

**LIST OF ATTACHMENTS FOR PUBLIC HEARING
ITEM NO. 2 – Hold Public Hearing and Adopt Two
Resolutions Updating the Transit Area Development
Impact Fee**

- A. City Council Resolution Adopting Transit Area
Development Impact Fee Increase with Exhibit A
(Impact Fee Update Report)**
- B. Urgency City Council Resolution Adjusting
Existing Transit Area Development Impact Fee**

RESOLUTION NO. 8214

A

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS ADJUSTING EXISTING TRANSIT AREA DEVELOPMENT IMPACT FEE FOR PUBLIC INFRASTRUCTURE AND IMPROVEMENTS

RECITALS

WHEREAS, the City Council of the City of Milpitas has previously established a development impact fee program, as set forth in Chapter 4 of Title VIII of the Milpitas Municipal Code, in order to collect revenues to defray the cost of public infrastructure and improvements necessitated by new development; and

WHEREAS, pursuant to Chapter 4 of Title VIII of the Milpitas Municipal Code, the Council may adopt development impact fees for different areas within the City by resolutions that set forth the bases for such fees and the formulae to calculate such fees and that make the appropriate findings; and

WHEREAS, on June 3, 2008, the City Council adopted Resolution No. 7760 approving the Transit Area Specific Plan, which identified basic public infrastructure needed to serve new development in the area and to maintain or improve existing levels of service for public facilities; and

WHEREAS, on September 2, 2008, the City Council adopted Resolution 7778 approving and establishing development impact fees pursuant to Government Code Section 66000, *et seq.*, after required public notice and hearing in order to defray the costs of constructing such public infrastructure; and

WHEREAS, now the City Council wishes to amend and increase the Transit Area Development Impact Fee applicable to new development situated within the Transit Area Specific Plan area in order to defray additional costs of constructing such public infrastructure that have been imposed by new conditions occurring since the time of the original adoption on September 2, 2008; and

WHEREAS, in accordance with Government Code Section 66018, the City Council conducted an open and public meeting on the fee provided by this Resolution at its regularly scheduled meeting held on December 18, 2012, and notice of the time and place of this meeting, including a general explanation of this Resolution and the related developer impact fee program ordinances and a statement regarding the availability of data indicating the amount of the proposed Transit Area Development Impact Fee and the revenue sources anticipated to finance the improvements, was provided at least 14 days prior to this December 18, 2012 meeting to interested parties that requested such notice in writing, but since no such requests were made, such notice was not provided, in accord with Government Code Section 66016; and

WHEREAS, data indicating the amount of the Transit Area Development Impact Fee and the revenue sources anticipated to finance the facility was made available to the public at least ten days prior to the December 18, 2012 meeting; and

WHEREAS, the City Council has received and considered public comments, oral and written, on the proposed Transit Area Development Impact Fee at such meeting and in response to the provided notices; and

WHEREAS, the Transit Area Specific Plan included a detailed description of public facilities required to serve the Transit Area Specific Plan area and a Financing Plan, dated May 28, 2008, that contained specific fiscal and financial policies, identified public facilities costs, and recommended financing mechanisms to pay for the needed public facilities; and

WHEREAS, the City Council has considered such Financing Plan and finds that it sets forth in-depth factual grounds for the need for a Transit Area Development Impact Fee as a means of assuring that new development within the Transit Area pay their proportionate share of the costs of needed public facilities; and

WHEREAS, the City Council has also considered the Milpitas Transit Area Infrastructure Financing Technical Report (“Technical Report”), dated August 2008, pursuant to the policies contained in the Financing Plan; the Technical Report, prepared by Economic and Planning Systems, Inc., is on file with the City Clerk; and the public facilities for which the Transit Area Development Impact Fee will be used are specifically identified in the Basic Infrastructure Program, for which a schedule of costs are included in the Technical Report; and

WHEREAS, the Transit Area Specific Plan Transportation Impact Fee Study, dated June 2008 prepared by Kimley-Horn and Associates, Inc. has been incorporated into the Basic Infrastructure Program within the Technical Report; and

WHEREAS, the public facilities reflected in the Basic Infrastructure Program are needed to protect the health, safety, and general welfare within the Transit Area Specific Plan, to facilitate orderly urban development within the Transit Area Specific Plan area, and to promote economic well-being within that area and the City as a whole; and

WHEREAS, the Transit Area Development Impact Fee update, prepared by Economic and Planning Systems, Inc. dated December 7, 2012, augments and updates the prior studies regarding the Transit Area Impact Fee and is the basis for the increased fees proposed herein; and

WHEREAS, establishing fees for the purpose of obtaining funds for impact mitigation is not an essential step culminating in action which may affect the environment and is statutorily exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15273 of the CEQA Guidelines.

