazardous Materials

EEI Geotechnical and Environmental Solutions
EEI Camarillo
424-C Arneill Road
Camarillo, CA 93010
Phone: 805-987-8728 / Fax: 805-987-0758

Principal ..... Bernie Sentianin

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10.0

ACRONYMS AND ABBREVIATIONS

Milpitas Redevelopment Amendments

10.0 ACRONYMS AND ABBREVIATIONS

Acronym/Abbreviation	Description
µm	micrometer or one millionth of a meter
2035 Plan	Transportation 2035 Plan for the San Francisco Bay Area
AADT	Traffic volumes typically are reported as the daily number of vehicular movements (e.g., passenger vehicles and trucks) in both directions on a segment of roadway, averaged over a full calendar year
AAQS	ambient air quality standards
AB	Assembly Bill
ABAG	Association of Bay Area Governments
ACE	Altamont Commuter Express
ACM	Asbestos-containing material
Added Area	600± acres proposed to be added to the Redevelopment Plan for the Milpitas Project Area No. 1
ADT	Traffic volumes typically are reported as the daily number of vehicular movements (e.g., passenger vehicles and trucks) in both directions on a segment of roadway, averaged over a period of less than a year
AFY	acre-feet per year
Agency	Milpitas Redevelopment Agency
AHERA	Asbestos Emergency Response Act
Ambient noise level	Existing noise environment to which one has adapted
Amendment Areas	The areas eligible for amendment within the Existing Project Area for the Milpitas Redevelopment Plan Amendments
Amendments	Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 and the Sixth Amendment to the Great Mall Redevelopment Plan
Analysis Area	Both the Amendment Areas and Added Area for the Milpitas Redevelopment Plan Amendments
AQMD	Air Quality Management District
ASTM	American Society for Testing Materials
BAAB	San Francisco Bay Area Air Basin
BAAQMD	Bay Area Air Quality Management District
BACT	Best available control technology
BART	Bay Area Rapid Transit
BFE	Base Flood Elevation
BMP	Best Management Practice
CAA	Federal Clean Air Act
CAAQS	California Ambient Air Quality Standards
Cal/OSHA	California Occupational Health and Safety Administration
CalEPA	California Environmental Protection Agency

Acronym/Abbreviation	Description
California Register, CRHR	California Register of Historic Resources
Caltrans	California Department of Transportation
CAP	Clean Air Plan
CARB	California Air Resources Board
CARE	BAAQMD Community Air Risk Evaluation
CAT	Climate Action Team
CBP	Santa Clara Countywide Bicycle Plan
CCAA	California Clean Air Act
CCR	California Code of Regulations
CDBG	Community Development Block Grant
CDF	California Department of Forestry
CDP	Citywide Deficiency Plan
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act Guidelines for Carcinogens and Biohazards
CERCLIS	Comprehensive Environmental Response, Compensation, and Liability Information System
CFCs	chlorofluorocarbons
CFR	Code of Federal Regulations
CH_4	Methane
CHP	California Highway Patrol
CHWMP	Santa Clara County Hazardous Waste Management Plan
CIP	Capital Improvement Program
City	City of Milpitas
City Council	City of Milpitas City Council
CMA	Santa Clara County Congestion Management Agency
CMP	Congestion Management Program
CNEL	Community Noise Equivalent Level. The average equivalent sound level during a 24-hour day, obtained after addition of approximately 5 decibels to sound levels in the evening from 7:00 p.m. to 10:00 p.m. and 10 decibels to sound levels in the night before 7:00 a.m. and after 10:00 p.m. to account for people's increased sensitivity to nighttime noise.
CO	carbon monoxide
CO_2	carbon dioxide
CO_2e	CO_2 equivalent
County	Santa Clara County
CRL	California Community Redevelopment Law

Acronym/Abbreviation	Description
CUPA	Certified Unified Program Agency
dBA	A-Weighted Decibels; A-weighting of environmental sound consists of evaluating all of the frequencies of a sound, taking into account the fact that human hearing is less sensitive at low frequencies and extremely high frequencies than in the frequency mid-range (much like a bell shaped curve - an A-weighted curve)
DDA	Disposition and Development Agreement
Decibel or dB	A unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).
DHS	California Department of Health Services
DOT	US Department of Transportation
DPM	Diesel Particulate Matter
DPR	California Department of Parks and Recreation
DTSC	Department of Toxic Substance Control
du	Dwelling units
EECS	Energy Efficiency and Conservation Strategy
EIR	Environmental Impact Report
EMT	Emergency Medical Technician
EPA	US Environmental Protection Agency
ERAF	Education Revenue Augmentation Fund
ERNS	Emergency Response Notification System
ERNS	small emergency response sites
ESA	Environmental Site Assessment
Existing Project Area	Milpitas Redevelopment Project Area No. 1; currently encompasses 2,230 acres
FEMA	Federal Emergency Management Agency
FHWA	Federal Highway Administration
FIRM	Flood Insurance Rate Map
FRA	Federal Railroad Administration
FRR	Freight Railroad Relocation
G4	Montague Expressway
GBC	Green Building Code
GEN	RCRA Generator
General Plan	City of Milpitas General Plan
GHG	Greenhouse Gases
GP EIR	City of Milpitas General Plan EIR
GWP	global warming potential
H_2O	Water vapor

Acronym/Abbreviation	Description
HABS/HAER	Historic American Building Survey/Historic American Engineering Record
HAPS	Hazardous Air Pollutants
HCD	California Department of Housing and Community Development
HFCs	Hydrofluorocarbons
HHWE	Household Hazardous Waste Element
HMCD	Santa Clara County Department of Environmental Health Hazardous Materials Compliance Division
HOV	High occupancy vehicle
HRA	Health Risk Assessment
HSWA	Hazardous and Solid Waste Act
HUD	US Department of Housing and Urban Development
HVAC	heating, ventilating, and air conditioning
HWCL	Hazardous Waste Control Law
HWMP	Hazardous Waste Management Program
I-680	Interstate 680
I-880	Interstate 880
ICLEI	International Council for Local Environmental Initiatives
IIA list	Implementation Action list
IPCC	United Nations Intergovernmental Panel on Climate Change
IWMP	Integrated Waste Management Plan
JV:SVN	Joint Venture: Silicon Valley Network
kWh	kilowatts per hour
L_{50}	A-weighted noise level that is equaled or exceeded 50% of the stated time period
LCFS	Low Carbon Fuel Standard
L_{dn}	Day-Night Average Sound Level. The average equivalent sound level during a 24-hour day, obtained after addition of ten decibels to sound levels in the night after 10:00 p.m. and before 7:00 a.m.
Lead Agency	The agency with primary responsibility over the approval of the project – City of Milpitas Redevelopment Agency
L_{eq}	Equivalent Sound Level. The sound level containing the same total energy as a time varying signal over a given sample period. Leq is typically computed over 1-hour, 8-hour, and 24-hour sample periods.
L_{max}	The A-weighted maximum noise level for a given period of time.
LOS	Level of Service
LRT	light-rail transit
LS	Less-than-Significant Impact
LUST	Leaking underground storage tank
MACT	maximum available control technology

Acronym/Abbreviation	Description
Master Plan	City of Milpitas Conceptual Historic Resources Master Plan
Master Plan Update	Milpitas Bikeways Master Plan Update
MEI	Maximally Exposed Individual
MFD	Milpitas Fire Department
mgd	million gallons per day
Midtown Specific Plan	Milpitas Midtown Specific Plan
$MMTCO_2e$ or $TgCO_2Eq$	One million metric tons of CO_2 equivalent - the mass emissions of an individual GHG multiplied by its GWP
MPD	Milpitas Police Department
MPO	metropolitan planning organizations
MSW	Municipal Solid Waste
MT/yr	metric tons per year
MTC	Metropolitan Transportation Commission
Municipal Code	City of Milpitas Municipal Code
MUSD	Milpitas Unified School District
N_2O	nitrous oxide
NAAQS	National Ambient Air Quality Standards
NAHC	Native American Heritage Commission
National Register, NRHP	National Register of Historic Places
NEPA	National Environmental Policy Act
NESHAPs	National Emissions Standards for Hazardous Air Pollutants
NFIP	National Flood Insurance Program
NFRAP	CERCLIS No Further Remedial Action Planned
NI	No Impact
NIH	National Institutes of Health
NISL	Newby Island Sanitary Landfill
NLR	RCRA No Longer Regulated
No Added Area Alternative	No Added Area - Alternative Means Of Revitalization With Public Funds
NO_2	nitrogen dioxide
NOP	Notice of Preparation
NO_x	oxides of nitrogen
NPL	National Priority List
NRC	Nuclear Regulatory Commission
NWIC	Northwest Information Center
N_xO	nitrous oxide
O_3	ozone

Acronym/Abbreviation	Description
OES	State of California Office of Emergency Services
OPA	Owner Participation Agreements
OPR	State Office of Planning and Research
Original Project Area	The original Redevelopment Plan for Milpitas Redevelopment Project No. 1 was adopted by the Milpitas City Council by Ordinance No. 192 on September 21, 1976, and consisted of approximately 577 acres located in the central portion of the City
OSHA	Federal Occupational Health and Safety Administration
PA	Participating Agencies
Pb	Lead
PCB	Polychlorinated biphenyl
PFCs	perfluorocarbons
PM	Particulate matter
PM_{10}	suspended particulate matter under 10 microns
$PM_{2.5}$	suspended particulate matter under 2.5 microns
ppm	parts per million
ppt	Parts per thousand
PRC	Public Resources Code
Preliminary Report	Preliminary Report for the Thirteenth Amendment to the Redevelopment Plan for the Milpitas Redevelopment Project Area No. 1
Project Area No. 1	Milpitas Redevelopment Project Area No. 1
proposed project	Thirteenth Amendment to the Redevelopment Plan for the Milpitas Project Area No. 1 and the Sixth Amendment to the Great Mall Redevelopment Plan
PS	Potentially Significant Impact
PUC	California Public Utilities Commission
R&D	research and development
RCHRRT	Rail Corridor Hazmat Response and Recovery Tool
RCRA	Resource Recovery and Conservation Act
RCRMT	Rail Corridor Risk Management Tool
Redevelopment Plan	Redevelopment Plan for Project Area No. 1
RHNA	Regional Housing Needs Allocation
ROG	reactive organic gases
ROW	Right-of-way
RPS	Renewable portfolio standard
RTAC	Regional Targets Advisory Committee
RTIP	Regional Transportation Improvement Program
RTP	Regional Transportation Plan
RWQCB	State Regional Water Quality Control Board

Acronym/Abbreviation	Description
S	Significant Impact
SARA	Superfund Amendments and Reauthorization Act
SB	Senate Bill
SBWR	South Bay Water Recycling program
SCS	Sustainable Communities Strategy
SCVWD	The Santa Clara Valley Water District
SDWA	Safe Drinking Water Act
sf	Square feet
SF_6	sulfur hexafluoride
SFPUC	San Francisco Public Utility Commission
SHPO	State Historic Preservation Officer; although the acronym is also regularly used to mean State Office of Historic Preservation
Silicon Valley area	local governments in San Mateo, Santa Clara and Santa Cruz counties
SIP	State Implementation Plan
Sixth Amendment	The Agency is proposing to amend the Redevelopment Plan for the Great Mall Redevelopment Project
Sixth Amendment Deleted Area	The Agency is proposing to amend the Redevelopment Plan for the Great Mall Redevelopment Project to delete a non-contiguous area developed with a freeway sign. The area identified for deletion is within the area proposed to be added to Project Area No. 1.
SJC	Norman Y. Mineta San Jose International Airport
SMAQMD	Sacramento Metropolitan Air Quality Management District's
SMART	Sonoma-Marin Area Rail Transit Project
SO_2	sulfur dioxide
SP	Service Population
SR-237	State Route 237
SRRE	Source Reduction and Recycling Element
SSV	Sustainable Silicon Valley
SU	Significant and Unavoidable Impact
SWL	solid waste landfill site
SWRCB	State Water Resources Control Board
TAC	toxic air contaminants
TASP	Transit Area Specific Plan
Tg	Teragram
Thirteenth Amendment	The amendments to the Redevelopment Plan for Project Area No. 1
TSCA	Toxic Substance Control Act
TSD	Treatment Storage and Disposal
UBC	Uniform Building Code

Acronym/Abbreviation	Description
UFC	Uniform Fire Code
UN	United Nations
UNFCCC	United Nations Framework Convention on Climate Change
UPRR	Union Pacific Railroad
US 101	United States Highway 101
USACE	United States Army Corps of Engineers
UST	Underground storage tank
UV	ultraviolet
UWMP	City of Milpitas 2005 Urban Water Management Plan
Valley	Santa Clara Valley
VMT	Vehicle miles traveled
VOC	Volatile organic compound
VTA	Santa Clara Valley Transportation Authority
VTP 2035	Valley Transportation Plan 2035
WPCP	San Jose/Santa Clara Water Pollution Control Plant
ZEB	Zero Emissions Bus
Zoning Ordinance	City of Milpitas Zoning Ordinance

Appendix A

Notice of Preparation and Initial Study

Milpitas Redevelopment Amendments

CITY OF MILPITAS

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
GENERAL INFORMATION: 408-586-3000, TDD: 586-3013, www.ci.milpitas.ca.go

NOTICE OF PREPARATION

FROM: Milpitas Redevelopment Agency
455 East Calaveras Boulevard
Milpitas, CA 95035

CONTACT: Diana Barnhart, Economic Development Manager

DATE: September 9, 2009

SUBJECT: **NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE THIRTEENTH AMENDMENT TO THE MILPITAS REDEVELOPMENT PROJECT AREA NO. 1**

The Milpitas Redevelopment Agency (Agency) will be the Lead Agency and will prepare an environmental impact report for the Thirteenth Amendment to the Milpitas Redevelopment Project Area No. 1. We need to know the views of interested persons as to the scope and content of the environmental information to be included in the EIR. Agencies should comment on the scope and content of the environmental information, which is germane to the agencies' statutory responsibilities in connection with the project.

The project description, location, and the probable environmental effects are contained in the attached Initial Study. This Initial Study, also available for public review at the City of Milpitas Public Service Counter, located on the 1st floor of City Hall, 455 East Calaveras Boulevard, Milpitas, CA, 95035, will be used to focus the EIR on only those issues that may result in a significant adverse impact. The No Project Alternative and at least one other development alternative will be considered in the EIR.

Due to the time limits mandated by State law, your response must be sent at the earliest possible date, but not later than 30 days after receipt of this notice.

Please send your response to Diana Barnhart at the address shown above. We will need the name for a contact person in your agency.

PROJECT TITLE: **THIRTEENTH AMENDMENT TO MILPITAS REDEVELOPMENT PROJECT AREA NO. 1**

PROJECT LOCATION: City of Milpitas

MILPITAS	SANTA CLARA
City (nearest)	County

Responsible Entity Official-Name and Title	Signature	Date

Thirteenth Amendment to Milpitas Redevelopment Project Area No. 1
INITIAL STUDY

Milpitas Redevelopment Agency

Prepared for:
Milpitas Redevelopment Agency
455 East Calaveras Boulevard, Milpitas, CA 95035
Contact: Diana Barnhart, Economic Development Manager 408-586-3059
dbarnhart@ci.milpitas.ca.gov

Prepared By:
THE ERVIN CONSULTING GROUP
8561 Almond Bluff Court
Orangevale, California 95662-4419
916-989-0269

September 8, 2009

THIRTEENTH AMENDMENT TO MILPITAS REDEVELOPMENT PROJECT AREA NO. 1

INITIAL STUDY

This Initial Study is required and prepared for the Milpitas Redevelopment Agency, 455 East Calaveras Boulevard, Milpitas, CA 95035, pursuant to Title 14, Section 15070 of the California Code of Regulations (CCR).

ORGANIZATION OF THE INITIAL STUDY

This Initial Study is organized into the following sections:

SECTION I – PROJECT INFORMATION: Page 3- Provides summary background information about the project name, location, sponsor, and the date this Initial Study was completed.

SECTION II – EXECUTIVE SUMMARY: Page 5 - Includes a Summary of the Project Description and environmental analysis.

SECTION III - PROJECT DESCRIPTION: Page 7 - Includes a detailed description of the Proposed Project.

SECTION IV – INITIAL STUDY CHECKLIST AND DISCUSSION: Page 17 - Contains the Environmental Checklist form together with a discussion of the checklist questions. The Checklist Form is used to determine the following for the proposed project: 1) Potentially Significant Impacts, which identifies impacts that may have a significant effect on the environment, but for which the level of significance cannot be appropriately determined without further analysis, in an Environmental Impact Report (EIR), 2) Potentially Significant Impacts Unless Mitigated, which identifies impacts that could be mitigated to have a less-than-significant impact with implementation of mitigation measures, and 3) Less-than-significant Impacts, which identifies impacts that would be less-than-significant and do not require the implementation of mitigation measures.

SECTION V - ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED: Page 59 - Identifies which environmental factors were determined to have either a Potentially Significant Impact or Potentially Significant Impact Unless Mitigated, as indicated in the Environmental Checklist.

SECTION VI - DETERMINATION: Page 61 - Identifies the determination of whether impacts associated with development of the Proposed Project are significant, and what, if any, added environmental documentation may be required.

SECTION VII - REFERENCES: Page 63

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SECTION I – PROJECT INFORMATION

Project Name, File Number:	Thirteenth Amendment to Milpitas Redevelopment Project Area No. 1
Project Applicant:	Milpitas Redevelopment Agency 455 East Calaveras Boulevard Milpitas, CA 95035
Project Manager:	Diana Barnhart, Economic Development Manager City of Milpitas 455 East Calaveras Boulevard Milpitas, CA 95035 Phone: 408-586-3059 dbarnhart@ci.milpitas.ca.gov
Redevelopment Consultant:	Paul Anderson, Manager Keyser Marston Associates, Inc. 500 South Grand Ave., Suite 1480 Los Angeles, CA 90071 Phone: (213) 622-8095 Fax: (213) 622-5204 panderson@keysermarston.com
Environmental Consultant:	The Ervin Consulting Group 8561 Almond Bluff Court Orangevale, CA 95662-4419 Phone (916) 989-0269 Fax (916) 200-1371 info@ervincg.com
Initial Study Completed:	September 8, 2009

SECTION II – EXECUTIVE SUMMARY

The City of Milpitas (City) is located in Santa Clara County, California. The Milpitas Redevelopment Project Area No. 1 (Existing Project Area) currently encompasses 2,230 acres. The Milpitas Redevelopment Agency (Agency) is considering expanding its redevelopment efforts to eliminate blighting conditions in an additional area containing approximately 600 acres (Added Area).

The Redevelopment Plan for Project Area No. 1 (Redevelopment Plan) provides "... the Agency with powers, duties and obligations to implement and further the program generally formulated in this Plan for the redevelopment, rehabilitation, and revitalization of the area within the Project Area." The Agency proposes amending the Redevelopment Plan to:

- Extend Redevelopment Plan effectiveness, the time period for collection of tax increment, and repayment of debt by 10 years for the eligible areas, collectively referred to as the Amendment Areas (the Midtown area added in 2003 is not eligible for extension at this time)
- Add approximately 600 gross acres to Project Area No. 1 (Added Area)
- Update the list of public improvements projects that may be undertaken by the Agency
- Update the text of the Redevelopment Plan to conform to the requirements of the Community Redevelopment Law

Collectively, these amendments are referred to as the Amendments. Collectively, the Existing Project Area and the Added Area are referred to as the Amended Project Area.

Both the Amendment Areas and proposed Added Area are impacted by economic blighting conditions including low lease rates and high vacancy rates. The proposed Amendments will have the effect of focusing the Agency's future redevelopment efforts on the Added Area and parts of the Amendment Areas that are still blighted.

Environmental Factors Potentially Affected

The environmental factors marked below would be potentially affected by the Amendments, involving potential impacts that require more in-depth analysis than presented in this initial study. These factors will be discussed further in the Draft Environmental Impact Report (DEIR) to be circulated for public review in December 2009. Those factors not marked have been determined to be less than significant and will not be further discussed in the DEIR:

___	Aesthetics	___	Land Use and Planning
___	Agricultural Resources	___	Mineral Resources
x	Air Quality	x	Noise
___	Biological Resources	___	Population and Housing
x	Cultural Resources	x	Public Services
___	Geology and Soils	___	Recreation
x	Hazards and Hazardous Materials	x	Transportation/Traffic
___	Hydrology and Water Quality	x	Utilities and Service Systems

SECTION III - PROJECT DESCRIPTION

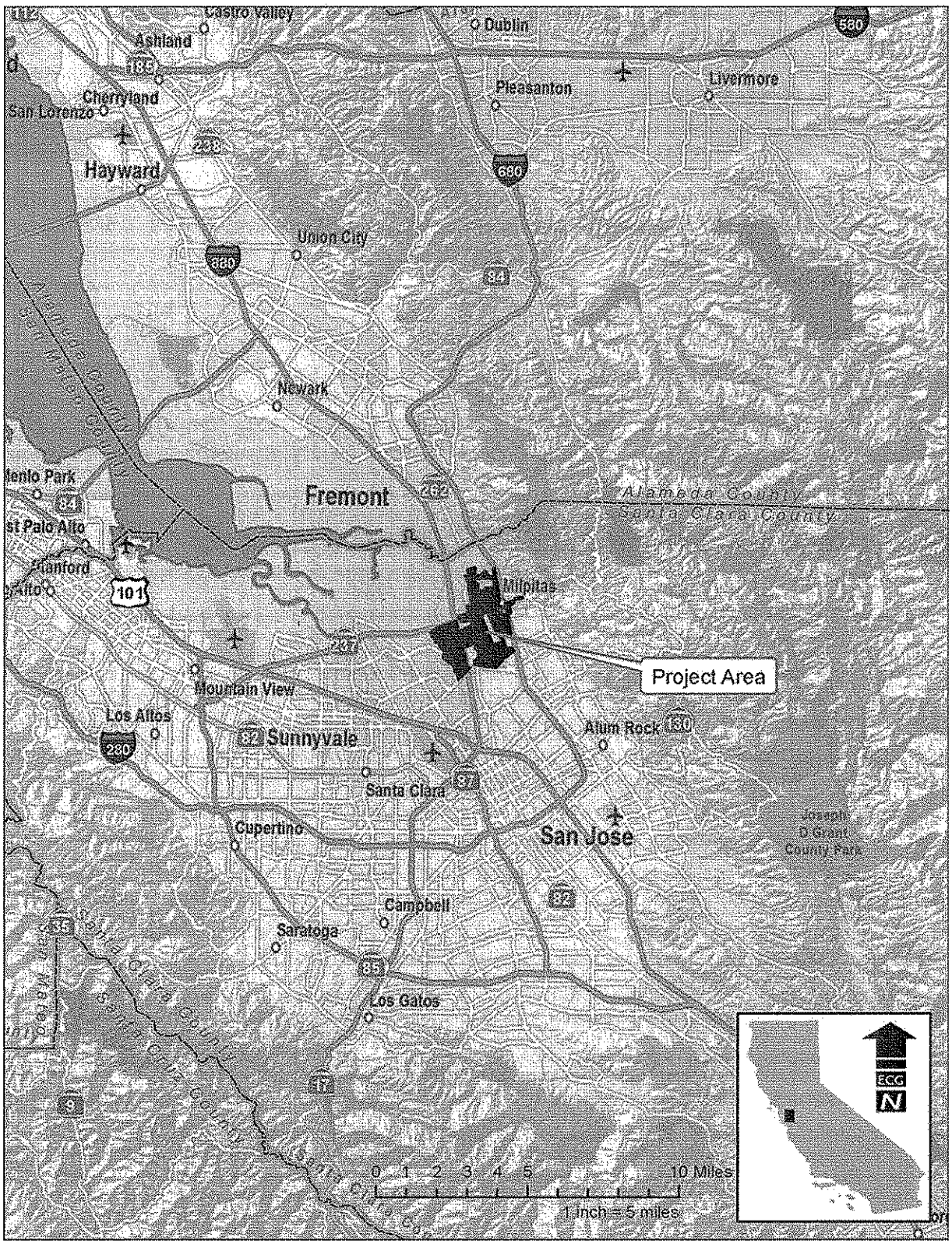
PROJECT LOCATION

The City of Milpitas (City) is located in Santa Clara County (County), California (Figure 1). The Milpitas Redevelopment Project Area No. 1 (Existing Project Area) currently encompasses 2,230 acres. The Milpitas Redevelopment Agency (Agency) is considering expanding its redevelopment efforts to eliminate blighting conditions in an additional area containing approximately 600 gross acres (Added Area). The Existing Project Area and the Added Area are collectively referred to as the Amended Project Area.