FINDINGS

NOW THEREFORE, the City Council of the City of Milpitas after duly considering the record before it makes the following findings and determinations based on the reports, testimony and other materials before it, including but not limited to the documents and information listed in the Recitals above, which are incorporated herein by reference:

1. The purpose of the Transit Area Development Impact Fee is to finance basic public infrastructure facilities, as identified in the Basic Infrastructure Program, that are needed to provide essential public services and assure public safety for new development within the Transit Area.

2. Based on the analysis set forth in the Technical Report as augmented by the Transit Area Development Impact Fee update and the comments received thereon, there is a need to impose an increase to the existing development impact fee for basic infrastructure facilities identified in the Basic Infrastructure Program so that development within the Transit Area will meet the standards and policies contained in the Transit Area Specific Plan and the City’s General Plan.

3. The reports and facts and evidence presented to the City Council establish that there is a reasonable relationship between the public facilities, identified in the Basic Infrastructure Program, to be funded in part by the Transit Area Development Impact Fee proposed herein and the types of developments described in the Specific Plan; there is a reasonable relationship between the need for the basic public infrastructure improvements to be funded by the fee and the types of development on which the fee is imposed; and there is a reasonable relationship between the amount of the fee, as set forth in this Resolution, and the costs of the needed public infrastructure facilities as they are specifically attributed to the various types of development within the Transit Area Specific Plan area.

4. The cost estimates contained in the reports are an accurate reflection of the current construction costs for the necessary basic infrastructure facilities and the fee revenues that are expected to be generated by new development will not exceed such development’s proportionate share of these costs.

5. The proposed Transit Area Development Impact Fee is consistent with the City of Milpitas General Plan and the Transit Area Specific Plan.

RESOLVED ACTIONS

NOW THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

Section 1. General.

- A) This Resolution is adopted pursuant to California Government Code Section 66000 *et seq.* (“Mitigation Fee Act”), Article XI, Section 7 of the California Constitution, and the provisions of Chapter 4 of Title VIII of the Milpitas Municipal Code (“Fees for New Development”).
- B) The fee established by this Resolution shall apply to new development within the Transit Area as a condition of building permit approval to defray the cost of certain public infrastructure improvements and facilities required to serve or to benefit the new development. The Transit Area is delineated by the boundaries of the adopted City of Milpitas Transit Area Specific Plan. This Resolution does not replace subdivision map exactions or other measures required to mitigate site-specific impacts of a development project; other regulatory, development and processing fees; funding required pursuant to a development agreement; funds collected pursuant to a reimbursement agreement for amounts that may exceed a development’s share of public improvement costs; or assessment district proceedings, benefit assessments, or property taxes, unless so specified.

Section 2. Definitions.

- A) “Transit Area” means the approximate 437 acre area of the City covered by the Transit Area Specific Plan adopted by the Milpitas City Council on June 3, 2008.
- B) “Transit Area Development Impact Fee” means the combined fee required to implement the Basic Infrastructure Program in the amount calculated according to the formulae and methodologies set forth in this Resolution.
- C) “Basic Infrastructure Program” is the listing and schedule of public facilities that can be funded by the Transit Area Development Impact Fee which is applicable to all new development in the Transit Area. The Basic Infrastructure Program is included in the Infrastructure Financing Technical Report on file with the City Clerk.
- D) Land uses subject to the Transit Area Development Impact Fee are defined as follows:
 - (1) “Residential” means all new single and multi-family dwellings.
 - (2) “Commercial” means any business engaging in the sale of merchandise and food. This category would also include those establishments providing commercial services, as defined in Milpitas Municipal Code XI-10-2.02, General Definitions. Uses in this category include but are not limited to retail stores, restaurants, banks, child care facilities and beauty salons.
 - (3) “Office” means any administrative, professional, research, medical, or similar businesses, having only limited contact with the public, provided no merchandise or services are sold on the premises except those that are incidental or accessory to the primary use. Uses in this category include but are not limited to medical clinics and offices, real estate offices, and research and development businesses.
 - (4) “Hotel” refers to the definition provided in Milpitas Municipal Code XI-10-2.02, General Definitions.
 - (5) “Other Uses” means land uses not specifically defined by this section.