PROJECT BACKGROUND

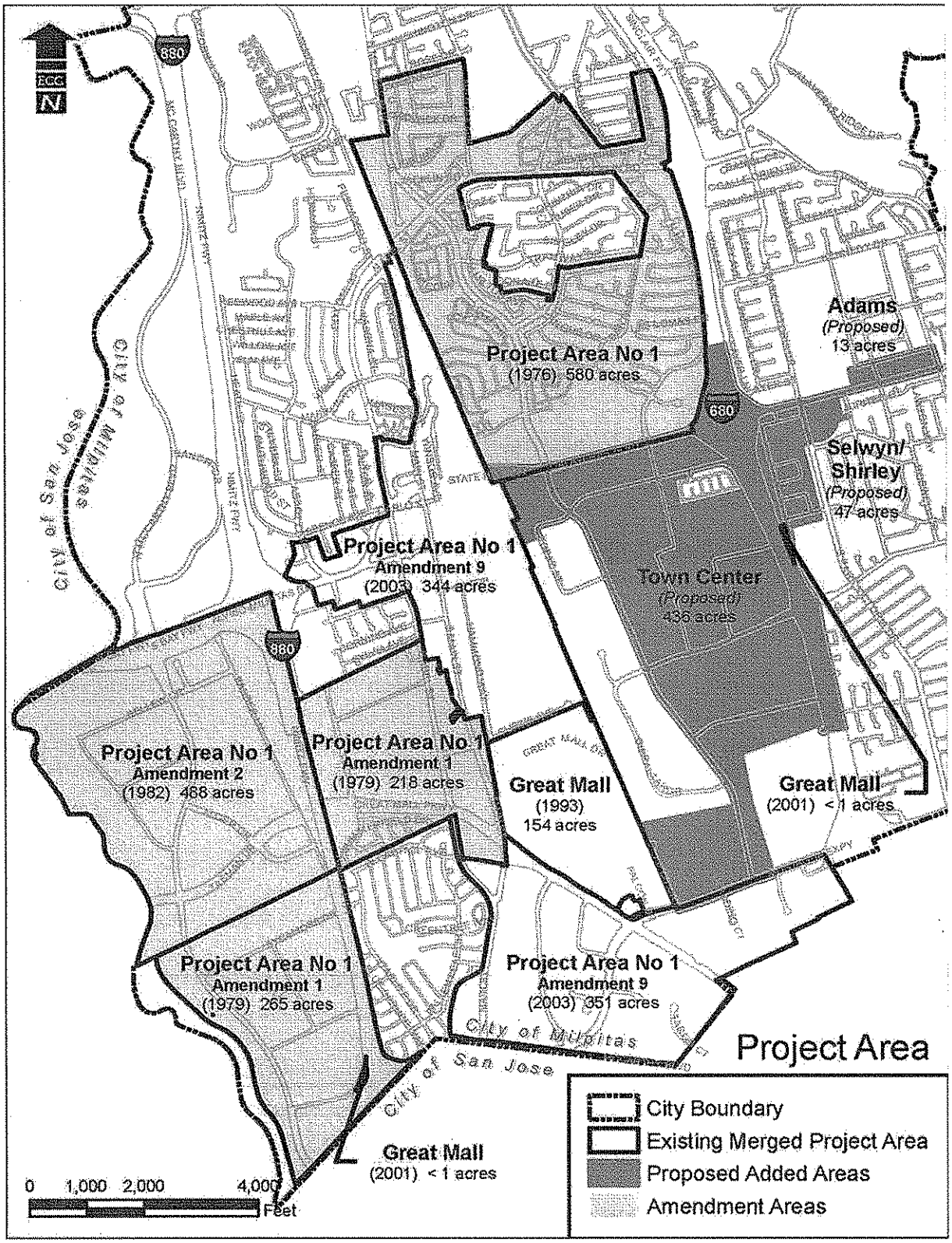
The City has two redevelopment project areas: Milpitas Redevelopment Project Area No. 1 (Project Area No. 1) and the Great Mall Redevelopment Project Area, which were merged in 2006. The original Redevelopment Plan for Project Area No. 1 (Redevelopment Plan) was adopted by the City Council by Ordinance No. 192 on September 21, 1976, and consisted of approximately 577 acres located in the central portion of the City (Original Project Area). Since the original adoption of Project Area No. 1, the Redevelopment Plan has been amended twelve times, including the 2006 merger:

- The first amendment adopted on September 4, 1979 – by Ordinance No. 192.1 – added approximately 483 acres to the Original Project Area.
- The second amendment adopted on May 4, 1982 – by Ordinance No. 192.2 – added approximately 479 acres to the Original Project Area.
- The third amendment adopted on November 27, 1984 – by Ordinance No. 192.3 – made technical text changes and increased the tax increment limit.
- The fourth amendment adopted on December 9, 1986 – by Ordinance No. 192.4 – amended the Agency's tax increment limit.
- The fifth amendment adopted on April 16, 1991 – by Ordinance No. 192.6A – amended the low income housing set-aside to include bond proceeds and restated and reorganized the provisions of the low income housing set-aside.
- The sixth amendment adopted on December 9, 1994, by Ordinance No. 192.9 – amended the time limits in accordance with Assembly Bill (AB) 1290.
- The seventh amendment adopted on October 15, 1996 – by Ordinance No. 192.11 – increased the tax increment limit, increased the bond debt limit, and extended the debt establishment time limit.
- The eighth amendment adopted on October 16, 2001 – by Ordinance No. 192.12 – deleted certain parcels from the Project Area (sign parcels).
- The ninth amendment adopted on June 17, 2003 – by Ordinance No. 192.14 – included the following: 1) added area (691 acres) to the Original Project Area (known as the Midtown area); 2) increased the tax increment limit; 3) increased the bonded indebtedness limit; 4) established eminent domain in the 691-acre added area for non-residential land uses; and 5) revised and updated various text provisions to conform to the requirements of the CRL.



Source: Ervin Consulting Group, 2009

FIGURE 1
PROJECT VICINITY



Source: Ervin Consulting Group, 2009

FIGURE 2
AMENDED PROJECT AREA

- The tenth amendment adopted on October 7, 2003 – by Ordinance No. 192.15 – extended the time limits on plan effectiveness/receipt of tax increment by one year for the Original Project Area and the added areas as allowed by SB 1045 in response to the Agency's payments to the Educational Revenue Augmentation Fund (ERAF) in fiscal year 2003-04. The Agency was allowed to further extend the time limits on plan effectiveness/receipt of tax increment by two years for the Original Project Area and the added areas adopted in 1979 and 1982 as allowed by SB 1096 in response to the Agency's ERAF payments made in fiscal years 2004-05 and 2005-06.
- The eleventh amendment was adopted on October 3, 2006 – by Ordinance No.192.16 – Pursuant to Senate Bill (SB) 1096.
- The twelfth amendment was adopted on November 29, 2006 – by Ordinance No.192.18 – which merged Project Area No. 1 with the Great Mall Redevelopment Project.

PROPOSED PROJECT

The Redevelopment Plan is intended to provide, "... the Agency with powers, duties and obligations to implement and further the program generally formulated in this Plan for the redevelopment, rehabilitation, and revitalization of the area within the Project Area. Because of the long-term nature of this Plan and the need to retain the Agency's flexibility to respond to market and economic conditions, property owner and developer interests, and opportunities from time to time presented for redevelopment, this Plan does not present a precise plan or establish specific projects for the redevelopment, rehabilitation, and revitalization of the Project Area. Instead, this Plan presents a process and a basic framework within which specific plans will be presented, specific projects will be established, and specific solutions will be proposed and by which tools are provided to the Agency to fashion, develop, and proceed with such specific plans, projects, and solutions."

The proposed Amendments will have the effect of focusing the Agency's redevelopment efforts on the Added Area and parts of the Amendment Areas that are still blighted.

Project Components

To ensure that the Agency has sufficient tax increment revenue and time to complete the redevelopment program in Project Area No.1, the Agency is proposing to extend Redevelopment Plan effectiveness, the time period for collection of tax increment, and repayment of debt by 10 years for the eligible areas as allowed by CRL Section 33333.10.

The Original Project Area, Amendment Area No.1, and Amendment Area No. 2 were adopted before December 31, 1993, and, therefore, are eligible for the 10-year extension with a finding of significant remaining blight. The Midtown area was adopted in 2003, and is not eligible for a 10-year extension and is not proposed for amendment. Collectively, the areas proposed for 10-year extensions are referred to as the Amendment Areas.

The Agency is also proposing to add approximately 600 acres to Project Area No. 1. The proposed Added Area includes the following areas plus approximately 97 acres of public right-of-way:

1. Town Center area: 436 acres of industrial/warehouse uses in the Town Center Business Park.
2. Adams area: A small 13 acre residential area near the intersection of East Calaveras Boulevard and Temple Drive.

3. Selwyn/Shirley area: A small 47 acre residential area with limited commercial generally along Interstate 680 between Calaveras Boulevard and Yosemite Drive.

Collectively, the time extensions and addition of territory are referred to as the Thirteenth Amendment or Amendments.

Time and Financial Limits

The proposed 10-year extension for duration and time period for collection of tax increment would provide the Agency with additional tax increment revenue from the Amendment Areas, which will provide needed funding to complete the Agency's redevelopment program – including affordable housing. The affordable housing can be incorporated in stand alone residential projects or in mixed-use projects in Project Area No. 1 or anywhere within the City. Given the severe downturn in the economy, the additional 10 years of Redevelopment Plan effectiveness is also required to provide time to complete projects and programs, which will be largely based upon private sector initiated rehabilitation and redevelopment of remaining blighted sites within Project Area No.1. The additional 10 years will also provide needed time for the Agency to complete needed infrastructure improvements.

Infrastructure Program

The Redevelopment Plan identifies the public improvements and facilities that the Agency may install or construct or caused to be installed or constructed. The description of the public improvements is proposed to be updated and expanded as necessary to reflect the Added Area and the Agency's anticipated public improvement projects and facilities over the remaining effectiveness period of the Redevelopment Plan.

Added Territory

The Adams and Selwyn/Shirley areas are being considered for inclusion in a redevelopment project to continue the City's efforts to alleviate blighting conditions in these areas. The City, exclusive of the Agency, has been working with property owners and managers over the past several years to alleviate code violations and deter crime, particularly gang activity. Although these efforts produced short-term improvements, these residential areas continue to be impacted by blighting conditions. Redevelopment is proposed as another tool to improve these areas.

As a result of a high vacancy rate and older and obsolete buildings, the Agency is also proposing to include a portion of the Town Center that consists of predominately industrial buildings in a redevelopment project. The Agency is proposing to assist in rehabilitating and redeveloping properties to meet contemporary user needs thereby reducing vacancies and increasing property values.

Generally Authorized Programs and Activities

Redevelopment tax increment is used to rehabilitate properties, stimulate private business and new development, improve or replace infrastructure, create jobs, and develop and maintain affordable housing. State law requires that at least 20% of the tax increment received by the Agency be used to increase and preserve the community's supply of housing affordable to low- and moderate-income households.

The Agency proposes to eliminate and prevent the spread of blight and deterioration in the Amended Project Area by:

1. Permitting participation in the redevelopment process by owners of properties located in the Project Area consistent with the Plan and rules adopted by the Agency

2. The acquisition of real property
3. The elimination of areas experiencing economic dislocation and disuse
4. The replanning, redesign and/or redevelopment of areas which are stagnant or improperly utilized, and which would not be accomplished by private enterprise acting alone without public participation and assistance
5. The protection and promotion of sound development and redevelopment of blighted areas and the general welfare of citizens of the City by remedying such injurious conditions through the employment of appropriate means
6. The installation of new or replacement of existing public improvements, facilities, and utilities in areas that are currently inadequately served with regard to such improvements, facilities, and utilities
7. The development and rehabilitation of improved housing opportunities in the Project Area including housing opportunities for low- and moderate-income persons and families
8. Providing relocation assistance to displaced persons and business concerns
9. The demolition or removal of certain buildings and improvements
10. Providing for participation by owners presently located in the Project Area and the extension of preferences to business occupants desiring to remain or re-enter into business within the redeveloped Amended Project Area
11. The installation, construction, or reconstruction of streets, utilities, and other public improvements
12. The disposition of property for uses in accordance with the Plan
13. The redevelopment of land by private enterprise or public agencies for use in accordance with the Plan
14. The rehabilitation of structures and improvements by present owners, their successors, and the Agency
15. Providing for the retention of controls and the establishment of restrictions or covenants running with the land so that property will continue to be used in accordance with the Plan

AUTHORIZED PUBLIC INFRASTRUCTURE PROJECTS

The following public improvements projects may be provided in the Amended Project Area:

1) Traffic/Circulation
   a) The construction, reconstruction, widening or other improvement of streets and roadways within or serving the Project Area;
   b) The installation or modernization of traffic signals on streets and roadways within or serving the Project Area;
   c) The realignment or removal of railroad tracks within or serving the Project Area;
   d) The construction, reconstruction or other improvement of curbs, gutters and sidewalks along or adjacent to streets and roadways within or serving the Project Area; and

e) The installation, construction, reconstruction or other improvement of bridges, over or underpasses, and street medians, as well as bicycle paths, bus shelters and other improvements that facilitate multi-modal public transportation.

2) Water, Sewer and Flood Control
The installation, construction, reconstruction or other improvement of water, sewer and storm drainage systems and lines (collection, treatment, and/or delivery) within or serving the Project Area, including the acquisition of new water sources.

3) Parking
The installation, construction, reconstruction or other improvement of both on-street and surface parking spaces and lots, as well as structured parking facilities, within or serving the Project Area.

4) Streetscape and Street Lighting
The installation of new, or repair or replacement of existing, landscaping and irrigation, street lighting, gateways and other signage, street furniture, trash receptacles, planters, murals and other amenities within or serving the Project Area.

5) Utilities
The installation of new, or repair or replacement of existing, electrical distribution systems, natural gas distribution systems, and cable television and fiber optic communication systems; where feasible, said utilities shall be placed underground.

6) Parks, Open Spaces and Community Facilities
The installation, construction, reconstruction or other improvement of parks, open spaces including trails, school facilities, fire and police facilities, libraries, community centers including cultural centers, teen centers, community centers and senior centers.

Other Redevelopment Activities

The above summary of proposed projects and public improvements may not be complete in that other projects may be proposed by the Agency to eliminate blighting conditions, facilitate rehabilitation and development, or to otherwise carry out the Agency's purposes in the Amended Project Area. In addition, the Agency will continue to have various administration and operational requirements associated with carrying out the above programs and activities. These will include program staff, planning and other studies, and securing legal and other technical assistance.

PROJECT SETTING – CONDITIONS OF BLIGHT

Existing Project Area

Land uses within the Existing Project Area are predominantly commercial and industrial, and include such uses as retail establishments, automobile services, building materials and storage yards and facilities, and research and development/industrial uses. The Existing Project Area also contains scattered single- and multi-family residential and public uses. Blighting conditions still present in the Amendment Areas include factors hindering the economic viability of buildings and lots.

Two Specific Plans have been adopted within Project Area No. 1, the Transit Area Specific Plan in the southern portion of the Project Area, and the Midtown Specific Plan roughly north of Great Mall Parkway between the rail line and Interstate 880. No change to existing redevelopment powers and activities within those Specific Plan areas is proposed. While land uses in most of the City are stable, the Specific Plan areas are in transition from trucking and industrial areas to mixed use areas, including offices, high-tech industry, high-

density housing, and retail uses. These Specific Plans, adopted in 2002 and 2008, respectively, promote the construction of high-density housing on former commercial and industrial sites near light rail stations and a future BART station.

Proposed Added Area

The Added Area consists of approximately 600 acres, two small portions of which are residential. The Adams area is a small 13-acre residential area near the intersection of East Calaveras Boulevard and Temple Drive. The Selwyn/Shirley area is a 47-acre residential area with limited commercial generally along Interstate 680 between Calaveras Boulevard and Yosemite Drive. There are eight commercial properties in the Selwyn/Shirley area, with the balance of the area as residential land uses.

Both residential areas are primarily developed with multi-family rental units built in the mid-1950s to the mid-1960s. As identified by the City's Building Department, most of the residential buildings are two-story apartments with detached carports that are approximately 45 years old and suffering from extensive code violations. For some time, the two residential areas have been the focus of City code enforcement for numerous and persistent code violations, proactive planning and police enforcement.

In total, there are 113 parcels in the residential areas, of which 82 are under separate ownership. Of the 113 parcels, 84 were cited for code violations between 2002 and 2009. On a per square foot basis the residential properties in these areas are assessed below the Citywide average for similar density multiple-family properties. Between 2004 and 2008, the value of property sales and land values in the areas were lower than citywide averages for similar density multiple-family sales.

The apartment complexes suffer from serious residential overcrowding that has resulted in significant public health and safety problems. Based on U.S. Census data for the blocks that encompass the residential areas, over half of residents in the Selwyn area and over a third of residents in the Adams area live in overcrowded conditions compared to 22% Citywide. These areas also suffer from a high crime rate that constitutes a serious threat to the public safety and welfare, including gang activity and graffiti problems. During the five-year period, there was an average of three crimes per property in Adams area, six crimes per property in the Selwyn/Shirley area, compared to 0.8 crimes per property Citywide. Although Adams has less than 1% of the population of the City, it has 6% of the gang related crimes. In the Selwyn/Shirley area, the proportion of gang related crimes was even higher at 10% compared to 6% of the population of the City.

There are also several public/quasi public uses located along Interstate 880 included in the Added Area. These parcels have been included because they are integral to the effective planning of the Selwyn/Shirley area and the potential redevelopment of these parcels is limited by their narrow width (ranging from approximately 170 feet at the widest point to almost zero feet), which is evidenced from their transition from their designed use as light industrial buildings to churches and a school.

The Town Center area consists of 436 acres of industrial/warehouse uses in the Town Center Business Park. This area is located east of Great Mall Drive, south of Calaveras Boulevard, west of Interstate 680, and north of Montague Expressway. Although the Town Center area is notable for its research and development uses, there are a significant number of manufacturing and warehousing uses in this area. The City has been concerned about the growing number of vacancies in the Town Center area. There is some perception that the increased vacancies are due in part to the aging industrial building stock, which has become obsolete for contemporary users. As noted in the Redevelopment Feasibility

Analysis, approximately one third of the Town Center area is developed with obsolete industrial buildings. The industrial vacancy rate is about a third higher than in the North San Jose Market Area (market area), and vacant industrial properties in the Town Center area are on the market for almost twice as long. Industrial property sales data found that the industrial space sold for significantly less in the Town Center area than comparable properties Citywide during the same period.

Relationship to the City of Milpitas General Plan (General Plan)

Redevelopment actions rely on the City's approved land use policies. Not only must redevelopment actions be consistent with the City's General Plan, community plans, and applicable specific plans at the time of their adoption, but the Redevelopment Plan expressly provides for ongoing consistency with the City's General Plan and related plans. Land uses permitted in the Amended Project Area are existing allowable uses under the City's General Plan as it may be amended from time to time. Because land use policies change, sometimes frequently, this ensures that the Redevelopment Plan will continue to be consistent with the General Plan and applicable community and specific plans over the life of the Redevelopment Plan. The redevelopment actions are principally intended to eliminate blighting conditions, and stimulate and promote new development and redevelopment consistent with the uses permitted by the City's adopted land use policies, as amended from time-to-time. The growth-inducing (urban intensification) effects of the Redevelopment Plan and subsequent amendments have been, and will continue to be dictated by the City of Milpitas General Plan and associated zoning controls.

SECTION IV – INITIAL STUDY CHECKLIST AND DISCUSSION

The initial study checklist recommended by the CEQA Guidelines is used to determine potential impacts of the proposed project on the physical environment. The checklist provides a list of questions concerning a comprehensive array of environmental issue areas potentially affected by the project. Explanations to answers are provided in a discussion for each section of questions, as follows:

1. A brief explanation is required for all answers except *No Impact* answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A *No Impact* answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A *No Impact* answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project level, indirect as well as direct, and construction as well as operational impacts.
3. *Potentially Significant Impact* is appropriate if there is substantial evidence that an effect is significant. If there are one or more *Potentially Significant Impact* entries when the determination is made, an EIR is required.
4. *Less Than Significant with Mitigation* applies where the incorporation of mitigation measures has reduced an effect from *Potentially Significant Impact* to a *Less than Significant Impact.* The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less-than-significant level.
5. *Less than Significant Impact* applies where the impact does not require mitigation or result in a substantial or potentially substantial change of any of the physical conditions within the area affected by the project.
6. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D).
7. Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

1. AESTHETICS

Would the project:

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista?				X
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the site and its surroundings?				X
d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?			X	

DISCUSSION OF CHECKLIST ANSWERS

a,b,c) The Amended Project Area is a highly urbanized environment generally located between two interstate freeways, with a relatively dense mix of residential, commercial and industrial land uses. The area is located on the valley floor with no distinguishing scenic features or resources.

A primary goal of the Amendments is to eliminate existing blighting conditions within the Added Area as well to extend the Agency's ability to eliminate blight in the Amendment Areas. Consequently, implementation of the Amendments is expected to have a demonstrable positive aesthetic effect on the Amended Project Area.

New development engendered by redevelopment activities in the Amended Project Area will not result in the obstruction of any identified scenic vistas or other views. Scenic Resources are defined in the General Plan as both natural and man-made, and are specified as scenic connectors and corridors. Figure 4-6 of the General Plan (page 4-25) identifies hillsides, ridges, visually significant vegetation, and other elements that are critical in shaping the City's scenic identity. With the exception of a small portion of the major visual gateway at the western City boundary at Calaveras Boulevard, there are no Scenic Corridors, major entryways, or other resources within the Amended Project Area.

Calaveras Boulevard and Interstate 680 are identified as Scenic Connectors. A Scenic Connector may not necessarily traverse an area of scenic value, and the abutting land is not subject to the Scenic Corridor land use controls. However, special design treatment — which may include roadside landscaping,

undergrounding of utility lines, and street furnishings — will be carried out to provide a visual continuity with the Scenic Corridors.

Redevelopment activities would remove barriers to new development throughout the Amended Project Area, which would meet current codes and green building requirements, and in turn could contribute to an improved positive visual image for the Amended Project Area, as well as the City as a whole. Implementation of the City's normal development and architectural review processes will reduce or eliminate any potential for adverse visual impacts. The Amendments further provide for public facility enhancements, landscaping and streetscape improvements that could assist in implementing General Plan Open Space and Conservation Goals and implementation measures to enhance the visual impact of the gateways to Milpitas (4.g-G-3) and ensure landscaping enhances the City's scenic resources (4.g-I-7). Therefore, the proposed Amendments would have no effect on scenic resources and the visual character of the Amended Project Area.

d) Future development engendered by redevelopment activities may produce new sources of light and glare that would come from parking lot and building lighting. Accepted planning polices can reduce potential impacts to an acceptable level. Consequently, no significant adverse impacts from the Amendments relative to the above-defined aesthetics factors are expected to occur. Therefore, the proposed Amendments would have a less-than-significant effect on light and glare.

FINDINGS

Impacts associated with aesthetics, light, and glare are less than significant. No further analysis is required.

2. AGRICULTURE RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?				X

DISCUSSION OF CHECKLIST ANSWERS

a-c) The Amendment Areas and the Added Area are urbanized lands within the City boundaries, zoned for urban uses. Agricultural zoning or resources are not located within the Amended Project Area.

The proposed Amendments would not convert prime agricultural land to non-agricultural use, would not conflict with agricultural zoning or a Williamson Act contract, or involve any other changes resulting in a conversion of Farmland. Therefore, the proposed Amendments would have no effect on agricultural resources.

FINDINGS

Impacts associated with agricultural resources are less than significant. No further analysis is required.

3. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?	X			
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	X			
c) Result in a cumulatively considerable net increase of any criteria for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	X			
d) Expose sensitive receptors to substantial pollutant concentrations?	X			
e) Create objectionable odors affecting a substantial number of people?			X	

DISCUSSION OF CHECKLIST ANSWERS

a-d) The City is located within the Bay Area Air Quality Management District (BAAQMD), within the Santa Clara Valley Air Basin sub-region. The BAAQMD is the public agency entrusted with regulating stationary sources of air pollution in the nine counties that surround San Francisco Bay: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, southwestern Solano, and southern Sonoma counties.

Air quality is a function of both local climate and local sources of air pollution, and is the balance of the natural dispersal capacity of the atmosphere and emissions of air pollutants from human uses of the environment. The northwest-southeast oriented Santa Clara Valley is bounded by the Santa Cruz Mountains to the west, the Diablo Range to the east, the San Francisco Bay to the north, and the convergence of the Gabilan and Diablo ranges to the south. This creates conditions that limit the natural dispersal capacity of the atmosphere; in combination with human activities, the air pollution potential of the Santa Clara Valley is high. The valley has a large population and the largest complex of mobile sources in the Bay Area making it a major source of carbon monoxide (CO), particulate and photochemical air pollution. In addition, photochemical precursors from San Francisco, San Mateo, and Alameda

counties can be carried along by the prevailing winds to the Santa Clara Valley making it a major ozone (O_3) receptor. Geographically, the valley tends to channel pollutants to the southeast with its northwest/southeast orientation, and concentrate pollutants by its narrowing to the southeast.

The Bay Area is currently designated non-attainment for State and national (1 hour and 8 hour) O_3 standards and for the State PM_{10} and $PM_{2.5}$ standards. The Bay Area is in attainment or unclassified with respect to the other ambient air quality standards.

In the Bay Area, as in the entire state of California, a certain amount of air pollution comes from stationary industrial sources, such as refineries and power plants. But a greater percentage of harmful air emissions come from cars, trucks, construction equipment, and other mobile sources. California has more cars per household (1.8) than any other state, along with an expanding population. In addition, Interstates 680 and 880 both traverse the Amended Project Area. These freeways are potential sources of toxic air contaminants (TACS) for sensitive receptors within 500 feet.

The Amendments would assist the City in eliminating barriers to development within the Added Area and Amendment Areas, encouraging development to proceed up to the General Plan and zoning densities. ***Redevelopment activities may result in a significant impact on air quality, and this issue will be discussed in the EIR.***

e) Development encouraged by redevelopment activities could remove barriers to additional industrial uses within the Added Area and Amendment Areas. The industrial areas contain light industry and commercial warehouse, and future uses in vacant or recycled properties are anticipated to be high technology, research and development, and offices consistent with the General Plan. Such uses are not associated with objectionable odors found with heavy industrial uses. In addition, the industrial areas are separated from residential uses by roadways and intervening commercial uses. Therefore, objectionable odor impacts are less than significant and will not be further discussed.

FINDINGS

Redevelopment activities and redevelopment engendered development could result in potentially significant air quality impacts. These issues will be discussed in the EIR. The Amendments are not expected to result in development that may create objectionable odors; therefore, this issue is a less-than-significant impact and no further discussion of these issues is required.

4. BIOLOGICAL RESOURCES

Would the project:

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			X	
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			X	
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?			X	
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			X	
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			X	
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?			X	

DISCUSSION OF CHECKLIST ANSWERS

a-f) The proposed Added Area and Amendment Areas are located in a part of the City that consists of densely developed residential, commercial, industrial, and public uses. While there are scattered small remaining areas supporting vestiges of the pre-development native vegetation within drainages and in other isolated vacant properties, the area is urbanized and does not support protected species. The habitat consists of heavily disturbed, densely developed Urban Land Habitat. Urban habitat exists within developed areas where pre-development vegetation has been removed and new species of plants have been introduced intentionally (ornamental species) or inadvertently (weeds).