Section 3. Fee Amount

A) The amount of the Transit Area Development Impact Fee is based upon the technical and financial analyses contained in the Transit Area Impact Fee Study. That Transit Area Impact Fee Study is attached hereto and incorporated herein by reference as Exhibit A. According to that Study, the following schedule of base fees shall apply to all new development in the Transit Area:

- a) Residential - \$29,012 per unit
- b) Commercial - \$20.70 per square foot
- c) Office - \$30.00 per square foot
- d) Hotel - \$10,754 per room
- e) Other Uses – The fee amount for uses not specifically defined in this Resolution shall be determined by the Finance Director or his or her designee. A focused nexus study may be required of the applicant to make the determination.

B) The fee amounts listed herein shall be subject to annual adjustment, as set forth in Section 9 of this Resolution, and as otherwise allowed by law.

Section 4. Transit Area Development Impact Fee Requirements.

A) General.

(1) The amounts and calculation of the Transit Area Development Impact Fee is based upon the following considerations:

- 1) New development will pay only for the construction of those public facilities or where there is a reasonable relationship between the facilities funded and the benefits, demands and needs generated by the new development.
- 2) Each type of new development shall contribute to the funding of the needed facilities in proportion to the need for the facilities created by that type of development.
- 3) The public facilities funded by the Transit Area Development Impact Fee and the calculations resulting in the Transit Area Development Impact Fee amount are documented in the original Infrastructure Financing Technical Report included in the materials considered for adoption of the original Transit Area Impact Fee in September of 2008 and is here augmented by the Transit Area Impact Fee Study. The Transit Area Impact Fee Study is attached to this resolution as Exhibit A and incorporated herein.
- 4) The amount of the Transit Area Development Impact Fee shall include consideration for appropriate financing charges including any reimbursement payments made to developers or property owners pursuant to subsection 5.B (2), and shall include consideration for reimbursement of administrative costs pursuant to subsection 5.B (3).

B) Applications Requiring Payment of Fee – Building Permit. A person who applies for a building permit to construct within the Transit Area Specific Plan area shall pay to the City a fee in the amount set forth in this Resolution prior to the issuance of the building permit, unless later payment is required by City ordinance or State law.

C) Fee Unit. The unit basis of the Transit Area Development Impact Fee shall be charged for each new dwelling unit, new non-residential square footage, and each new hotel room. No Transit Area Development Impact Fee shall be charged for remodeling or for an addition to an existing building creating less than 500 square feet of additional floor area. For additions greater than 500 square feet the amount of the Transit Area Development Impact Fee for that addition shall be determined according to the formula set forth in Section 4(D).

D) Formula for Calculating the Fee. The Transit Area Development Impact Fee, as set forth in this Resolution, shall be determined by a formula that is based on the cost of the required infrastructure, the proportion of

those costs attributable to development in the Transit Area as a whole, and each unit of development's proportional share of the Transit Area costs as a whole. These formulas are included in the Infrastructure Financing Technical Report, and shall be updated pursuant to this Resolution from time to time to reflect changes in construction costs, development schedules, availability of supplemental funds, and other relevant factors. Changes in such costs form the basis for the fee adjustments adopted in this Resolution.

Section 5. Use of Fee Revenue. The Transit Area Development Impact Fee shall fund public facilities, improvements identified in the Basic Infrastructure Program as determined in the Infrastructure Financing Technical Report and any future additions and amendments to the said report, all of which are incorporated by reference into this Resolution.