A system of drainage channels throughout the Amended Project Area follows creeks in the Coyote Watershed. While the beds of these creeks may be considered jurisdictional wetlands by the U.S. Army Corps of Engineers (USACE), all creeks have been altered from their historical state with many segments being directed underground and/or re-routed to accommodate development. As a result, the drainages lack high-quality riparian habitat and have minimal native vegetation; this vegetation is regularly disturbed for creek maintenance. There are no currently proposed redevelopment activities that would affect the creek beds. In addition, the City requires development setbacks from the creeks to be a minimum of 25 feet from top of the bank or from a maintenance road if one exists for the creation of a public trail, in addition to required side or rear yard setbacks. Therefore, future redevelopment activities would have a less-than-significant effect on creek habitat values.

According to the General Plan, the alkali milk-vetch (Astragalus tener vartener) – listed as Rare by the California Native Plant Society (CNPS) – is found in valley and foothill grassland, and vernal pools, and its range includes the Amended Project Area. The CNPS notes this species as being endangered in a portion of its range, endemic to California and that its "occurrence [is] limited to one or a few highly restricted populations or present in such small numbers that it is seldom reported." The alkali milk-vetch was recorded in southern Milpitas in the region bounded by Calaveras Boulevard to the north, Dempsey Road to the east, Capitol Avenue to the South, and Interstate 880 in the west. However, this plant is presumed extant according to CNDDB, and the last siting was in 1905. Therefore, the potential for future redevelopment activities to result in disturbing this plant is considered less than significant.

The burrowing owl is a California Species of Special Concern and protected under California Fish and Game Code Section 3503.5, as well as guiding principles 4.b-G-2 of the Milpitas General Plan. Development of ruderal or barren vacant lots within the Amended Project Area or disturbance to adjacent suitable habitat could result in the direct loss of burrowing owls or active nests. However, there is a low probability of finding this species in the Added Area or Amendment Areas due to the density of urban development. Implementation of existing General Plan policies 4.b-I-4 and 4.b-I-5 require a biological assessment and mitigation of any project site where sensitive species are present, or where habitats that support known sensitive species are present. Therefore, existing planning reviews and site specific environmental analysis requirements for future development in the Amended Project

Area would be sufficient to reduce potential impacts to burrowing owls to less-than-significant levels.

Street and Heritage trees are located throughout the Amended Project Area. These trees are protected under the City's Municipal Code, X-2-1.01, Tree Maintenance and Protection Ordinance of the City of Milpitas. Existing City regulations are sufficient to ensure redevelopment activities would have a less-than-significant impact related to protected species and trees within the Amended Project Area.

FINDINGS

Impacts on biological resources as a result of redevelopment activities are less than significant. No further analysis is required.

5. CULTURAL RESOURCES

Would the project:

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historic resource as defined in Section 15064.5?	X			
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	X			
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	X			
d) Disturb any human remains, including those interred outside of formal cemeteries?	X			

DISCUSSION OF CHECKLIST ANSWERS

a-d) The City of Milpitas is located in Santa Clara County (County). The County was one of the original counties of California, formed in 1850 at the time of statehood.

The Milpitas area was likely settled by Native Americans between 12,000 and 6,000 years ago. Milpitas is within the ethnographic territory of the Alson tribe of Ohlone, who occupied the area near the mouth of Coyote Creek. Some of the Ohlone lived in various villages within what is now modern-day Milpitas, including sites underneath what are now the Calvary Assembly of God Church and Higuera Adobe Park. Previous Northwest Information Center (NWIC) surveys within the City have determined there is a moderate to high likelihood that unrecorded Native American cultural resources exist in the Amended Project Area.

During the Spanish expeditions of the late 1700s, several missions were founded in the San Francisco Bay Area. During the mission period, Milpitas served as a crossroads between Mission San José de Guadalupe in modern-day Fremont and Mission Santa Clara de Asis, in present Santa Clara. In the 1850s, large numbers of Americans of English, German, and Irish descent farmed the land and set up many businesses on a section of what was then called Mission Road, which by the late 20th century became known as the "Midtown" district. And for over a century, Milpitas served as a popular rest stop for travelers on the old Oakland–San Jose Highway. The City's Historic Sites Inventory identifies historic resources that may be eligible for the California Register of Historic Resources, or could be eligible in the future.

The proposed Added Area and Amendment Areas contain a moderate to high likelihood of unrecorded paleontological, archaeological, and historic resources – which could be affected by redevelopment activities and development engendered

by redevelopment. ***The potential impact of the Amendment on cultural resources will be discussed in the EIR.***

FINDINGS

Redevelopment activities and redevelopment engendered development could result in potentially significant cultural resources impacts. These issues will be discussed in the EIR.

6. GEOLOGY AND SOILS

Would the project:

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)			X	
ii) Strong seismic ground shaking?			X	
iii) Seismic-related ground failure, including liquefaction?			X	
iv) Landslides?			X	
b) Result in substantial soil erosion or the loss of topsoil?			X	
c) Be located in a geological unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X	
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?			X	
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?				X

DISCUSSION OF CHECKLIST ANSWERS

a,c) The proposed Added Area and Amendment Areas are located on the relatively flat, urbanized Valley Floor, which is underlain by alluvial soil of Quaternary age. This soil consists of interlayered, poorly sorted gravel, sand, silt, and clay deposited by water. The thickness of the alluvial soil increases westward from zero at the base of the hills to 1,000 feet or more at the western edge of the City where the Amended Project Area is located.

The alluvial soil in Milpitas was deposited in and adjacent to stream channels, in low-lying basins between streams, and on the floor of the Bay when the shoreline was east of its present position. The composition and consistency of alluvial soils varies laterally and vertically over small distances and depths.

Most of the alluvial soil in Milpitas is expansive and susceptible to liquefaction, and alluvial areas along creeks may be susceptible to lateral spreading. Local areas have compressible soils, poorly drained soils, shallow ground water, or are susceptible to lateral spreading. Because soil composition varies vertically as well as laterally, several soil types may underlie a particular site.

Seismic hazards refer to earthquake-induced ground rupture, ground shaking, liquefaction, or water movement. Earthquakes occur along fault lines buried beneath the surface of the ground. The Hayward fault trends northwestward through the western portion of the Milpitas foothills. The Calaveras fault trends northwestward through Calaveras Reservoir, approximately 1-1/2 miles northeast of the eastern edge of the City. The San Andreas fault trends northwestward through the Santa Cruz Mountains approximately 13 miles southwest of Milpitas. Although none of these faults lies within the Amended Project Area, all of these faults are active and have produced damaging earthquakes in the historic past. Other active and potentially active faults are present in the Bay Area and may produce earthquakes of significance to Milpitas.

No portions of the proposed Added Area and Amendment Areas are located within the Alquist-Priolo Special Studies Zone in the eastern part of the City. However, large earthquakes on the Hayward, Calaveras, and San Andreas faults could produce ground shaking sufficient to cause extensive damage in Milpitas. Large earthquakes on other faults may also produce significant ground shaking in the City.

Another earthquake-induced hazard, liquefaction, occurs when a water-saturated, cohesionless soil loses its strength and liquefies during intense and prolonged ground shaking. Areas which have the greatest potential for liquefaction are those areas where the water table is less than 50 feet below ground surface (bgs) and soils are predominantly clean, comprised of relatively uniform sands, and are of loose to medium density. The poorly consolidated younger alluvium which occupies the creek valleys is considered to have moderate to high potential for liquefaction. Seismic Hazard Zone maps prepared by the California Department of Conservation (CDC), Division of Mines and Geology, for the USGS Milpitas 7.5 minute quadrangle indicate the Amended Project Area is located within a seismic hazard zone for liquefaction. In accordance with the Seismic Hazard Mapping Act (SHMA), a site-specific geotechnical investigation must be conducted for sites within a designated seismic hazard zone prior to development (CDC, 2004).

By law, all redevelopment facilitated construction would be required to comply with current applicable building codes and engineering standards of the City, as well as the SHMA. General Plan Policy 5.a-I-30 requires projects to comply with the guidelines prescribed in the City's Geotechnical Hazards Evaluation manual. The City may require preparation of individual geotechnical reports to assess the nature and severity of on-site geotechnical hazards (if any), and recommend appropriate engineering and construction features to reduce such hazards to less-than-significant levels. The City's existing building permit process contains ample requirements to mitigate potential impacts associated with geology and soils to less-than-significant levels.

The Amendments will be consistent with the General Plan, any Specific Plans, and existing City policies, and therefore would not increase the number of people exposed to seismic hazards beyond those levels anticipated in the General Plan. In addition, redevelopment activities would result in a reduction of hazard exposure by rehabilitating and replacing older structures with buildings designed to meet current seismic codes. Therefore, the potential of the Amendments to cause adverse impacts relative to the above-defined geology and soils factors is considered less than significant.

b,d) Other non-seismically induced hazards in the City include landslides, expansive soils, and erosion. Expansive soils and highly erodible soils are rather commonplace development constraints in California, standard engineering practices are sufficient to ensure the structural integrity and safety of new buildings. The proposed Added Area and Amendment Areas are on the valley floor, and are not subject to landslides. As required by the City of Milpitas Municipal Code (Municipal Code), building permit applications must be accompanied by a preliminary soils report. The report must address site soil conditions, including expansive soils, settlement, and erosion, and provide recommendations to offset potential soils problems. New development is also required to comply with National Pollutant Discharge Elimination System (NPDES) General Construction Permit requirements. Project applicants would be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) to minimize the discharge of pollutants, including silt and sediment, during construction. The SWPPP would need to include measures to control erosion and effectively manage runoff and retain sediment on-site during construction. Existing City grading and construction regulations are sufficient to ensure redevelopment activities would have a less-than-significant impact related to expansive soils and erosion within the proposed Added Area and Amendment Areas.

e) The proposed Added Area and Amendment Areas include existing developed lands that are already connected to city services for wastewater and stormwater. The Amendments would have no impact on septic systems or other alternative wastewater disposal systems.

FINDINGS

Impacts associated with geology and soils are less than significant. No further analysis is required.

7. GREENHOUSE GAS EMISSIONS

Would the project:

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	X			
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?	X			

DISCUSSION OF CHECKLIST ANSWERS

a,b) Global climate change resulting from greenhouse gas (GHG) emissions is an emerging environmental concern being raised and discussed at the international, national, and statewide level. At each level, agencies are considering strategies to control emissions of gases that contribute to global warming. Assembly Bill (AB) 32 – The California Global Warming Solutions Act of 2006 requires achievement by 2020 of a statewide GHG emissions limit equivalent to 1990 emissions, and the adoption of rules and regulations to achieve the maximum technologically feasible and cost-effective GHG emissions reductions. Currently there is no established guidance, from the state or in published CEQA case law, for the determination of what constitutes a significant global climate change impact or what measures are necessary to off-set new GHG emissions. At the direction of the Governor's Office of Planning and Research, the California Air Resources Board (CARB) is currently developing statewide interim thresholds of significance for GHG emissions. CARB is focusing on common project types that, collectively, are responsible for substantial green house gas emissions – specifically industrial, residential, and commercial projects.

Milpitas is a member of the Joint Venture Silicon Valley Climate Protection Task Force (Task Force), which is a regional body working to reduce GHG emissions. The Task Force will establish a baseline for future monitoring and reduction requirements, and will enable network cities to work with International Council for Local Environmental Initiatives (ICLEI) Cities for Climate Protection (CCP) Campaign at a reduced rate. Policies that Milpitas is considering are hybrid and alternatively-fueled vehicles, recycled building materials to be used in future building projects, and using natural light and ventilation, and timers or sensors placed on interior lights. In addition, the City's Building and Safety Department is working towards creating a Green Building compliance ordinance by the end of August 2009, in anticipation of the mandatory state-wide Green Building Code to be adopted by 2011. Title II of the Municipal Code Building Regulations has been amended to include a new Chapter

20, Green Building Regulations intended to increase energy efficiency, encourage water and resource conservation, reduce waste generated by construction projects; and promote the health of residents, workers, and visitors to the City.

The proposed Amendments could remove barriers to development consistent with the General Plan. ***The potential impact of the Amendments on GHG emissions will be discussed in the EIR.***

FINDINGS

Redevelopment activities and redevelopment engendered development could result in an increase in GHG emissions. This issue will be discussed in the EIR.

8. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	X			
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	X			
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	X			
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	X			
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the Project Area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing in the Project Area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
h) Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X

DISCUSSION OF CHECKLIST ANSWERS

a-d) The City is a small, primarily residential community with an aging housing stock, and older commercial and industrial properties concentrated in the proposed Added Area and Amendment Areas. These areas lie roughly between Interstates 880 and 680, which are freeways used for the transport of hazardous substances and present the risk of accidents within the Amended Project Area.

The proposed Added Area and Amendment Areas contain older structures that could contain asbestos-containing material (ACM) and lead based paint. These older structures are more susceptible to deterioration due to aging, weathering, and a lack of current building standards and codes, which increases the risk of the release of asbestos or lead. Rehabilitation or demolition can also release ACM and/or lead based paint into the environment.