- A) The City shall deposit the fees collected under this Resolution in a special fund, the Transit Area Development Impact Fee Account, designated for funding facilities listed in the Basic Infrastructure Program.
- B) The fees and all interest earned on accrued funds shall be used only to:
 - (1) Fund the costs of the public facilities specified in the Basic Infrastructure Program, or to reimburse the City for such construction if funds were advanced by the City from other sources; or
 - (2) Reimburse developers or property owners for the costs accrued when a developer or property owner constructs and dedicates to the City a public facility(ies) included in the Basic Infrastructure Program and the sum value of the facility(ies) constructed (as estimated in the Basic Infrastructure Program) exceeds the total fee liability for a given project. Reimbursements shall include appropriate financing charges and shall be based upon the Local Agency Investment Fund (LAIF) quarterly interest rate. Financing charges included in any reimbursement payments to developers or property owners shall not exceed this interest rate, as calculated by the City's Director of Finance. Reimbursements shall not be available if the value of the constructed and dedicated improvement is below the total fee liability for a given project.
 - (3) Reimburse the City of Milpitas, to offset administrative costs associated with administering and updating the Area Development Impact Fee, not to exceed two (2.0) percent of the applicable fee amount.

Section 6. Ministerial Exemptions. The following actions or conditions shall qualify for a ministerial exemption from the Transit Area Development Impact Fee without having to go through the City Council exemption process set forth in Milpitas Municipal Code VIII-4-2.04:

- A) No Transit Area Development Fee shall be due for the demolition of an existing structure and the building of a new structure on the same site where the additional area in the new structure is 500 square feet or less and no additional dwelling units are created;
- B) No Transit Area Development Impact Fee shall be due if the Transit Area Development Fee or an equivalent amount has been previously paid in full (e.g. as a requirement of a subdivision map) for a particular property and use.

Section 7. Authority for Additional Mitigation. Fees collected pursuant to this Resolution do not replace any existing development fees, except for the sewer treatment plant fee, VIII-2-7.04 "Treatment Plant Fees" and the park in-lieu fee, XI-01-9.07 "Amount of Fee In-Lieu of Land Dedication," or as otherwise the City Council may specifically provide, or demand or connection charges levied on a Citywide basis, or limit requirements or conditions to provide site-specific mitigation of site-specific impacts imposed upon development projects as part of the normal development review process.

Section 8. Annual Review. Pursuant to Government Code Section 66006(b) and the provisions of Chapter 4 of Title VIII of the Milpitas Municipal Code, the City Council shall review annually a report prepared by staff documenting the amount of the Transit Area Development Impact Fee, fee fund balances, the amount of fees collected, and the amount of fee funds expended (by infrastructure item as shown in the Basic Infrastructure Program) and the fund balance of the TADIF Account.

Section 9. Annual Adjustments: The total design, construction, and contingency costs of each infrastructure item in the Basic Infrastructure Program shall be automatically adjusted each fiscal year by the Finance Director or his or her designee using the Engineering New Record (ENR) Construction Cost Index for the San Francisco Bay Area. The right of way or land costs of each item shall be automatically adjusted each fiscal year using the fair market value for an acre of land in the City as determined by the City Council pursuant to XI-1-9.07-1 "Amount of Fee In-Lieu of Land Dedication."

Section 10. Periodic Update. The Infrastructure Financing Technical Report shall be updated every three to five years. This update will include a thorough review of the infrastructure costs, development activity, and collection and use of fees to that date.

Section 11. Termination of Fee. The City shall not collect the Transit Area Development Impact Fee established by this Resolution once funds sufficient to construct all improvements described in the then-current Basic Infrastructure Program have been collected.

Section 12. Severability. The provisions of this Resolution are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

Section 13. Effective Date. This Resolution shall take effect 60 days after the date of its adoption, as provided by Section 66017. Prior to the expiration of 15 days from the passage thereof, this Resolution shall be posted in at least three public places in the City of Milpitas.

PASSED AND ADOPTED this ____ day of _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

EXHIBIT A

Report

**Transit Area Development
Impact Fee Update**

The Economics of Land Use



Prepared for:

City of Milpitas

Prepared by:

Economic & Planning Systems, Inc.