In addition, the recycling and reuse of commercial and industrial properties could expose construction workers and subsequent site users to contaminated soil and/or groundwater that may be present due to current or past operations on the site. ***The potential impact of the Amendments on hazards and hazardous materials will be discussed in the EIR.***

e,f) The Amended Project Area is not located within the safety hazard areas of any private or public airports. Therefore, the proposed Amendments would have no impact on airport safety.

g) Future development in the proposed Added Area and Amendment Areas and/or redevelopment activities would not interfere with either an adopted emergency response plan or an emergency evacuation plan. No routes used for emergency access and response would be adversely affected by anticipated redevelopment activities such as rehabilitation, public infrastructure improvements, and economic development. Development engendered by redevelopment activities would be consistent with the City General Plan and Municipal Code, which are consistent with the Local Hazard Mitigation Plan Annex for the City of Milpitas. Therefore, the potential of the Project to cause adverse impacts relative to emergency response or emergency evacuation plans is considered less than significant.

h) The proposed Added Area and Amendment Areas are urbanized and located on the valley floor. The Amendments would not create an increased fire hazard in areas

with flammable brush, grass, or trees. The Amendments would provide property owners with assistance in upgrading properties to current code and fire safety requirements. Therefore, the potential of the Amendments to cause adverse impacts relative to fire hazards is considered less than significant.

FINDINGS

Redevelopment activities and redevelopment engendered development could result in potentially significant hazards and hazardous materials impacts. These issues will be discussed in the EIR. The proposed Amendments would result in a less-than-significant impact to development within airport hazard areas, wildland hazard areas, or development that would interfere with emergency response or evacuation; therefore, no further discussion of these issues is required.

9. HYDROLOGY AND WATER QUALITY

Would the project:

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?			X	
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?			X	
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?			X	
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?			X	
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted water?			X	
f) Otherwise substantially degrade water quality?			X	
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?			X	

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?			X	
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?			X	
j) Inundation by seiche, tsunami, or mudflow?				X

DISCUSSION OF CHECKLIST ANSWERS

a,c-f) There are several streams that flow through the proposed Added Area and Amendment Areas, including:

- Berryessa Creek
- Calera Creek
- Coyote Creek *(adjacent)*
- Los Coches Creek
- Lower Penitencia Creek
- Piedmont Creek
- Tularcitos Creek
- Wrigley Ford Creek

Storm drains pipe runoff from urban neighborhoods directly into the creeks. All creeks within the Added Area and Amendment Areas have been channelized, and there are no groundwater recharge areas within the Amended Project Area. Redevelopment activities would not involve any streambed alterations or alter the existing drainage pattern of the Added Area and Amendment Areas, which are served by a municipal stormwater drainage system. Construction runoff is regulated by NPDES General Construction Permit requirements, and future development would be required to prepare a SWPPP to minimize the discharge of pollutants, including silt and sediment, during construction. The SWPPP would need to include measures to control erosion and effectively manage runoff and retain sediment on-site during construction.

Regulations require many development projects to treat stormwater runoff before it may be discharged to creeks or City storm drains. Existing City regulations mandate the appropriate design of stormwater systems. The City's Stormwater C.3 Guidebook (3rd Edition – October 6, 2005) provides guidance for implementing stormwater treatment requirements for all projects involving 10,000 square feet or more. Existing City grading and construction regulations are sufficient to ensure redevelopment activities would have a less-than-significant impact related to drainage, water quality, and groundwater within the proposed Added Area and Amendment Areas.

b) Most of the Amended Project Area west of Interstate 680 has a high water table, with an area south of CA-237 and on both sides of I-880 as high as 10 feet bgs. The City's policy is to use groundwater during emergencies only, supplied from two emergency wells. Water from these emergency wells is not included as a routine existing or planned source of water available to the City. Development engendered by the Amendments would be consistent with the General Plan and the Urban Water Management Plan, and would not substantially deplete groundwater supplies. The proposed Amendments would have a less-than-significant impact on groundwater supplies and recharge.

g-i) The City, including the Amended Project Area, is located within the East Zone of the Flood Control Benefit Assessment District. The Santa Clara Valley Water District (SCVWD) is responsible for maintenance and measures for flood protection within the Assessment District. Flooding within the proposed Added Area and Amendment Areas is highly dependent on conditions in the drainage areas upstream, and to a lesser extent the condition of the creeks. The current condition and design of the creeks flowing into the proposed Added Area and Amendment Areas are not sufficient in preventing the 100-year flood, and will require improvements to remove the area completely from the Federal Emergency Management Agency (FEMA)-designated flood zones.

Because the proposed Added Area and Amendment Areas are within the lower floodplain areas of local watersheds, they are subject to flood hazards. Most of the Added Area and Amendment Areas are indicated by FEMA as being within the 500-year floodplain, with several areas included within flood zones A, AO, and AH of the 100-year floodplain. Zone A only occurs along the creek beds. The 100-year flood is the largest event likely to occur once every 100 years; that is, the event with a 1% chance of flood occurrence in any given year. These flood zones are low-lying areas that are subject to ponding during the 100-year event, and are defined by FEMA as follows:

- Zone A: Areas subject to inundation by the 1%-annual chance (100-year) flood event generally determined using approximate methodologies. Because detailed hydraulic analyses have not been performed, no Base Flood Elevations (BFEs) or flood depths are shown.
- Zone AO: Areas subject to inundation by 1%-annual-chance (100-year) shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown in this zone. Some Zone AO has been designated in areas with high flood velocities such as alluvial fans and washes. Communities are encouraged to adopt more restrictive requirements for these areas.
- Zone AH: Areas subject to inundation by 1%-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. BFEs derived from detailed hydraulic analyses are shown in this zone. Mandatory flood insurance purchase requirements and floodplain management standards apply.

The City's location within a FEMA-designated floodplain means that area-wide planning is required, and special construction methods must be applied to development within much of the Amended Project Area. Regional flooding mitigation

is handled by the SCVWD and USACE for creeks improvements. However, localized flooding mitigations will need to be handled by individual developers, as development occurs for necessary on-site and off-site improvements.

The Municipal Code contains provisions pertaining to developments constructed within the 100-year flood zone. The provisions are designed to reduce future losses associated with flooding events and to comply with regulations stipulated by FEMA and the National Flood Insurance Program (NFIP). Applications for a development permit shall be made on forms furnished by the City's Floodplain Administrator and may include, but are not limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

a) Proposed elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures in Zone AO, elevation of highest adjacent grade and proposed elevation of lowest floor of all structures; or
b) Proposed elevation in relation to mean sea level to which any structure will be flood proofed, if required in Section XI-15-5.1(c)(3); and
c) All appropriate certifications listed in Section XI-15-4.3(d); and
d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 209.3(A) (part), 5/4/93)

The permit application is reviewed by the City Manager who is appointed as the Floodplain Administrator to enforce Section XI-15 of the Municipal Code. The administrator will determine whether all requirements stated in the Section XI-15 have been satisfied and either grant or deny the permits.

The areas of special flood hazards are subject to a number of standards as specified in the Municipal Code. All new residential construction must have the lowest floor built to at least one foot above the Base Flood Elevation, or in the case of areas within Zone AO, at least one foot above the depth number listed on the Flood Insurance Rate Map (FIRM), or three feet above the highest adjacent grade if no depth number is shown. For non-residential construction, the lowest floor elevation can be at Base Flood Elevation, but the structure needs to be floodproofed and designed for buoyancy.

All new construction (residential and non-residential) with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Within Zone AH or AO, improvements shall be constructed so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures. Further details of these provisions can be found in the following sections of the Municipal Code:

a) Standards of Construction (Section XI-15-5.1) – specify requirements for anchoring, construction materials and methods, and elevation and flood-proofing

b) Standards for Utilities (Section XI-15-5.2) – specify requirements for new and replacement water supply and sanitary sewage systems, and on-site waste disposal systems

c) Standards for Subdivisions (Section XI-15-5.3)

d) Floodways (Section XI-15-5.6) – specify requirements and constraints for encroachments, and other flood hazard reduction provisions.

In addition, while regional flooding mitigation will be handled by the SCVWD and the USACE for creeks improvements, localized flooding mitigations will be handled by individual developers in accordance with a developer-funded and City-approved Storm Drainage Plan for each sub-district.

Full compliance with the Municipal Code and the City's development standards would reduce increased exposure to flooding as a result of redevelopment to less-than-significant levels.

j) The Amended Project Area is sufficiently elevated and distant from San Francisco Bay to avoid any hazard of tsunami or seiche run-up inundation. Development under future plans would not expose people or structures to inundation by seiche, tsunami, or mudflow. For these reasons, there are no impacts related to seiche, tsunami, and mudflow.

FINDINGS

Impacts associated with hydrology and water quality are less than significant. No further analysis is required.

10. LAND USE AND PLANNING

Would the project:

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Physically divide an established community?				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X

DISCUSSION OF CHECKLIST ANSWERS

The discussion of land use and planning effects are treated differently from technical environmental issues. Any indirect physical impacts associated with development that may be encouraged by redevelopment activities are addressed in the appropriate environmental sections of this Initial Study.

a-c) The Redevelopment Plan, as amended, provides that all land uses to be permitted within the Amended Project Area must be consistent with the General Plan, as it currently exists or as it may from time to time be amended, and as implemented and applied by City ordinances, resolutions, and other laws.

Redevelopment activities will not result in a substantial alteration of the present or planned use of the Amended Project Area. On sites that are currently vacant, development in accordance with existing land use regulations will alter the undeveloped nature of that given site. Some intensification of existing land uses within the Amended Project Area may also occur, especially adjacent to areas opened up by improved circulation. Any intensification that may occur must be consistent with the adopted land use policy in place at the time of project approval.

The General Plan is a twenty-year policy guide for physical, economic, and environmental growth and renewal of the City. The General Plan is comprised of goals, policies, programs, and actions that are based on an assessment of current and future needs and available resources. The document is the City's principal tool for evaluating public and private projects and municipal service improvements.

All construction in the Amended Project Area must also comply with all applicable state and local laws in effect, as amended from time to time, including the City of

Milpitas Zoning Ordinance (Zoning Ordinance), and Specific Plans such as the Transit Area Specific Plan and Midtown Specific Plan, where applicable. The purpose of the Zoning Ordinance is to regulate the use of land, buildings, or other structures for residences, commerce, industry, and other uses required by the community. Additionally, it regulates the location, height, size of buildings or structures, yards, courts, open spaces, amount of building coverage permitted in each zone, and population density. The Zoning Ordinance also divides the City into zones of such shape, size, and number best suited to carry out these regulations, and to provide for their enforcement, and ensure the provision of adequate open space for aesthetic and environmental amenities. All proposed redevelopment activities in the proposed Added Area and Amendment Areas generally conform to the Zoning Ordinance. ***The EIR will further discuss the Amendments' consistency with General Plan and zoning land use designations and policies.***

FINDINGS

Redevelopment activities and redevelopment engendered development must be consistent with the General Plan. Consistency issues with the General Plan and other land use regulations will be discussed in the EIR.

11. MINERAL RESOURCES

Would the project:

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?				X

DISCUSSION OF CHECKLIST ANSWERS

a-b) The State Mines and Geology Board designates sand and gravel deposits that are of regional significance pursuant to the California Surface Mining and Reclamation Act of 1975. The General Plan Planning Area contains four areas identified by the State Geologist as containing Regionally Significant Construction Aggregate Resources. These areas, located in the foothills outside City limits, are part of the South San Francisco Bay Production-Consumption Region and contain sandstone deposits. Three of the sites are located west of the Ed Levin Park along Tularcitos and Loa Caches creeks, and the fourth is along Scott Creek at the County line. All of the areas are being currently quarried[1].

There are no known mineral resources within the City, and no sites zoned for mineral recovery within the Amended Project Area. The proposed Amendments would not result in the loss of availability of a known mineral resource or a locally-important mineral resource recovery site within the Amended Project Areas. Therefore, there is no impact to mineral resources.

FINDINGS

The Amendments would have no impact on mineral resources. No further discussion is required.

[1] City of Milpitas General Plan, Chapter 4: Open Space and Environmental Conservation Element.

12. NOISE

Would the project result in:

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	X			
b) Exposure of persons to or generation of excessive ground-borne vibration or ground-borne noise levels?	X			
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	X			
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	X			
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the Project Area to excessive noise levels?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the Project Area to excessive noise levels?				X

DISCUSSION OF CHECKLIST ANSWERS

a-d) Increased vehicular traffic resulting from roadway improvements and development encouraged by redevelopment activities may incrementally increase ambient noise levels on arterial streets and freeways. Construction-related noise may exceed acceptable levels and have potentially significant short-term impacts on adjacent sensitive receptors. The Amendments will remove barriers to growth in the Amended Project Area, and may result in more residents being exposed to existing noise sources such as Interstates 880 and 680. Redevelopment activities within the Amended Project Area could expose people to excessive noise levels, and could result in increases in community noise levels. ***Noise issues will be analyzed in the EIR.***

e-f) There are no public or private airfields within affecting the proposed Amended Project Area. The Norman Y. Mineta - San Jose International Airport is located approximately four miles to the southwest. Sporadic noise from aircraft can contribute to the noise environment but is not consistent or significant. Therefore, the Amendments would not expose people residing or working in the Amended Project Area to excessive noise levels.

FINDINGS

Redevelopment activities and redevelopment engendered development could result in potentially significant transportation and construction noise impacts. These issues will be discussed in the EIR. The proposed Amendments would result in a less-than-significant impact to public or private airfields; therefore, no further discussion of these issues is required.

13. POPULATION AND HOUSING

Would the project:

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			X	
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?			X	
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?			X	

Population and housing is considered a socio-economic, rather than a physical impact on the environment. CEQA does not require review of socio-economic impacts, except where a clear chain of cause and effect results in physical impacts. The City has developed policies and plans to provide for long-term population and housing needs, with documents such as the General Plan and the Housing Element. Socio-economic needs such as low-income housing are addressed by the Amendments through the use of at least 20% of all increased property taxes (tax increment) generated to provide for housing in the project vicinity.

DISCUSSION OF CHECKLIST ANSWERS

a) According to the California Department of Finance Population Estimates for 2009, the population for the City of Milpitas grew from 62,698 in 2000 to 70,817 in 2009. According to the Association of Bay Area Governments (ABAG) Projections 2007, in 2030 the projected population is projected to be 90,500 in 25,500 households. The City is a job-rich city, and prior to the current economic downturn was one of the fastest growing employment centers in the County.

Redevelopment activities and development encouraged by redevelopment has the potential to encourage localized daytime population growth in the local employment market by redeveloping and rehabilitating obsolete industrial and commercial properties to provide additional jobs that would otherwise locate elsewhere. This would occur on existing or redeveloped industrial/commercial properties within the Added Area and Amendment Areas which suffer from excessive vacancies or are undeveloped because of existing site constraints, and thus would be a replacement of lost jobs rather than a significant increase in worker population.

Residential redevelopment and intensification occurring within the Added Area and Amendment Areas would increase the permanent population of the area. Such

increases in population are expected to occur gradually over time as public improvements and redevelopment progresses, consistent with the Housing Element.

The 2009 Housing Element identifies the Midtown Specific Plan and Transit Area Specific Plan areas as providing 3,481 additional units, or over 90% of the anticipated new residential development in the City through the year 2014. As of March 2009, 681 units are under construction, another 2,310 units have been approved, and 3,283 units are in the planning process. No new residential development was anticipated in the Added Area or Amendment Areas; the Amendments would support rehabilitation and reconstruction of older housing and the elimination of overcrowding. The Amendments would therefore not induce substantial residential population growth.

There is no change in land use or zoning proposed as part of the Amendments, nor any major new infrastructure improvements/extensions. The proposed Amendments would result in a less-than-significant impact to population. The proposed project will not induce growth beyond those identified in regional and local population projections.

b,c) Providing housing for persons of low- and moderate-incomes is an objective of the Amendments, which provides assistance in the reconstruction or rehabilitation of dilapidated structures, and the construction of new housing. Some relocation of residents may be required to meet redevelopment goals, such as in areas of severely deteriorated housing which may be beyond rehabilitation. The Amendments may also provide developer incentives for the construction of new planned housing. The Agency has no eminent domain powers in the Amendment Areas and no change in eminent domain powers is proposed, thus all displacement would be as a result of willing seller actions. The Amendments provide that no persons or families of low- and moderate-income will be displaced unless and until there is a suitable housing unit available and ready for occupancy at rents comparable to those at the time of their displacement. The Amendments further provide that permanent housing facilities must be made available within three years from the time occupants are displaced.

Within 30 days of executing an agreement for acquisition and/or disposition of property that would result in the destruction or removal of dwelling units, the Agency must adopt a replacement housing plan. This plan must identify the location of such housing, a financing plan for rehabilitation, development, or construction, the number of dwelling units housing persons and families of low- or moderate-income planned for construction or rehabilitation, and a timetable for replacing the units on a one-for-one basis.

CRL under the requirements of these Amendments requires that not less than 20% of all tax increment be set aside for preserving, improving, and increasing the City's supply of low- and moderate-income housing within the Added Area and 30% within the Existing Project Area. Based on the passage of SB 527, effective January 1, 2006, CRL now limits redevelopment agencies to expending low-and moderate-income housing funds on housing for seniors according to the proportion which low-income households with at least one senior are represented in the overall low-income population.

The proposed Amendments are not anticipated to alter the location, distribution, density, or growth rate of the human population or reduce the supply of low- and moderate-income housing beyond that anticipated in the General Plan and Specific Plans. All low- and moderate-income housing stock removed due to Agency involvement will be replaced through Agency programs. In addition, the Amendments will require the Agency to spend more money on affordable housing and would increase the supply of low-and moderate-income housing as well as provide for the rehabilitation or reconstruction of the existing housing stock. Therefore, the proposed Amendments would have a less-than-significant impact on displacement and housing.

FINDINGS

Impacts associated with population and housing are less than significant. This issue will not be further discussed in the EIR.

14. PUBLIC SERVICES

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Fire protection?	X			
b) Police protection?	X			
c) Schools?	X			
d) Parks?	X			
e) Other public facilities?	X			

DISCUSSION OF CHECKLIST ANSWERS

a-e) The proposed Amendments would engender an increase in infill housing construction and economic development in the Added Area and Amendment Areas, and therefore an increase demand on existing public services facilities. ***Public service issues will be discussed in the EIR***.

FINDINGS

Redevelopment activities and redevelopment engendered development could result in potentially significant impacts resulting from a need to construct new public facilities. These issues will be discussed in the EIR.

15. RECREATION

Would the project:

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that physical deterioration of the facility would occur or be accelerated?			X	
b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?			X	

DISCUSSION OF CHECKLIST ANSWERS

a,b) The City's General Fund and other special collections provide the financial support to achieve basic park and recreational services; the level of provision of these services is not considered a physical environmental impact. Park services are considered basic social services to be provided by the City. The level of service is based in part on the economic health of the service provider, in this case, the City of Milpitas.

Parks provide a wide range of services that are affected by population increases. These services, however, are not impacted by physical environmental effects created by the proposed Amendments. Section 15382 of the CEQA Guidelines defines a significant effect on the environment as a substantial or a potentially substantial adverse change in any flora, fauna, ambient noise, and/or objects of historic or aesthetic significance. An economic or social change is not by itself considered a significant effect on the environment.

The Milpitas Parks & Recreation Services Department (Department) manages park facilities and recreation services in the Amended Project Area. The Department serves all age groups through the various programs that are offered. Youth & Teen programs include Preschool, after school care programs, Rainbow Theatre (dramatics), teen programs, a year-round swim team, summer swim lessons, summer day camps, and special interest classes (arts & crafts, cooking, dance, music, fitness and individual and team sports). Adult programs include the Sports Center (fitness center and many aerobics/fitness classes, lap swim, and adult sports programs), and various special interest classes such as dance, music and sports. The Senior Center offers drop-in and class-style activities, day trips, a lunch program, and Case Manager services. Other offerings include city-wide special events, grants for cultural art events, and volunteer services. The Community Center, Senior Center, Teen Center and multiple outdoor facilities are also available to rent, for functions up to 300 people.

The City has over 25 park locations with various amenities that include softball fields, tennis courts, basketball courts, handball courts, bocce ball courts, volleyball standards, horseshoe units, par courses, and barbecuing. Approximately half of these parks are located within the Amended Project Area.

The City has adopted a public park land ratio of 2.0 acres per 1,000 residents for the Midtown and Transit Area Specific Plans, which is being met within these portions of the Existing Project Area. As noted above, these areas are anticipated to support the majority of new housing development in the City. Outside of the Specific Plan Areas, the City's General Plan requires private development to provide 5 acres of park land per 1,000 residents as Public Parks (City of Milpitas Municipal Code, XI-1-9.06). The Added Area and Amendment Areas are subject to this policy. The Public Park land requirements must be satisfied by either dedication of land to the City for public parks and open space, or payment of an in-lieu fee (XI-10-8.07). Housing developers can provide Common Open Space and Private Open Space for the recreational purposes of residents. This non-public open space may include balconies, porches, or roof decks when properly developed for work, play, or an outdoor living area (XI-10-38.07). Private development within the Added Area and Amendment Areas must meet these open space requirements on a project-by-project basis. Therefore, development engendered by the Amendments would result in a less-than-significant deficit in new park facilities.

FINDINGS

Impacts associated with recreation are less than significant. This issue will not be further discussed in the EIR.

16. TRANSPORTATION/TRAFFIC

Would the project:

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Exceed the capacity of the existing circulation system, based on an applicable measure of effectiveness (as designated in a general plan policy, ordinance, etc.), taking into account all relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	X			
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads and highways?	X			
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d) Substantially increase hazards due to design features (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				X
e) Result in inadequate emergency access?	X			
f) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	X			

DISCUSSION OF CHECKLIST ANSWERS

a,b,e,f) Interstates 880 and 680 are freeways in the Amended Project Area. State Route 237 east of 880 is a signalized arterial being used as a regional freeway to freeway connector. The Montague Expressway is an expressway until it crosses South Park

Victoria Drive. Local streets otherwise constitute the largest part of the City's circulation system[2].

Public transit is provided by Santa Clara Valley Transportation Authority (VTA), formerly the Santa Clara County Transportation Agency. The VTA provides bus service and light rail services to the Amended Project Area.

Improvements to public infrastructure are intended to alleviate traffic congestion and improve public safety, remove costly impediments to development, and upgrade infrastructure to contemporary standards to stimulate private development. However, development engendered by redevelopment activities could result in increases in traffic congestion and construction could affect circulation. Because much of the City is built-out, the primary traffic issues in Milpitas are the feasibility of improvements and achievement of an acceptable level of service, particularly along two major commute corridors that bisect the city. Most areas along the local street system are constrained by available right-of-ways. ***The EIR will evaluate potential transportation and circulation impacts occurring as a result of the Amendments.***

c) There are no airports within four miles of the Amended Project Area and the proposed Amendments would not affect air traffic patterns. Therefore, no impact on air traffic patterns would occur as a result of the proposed Amendments.

d,e) As development occurs in the Added Area and Amendment Areas, site design and off-site improvements of specific future redevelopment projects would be subject to review by the City. All City departments, including fire and police, review site design to ensure safe and adequate access, including emergency access. The Amendments would have a less-than-significant impact on emergency access and transportation hazards.

FINDINGS

Redevelopment activities and redevelopment engendered development could result in potentially significant transportation and circulation impacts. These issues will be discussed in the EIR. The Amendments would have no effect on air traffic patterns, and a less-than-significant effect on emergency access and transportation hazards, thus these issues will not be further discussed.

[2] City of Milpitas General Plan, Circulation Element, 2002.

17. UTILITIES AND SERVICE SYSTEMS

Would the project:

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	X			
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	X			
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	X			
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	X			
e) Result in a determination by the wastewater treatment provider which serves the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	X			
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	X			
g) Comply with federal, state, and local statutes and regulations related to solid waste?	X			

DISCUSSION OF CHECKLIST ANSWERS

a-g) Redevelopment would engender new development in the Added Area and Amendment Areas, that could be subject to inadequate utilities and services, and/or result in an increased demand on utilities and services. ***Utilities and service systems issues will be discussed in the EIR.***

FINDINGS

Redevelopment activities and redevelopment engendered development could result in potentially significant utilities and services impacts. These issues will be discussed in the EIR.

18. MANDATORY FINDINGS OF SIGNIFICANCE

Does the project have:

Environmental Issue	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) The potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	X			
b) Impacts which are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects).	X			
c) Environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	X			

DISCUSSION OF CHECKLIST ANSWERS

a,b,c) The initial study identified several potentially significant impacts associated with future development in the Added Area and Amendment Areas, which could be engendered by redevelopment. ***These issues will be addressed in the EIR.***

FINDINGS

No significant impacts were identified for:

- Aesthetics
- Agriculture Resources
- Biological Resources
- Geology and Soils
- Hydrology and Water Quality
- Mineral Resources
- Population and Housing
- Recreation

Land use and planning issues will be discussed in the EIR in terms of consistency with adopted plans and policies; the Amendments do not propose a change in land uses, therefore there is no impact on land use.

Redevelopment activities and development engendered by the Amendments could result in potential impacts that will be addressed in the EIR for the following factors:

- Air Quality
- Cultural Resources
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Noise
- Public Services
- Transportation/Traffic
- Utilities and Service Systems

SECTION V - ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would potentially be affected by this project.

- [ ] Aesthetics *(page 18)*
- [ ] Agriculture Resources *(page 20)*
- [x] Air Quality *(page 21)*
- [ ] Biological Resources *(page 23)*
- [x] Cultural Resources *(page 26)*
- [ ] Geology and Soils *(page 28)*
- [x] Greenhouse Gas Emissions *(page 31)*
- [x] Hazards and Hazardous Materials *(page 33)*
- [ ] Hydrology and Water Quality *(page 36)*
- [ ] Land Use and Planning *(page 41)*
- [ ] Mineral Resources *(page 43)*
- [x] Noise *(page 44)*
- [ ] Population and Housing *(page 46)*
- [x] Public Services *(page 49)*
- [ ] Recreation *(page 50)*
- [x] Transportation/Traffic *(page 52)*
- [x] Utilities and Service Systems *(page 54)*
- [ ] None Identified

SECTION VI - DETERMINATION

On the basis of the initial evaluation:

I find that the Proposed Project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the Proposed Project could have a significant effect on the environment, there will not be a significant effect in this case because the project-specific mitigation measures described in Section III have been added to the project. A NEGATIVE DECLARATION will be prepared.

✘ I find that the Proposed Project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

09/08/2009

Signature

Date

Diana Barnhart
Economic Development Manager
City of Milpitas

Printed Name

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SECTION VII - REFERENCES

This analysis is incorporating by reference the general discussion portions of earlier environmental documents (CEQA Guidelines Section 15150(a)) and other references. These documents are available for public review online or at the City of Milpitas Public Service Counter, located on the 1st floor of City Hall, 455 East Calaveras Boulevard, Milpitas, CA, 95035. Planners are available: Monday, Wednesday, Thursday, and Friday: 8:00 am – 5:00 pm & Tuesday 10:00 am – 5:00 pm. Sign the binder to the right of the Information Desk and be sure to indicate you need planning assistance.

1. *Association of Bay Area Governments Multi-Jurisdictional Local Hazard Mitigation Plan for the Bay Area*, accessed July 31, 2009 from http://quake.abag.ca.gov/mitigation/plan.html/.
2. *Bay Area Air Quality Management District website*, accessed July 20, 2009 from http://www.baaqmd.gov/.
3. *City of Milpitas General Plan, City of Milpitas*, adopted 1994, revised March 19, 2002.
4. *City of Milpitas Municipal Code,* codified through Jul 2009, City of Milpitas, accessed August 14, 2009 from http://www.municode.com/.
5. *City of Milpitas Zoning Ordinance*, City of Milpitas, 2008-2009.
6. *City of Milpitas, California Official Website*, accessed July 20, 2009 from http://www.ci.milpitas.ca.gov/.
7. *Draft Supplemental Environmental Impact Report for the Proposed Merger of Milpitas Redevelopment Project Area No.1 and the Great Mall Redevelopment Project Area*, Milpitas Redevelopment Agency, September 2006.
8. *Midtown Milpitas Specific Plan EIR,* City of Milpitas, Draft EIR dated October 2001, Final EIR dated January 2002.
9. *Milpitas Historical Society Website*, accessed July 30, 2009 from http://www.milpitashistory.org/home/.
10. *Milpitas Housing Element Update Initial Study Checklist*, City of Milpitas, May 2009.
11. *Milpitas Transit Area Specific Plan EIR*, City of Milpitas, Draft EIR dated October 2007, Final EIR dated May 2008.
12. *Redevelopment Feasibility Study – Thirteenth Amendment to Milpitas Redevelopment Project Area No. 1*, City of Milpitas, July 28, 2009.
13. *Stormwater C.3 Guidebook - Guidance for Implementing the Stormwater Treatment Requirements*, City of Milpitas, 3rd Edition – October 6, 2005.
14. *2005 Urban Water Management Plan*, City of Milpitas, adopted December 6, 2005.

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Appendix B

Responses to the Notice of Preparation

Milpitas Redevelopment Amendments

Appendix B
Responses to the NOP

STATE OF CALIFORNIA

GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT

ARNOLD SCHWARZENEGGER
GOVERNOR

CYNTHIA BRYANT
DIRECTOR

Notice of Preparation

September 10, 2009

To: Reviewing Agencies

Re: Thirteenth Amendment to Milpitas Redevelopment Project Area No. 1
SCH# 2009092025

Attached for your review and comment is the Notice of Preparation (NOP) for the Thirteenth Amendment to Milpitas Redevelopment Project Area No. 1 draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

Diana Barnhart
City of Milpitas
455 E. Calaveras Boulevard
Milpitas, CA 95035

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

S. Bor

for Scott Morgan
Assistant Deputy Director & Senior Planner, State Clearinghouse

Attachments
cc: Lead Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Document Details Report
State Clearinghouse Data Base

SCH# 2009092025
Project Title Thirteenth Amendment to Milpitas Redevelopment Project Area No. 1
Lead Agency Milpitas, City of

Type NOP Notice of Preparation

Description The City of Milpitas (City) is located in Santa Clara County, California. The Milpitas Redevelopment Project Area No. 1 (Existing Project Area) currently encompasses 2,230 acres. The agency proposes amending the Redevelopment Plan to:

- Extend Redevelopment Plan effectiveness, the time period for collection of tax increment, and repayment of debt by 10 years for the eligible areas, collectively referred to as the Amendment Areas (the Midtown area added in 2003 is not eligible for extension at this time)
- Add approximately 600 gross acres to Project Area No. 1 (Added Area).

Lead Agency Contact

Name Diana Barnhart
Agency City of Milpitas
Phone (408) 586-3059 **Fax**
email
Address 455 E. Calaveras Boulevard
City Milpitas **State** CA **Zip** 95035

Project Location

County Santa Clara
City Milpitas
Region
Cross Streets
Lat / Long
Parcel No. various
Township **Range** **Section** **Base**

Proximity to:

Highways
Airports
Railways
Waterways
Schools
Land Use Various

Project Issues Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Flood Plain/Flooding; Geologic/Seismic; Noise; Public Services; Schools/Universities; Sewer Capacity; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife; Landuse; Cumulative Effects

Reviewing Agencies Resources Agency; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Department of Fish and Game, Region 3; Native American Heritage Commission; California Highway Patrol; Department of Housing and Community Development; Caltrans, District 4; Air Resources Board, Major Industrial Projects; Department of Toxic Substances Control; Regional Water Quality Control Board, Region 2

Date Received 09/10/2009 **Start of Review** 09/10/2009 **End of Review** 10/12/2009

Note: Blanks in data fields result from insufficient information provided by lead agency.

sources Agen...

Resources Agency
Nadell Gayou

Dept. of Boating & Waterways
Mike Sotelo

California Coastal Commission
Elizabeth A. Fuchs

Colorado River Board
Gerald R. Zimmerman

Dept. of Conservation
Rebecca Salazar

California Energy Commission
Dale Edwards

Cal Fire
Allen Robertson

Office of Historic Preservation
Wayne Donaldson

Dept of Parks & Recreation
Environmental Stewardship Section

Central Valley Flood Protection Board
Jon Yego

S.F. Bay Conservation & Dev't. Comm.
Steve McAdam

Dept. of Water Resources
Resources Agency
Nadell Gayou

Conservancy

ı and Game

Depart. of Fish & Game
Scott Flint
Environmental Services Division

Fish & Game Region 1
Donald Koch

Fish & Game Region 1E
Laurie Harnsberger

- ☐ **Fish & Game Region 2**
  Jeff Drongesen
- ☐ **Fish & Game Region 3**
  Robert Floerke
- ☐ **Fish & Game Region 4**
  Julie Vance
- ☐ **Fish & Game Region 5**
  Don Chadwick
  Habitat Conservation Program
- ☐ **Fish & Game Region 6**
  Gabrina Gatchel
  Habitat Conservation Program
- ☐ **Fish & Game Region 6 I/M**
  Gabrina Gatchel
  Inyo/Mono, Habitat Conservation Program
- ☐ **Dept. of Fish & Game M**
  George Isaac
  Marine Region

Other Departments

- ☐ **Food & Agriculture**
  Steve Shaffer
  Dept. of Food and Agriculture
- ☐ **Depart. of General Services**
  Public School Construction
- ☐ **Dept. of General Services**
  Anna Garbeff
  Environmental Services Section
- ☐ **Dept. of Public Health**
  Bridgette Binning
  Dept. of Health/Drinking Water

Independent Commissions,Boards

- ☐ **Delta Protection Commission**
  Linda Flack
- ☐ **Office of Emergency Services**
  Dennis Castrillo
- ☐ **Governor's Office of Planning & Research**
  State Clearinghouse
- ☐ **Native American Heritage Comm.**
  Debbie Treadway

- ☐ **Public Utilities Co... sion**
  Leo Wong
- ☐ **Santa Monica Bay Restoration**
  Guangyu Wang
- ☐ **State Lands Commission**
  Marina Brand
- ☐ **Tahoe Regional Planning Agency (TRPA)**
  Cherry Jacques

Business, Trans & Housing

- ☐ **Caltrans - Division of Aeronautics**
  Sandy Hesnard
- ☐ **Caltrans - Planning**
  Terri Pencovic
- ☐ **California Highway Patrol**
  Scott Loetscher
  Office of Special Projects
- ☐ **Housing & Community Development**
  CEQA Coordinator
  Housing Policy Division

Dept. of Transportation

- ☐ **Caltrans, District 1**
  Rex Jackman
- ☐ **Caltrans, District 2**
  Marcelino Gonzalez
- ☐ **Caltrans, District 3**
  Bruce de Terra
- ☐ **Caltrans, District 4**
  Lisa Carboni
- ☐ **Caltrans, District 5**
  David Murray
- ☐ **Caltrans, District 6**
  Michael Navarro
- ☐ **Caltrans, District 7**
  Elmer Alvarez
- ☐ **Caltrans, District 8**
  Dan Kopulsky
- ☐ **Caltrans, District 9**
  Gayle Rosander
- ☐ **Caltrans, District 10**
  Tom Dumas
- ☐ **Caltrans, District 11**
  Jacob Armstrong
- ☐ **Caltrans, District 12**
  Chris Herre

Cal EPA

Air Resources Board

- ☐ Airport Projects
  Jim Lerner
  - ☐ Transportation Projects
    Douglas Ito
  - ☐ Industrial Projects
    Mike Tollstrup
- ☐ **California Integrated Waste Management Board**
  Sue O'Leary
- ☐ **State Water Resources Control Board**
  Regional Programs Unit
  Division of Financial Assistance
- ☐ **State Water Resources Control Board**
  Student Intern, 401 Water Quality Certification Unit
  Division of Water Quality
- ☐ **State Water Resouces Control Board**
  Steven Herrera
  Division of Water Rights
- ☐ **Dept. of Toxic Substances Control**
  CEQA Tracking Center
- ☐ **Department of Pesticide Regulation**
  CEQA Coordinator

Regional Water Quality Control Board (RWQCB)

- ☐ **RWQCB 1**
  Cathleen Hudson
  North Coast Region (1)
- ☐ **RWQCB 2**
  Environmental Document Coordinator
  San Francisco Bay Region (2)
- ☐ **RWQCB 3**
  Central Coast Region (3)
- ☐ **RWQCB 4**
  Teresa Rodgers
  Los Angeles Region (4)
- ☐ **RWQCB 5S**
  Central Valley Region (5)
  - ☐ **RWQCB 5F**
    Central Valley Region (5)
    Fresno Branch Office
  - ☐ **RWQCB 5R**
    Central Valley Region (5)
    Redding Branch Office
- ☐ **RWQCB 6**
  Lahontan Region (6)
  - ☐ **RWQCB 6V**
    Lahontan Region (6)
    Victorville Branch Office
- ☐ **RWQCB 7**
  Colorado River Basin Region (7)
- ☐ **RWQCB 8**
  Santa Ana Region (8)
- ☐ **RWQCB 9**
  San Diego Region (9)

☐ **Other** _____

Last Updated on 03/24/2009

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County of Santa Clara
Roads and Airports Department

101 Skyport Drive
San Jose, California 95110-1302
(408) 573-2400

September 25, 2009

Milpitas Redevelopment Agency
City of Milpitas
455 East Calaveras Blvd.
Milpitas, CA 95035

Subject: Notice of preparation of Draft EIR the thirteen amendment to The Milpitas Redevelopment Project Area No. 1

Attn: Diana Barnhart
Economic Development Manager

Dear Diana:

This is in response to your September 9, 2002 NOP of DEIR regarding the subject project.

The review is complete and we have the following comments:

1. Provide the traffic impact analysis (TIA) in the DEIR which will include but not limited to Montague Expressway, San Tomas Expressway and Lawrence Expressway. The TIA needs to provide mitigation measures.

Please incorporate above comments and resubmit for review. If you have any questions concerning the above, please contact me at (408) 573-2463.

Sincerely,

William K. Y. Yeung

William Yeung
Associate Civil Engineer
Land Development

Board of Supervisors: Donald F. Gage, George Shirakawa, Dave Cortese, Ken Yeager, Liz Kniss
County Executive: Jeffrey V. Smith

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SANTA CLARA
Valley Transportation Authority

October 8, 2009

City of Milpitas
Redevelopment Agency
455 East Calaveras Boulevard
Milpitas, CA 95035-5479

Attention: Diana Barnhart

Subject: Thirteenth Amendment to Milpitas Redevelopment Project Area No. 1

Dear Ms. Barnhart:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the NOP for a Draft EIR to add 600 acres to the redevelopment area located on both sides of I-680, generally south of I-680. We have the following comments.

Authorized Public Infrastructure Projects (page 12)
Amendment Item 1c of the authorized Public Infrastructure Projects section allows the City to realign or remove railroad tracks within the project area. The Draft EIR should clarify to which tracks the plan is referring and the possible stakeholders.

Proposed Added Area (page 14)
The 5th paragraph mentions that I-880 borders the project area. However, according to the project map on page 9, the added areas border I-680.

Transportation/Traffic (page 53)
Item f in the check list states that the amendment is expected to cause a potentially significant impact due to a conflict with adopted policies, plans, or programs. The Draft EIR should clarify which plans, policies, or programs will be affected.

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

Sincerely,

Roy Molseed
Senior Environmental Planner

RM:kh

ML0905

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Appendix C

ENVIRONMENTAL FIRSTSEARCH™ REPORT

Milpitas Redevelopment Amendments

APPENDIX C
FIRSTSEARCH™ REPORT

APPENDIX C: ENVIRONMENTAL FIRSTSEARCH™ REPORT

In the interest of environmental sustainability,
the 819-page Environmental FirstSearch™ report
is available at the Redevelopment Agency upon request,
or online at the City's website, http://www.ci.milpitas.ca.gov/.

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