December 2012

EPS #121030

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APPENDIX B	Detailed TASP Infrastructure Cost Database Tables
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1. BACKGROUND AND PROPOSED FEE

Background

The City of Milpitas (City) adopted the Transit Area Specific Plan (*TASP*) in 2008. The Plan sets forth land use policies which allow for the intensification of development in the 437-acre Transit Area—which is currently home to low-intensity industrial uses—with new multifamily housing, office, hotel, and retail development. To support more residents and workers with appropriately scaled utilities, parks and community facilities, and roadways, the City developed a Basic Infrastructure Program (*BIP*) of improvements. To help pay for the *BIP*, the City enacted a Transit Area Development Impact Fee (*TADIF*).

The *TADIF* is a development impact fee adopted by the City of Milpitas pursuant to the provisions of Government Code Section 66000 (AB 1600). The fees were adopted by ordinance and the fee levels were set by resolution in 2008 based on *the Milpitas Transit Area Infrastructure Financing Technical Report*, dated August 2008, by Economic & Planning Systems (EPS). The City adopted an escalated fee level to 2010 dollars, based on the regional Construction Cost Index published by Engineering News Record and based on a 2010 appraisal of land values in the Milpitas. No new development has occurred in the Transit Area since the fee program was adopted, so no fees have been collected. In 2012, the City retained EPS to prepare a more in-depth review and potential fee update for the Transit Area.

Purpose

The Milpitas Transit Area Infrastructure Financing Technical Report (2008 Fee Report) recommended that the fee program be updated every three to five years. This analysis responds to the update recommendation as adopted by resolution by the City Council. The analysis includes a thorough review of infrastructure and land costs. It also includes a review of likely development in the Transit Area in the near and long term. The purpose of this Report (2012 Fee Report) is to recommend an updated fee level for new development in the Transit Area.

Proposed Fee

Fee Levels

Table 1 reports the proposed fee levels by development type. This proposed fee level incorporates escalate construction costs and land costs to 2012 dollars. **Table 2** reports the change in the fee since 2008. As shown, the proposed fees are between 17 and 21 percent higher than the current fees. This reflects construction and land acquisition costs that have increased due to inflation and other factors.

Table 1 Summary of Proposed Fee

Land Use	Unit Measure	Fee Level ¹
Residential	Per Unit	\$29,012
Retail	Per Sq. ft.	\$20.70
Office	Per Sq. ft.	\$30.00
Hotel	Per Room	\$10,754

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[1] In 2012 dollars, includes 2% administrative fee.

Source: Economic & Planning Systems

Table 2 Summary of Original, Updated, and Proposed Fee

TASP Fee	Multi-family		Retail per sq. ft.	Office per sq. ft.	Hotel per room
	For-Sale per unit	Rental per unit			
2008 Fee	\$23,800	\$23,800	\$16.70	\$25.00	\$9,000
2010 Inflated Fee	\$24,280	\$24,280	\$17.04	\$25.51	\$9,180
2012 Proposed Fee	\$29,012	\$29,012	\$20.70	\$30.00	\$10,754

Change from 2010 Inflated to 2012 Proposed

\$ Change	\$4,732	\$4,732	\$3.66	\$4.49	\$1,574
% Change	19%	19%	21%	18%	17%

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Annual Review and Fee Indexing

Because of the dynamic nature of the Transit Area, the City will need to monitor development activity, the need for infrastructure improvements, and the adequacy of the fee revenues and other available funding. Annual review of the fee program should occur at which time adjustments in key data and assumptions can be made, consistent with supporting technical analysis. Staff costs associated with this monitoring and updating effort are included in the *TADIF*.

- As required by the fee resolution, **annual reviews** should be conducted as part of the City year-end financial reporting process. Staff should prepare a report documenting fees collected, fees expended (by infrastructure item), and fund balances.
- **Annual indexing** should occur either at the turn of the calendar year or fiscal year. The total design, construction, and contingency costs of each infrastructure item in the *BIP* should be automatically adjusted each fiscal year using the Engineering News Record Construction

Cost Index. The right-of-way or land costs of each item should be automatically adjusted each fiscal year using the fair market value for an acre of land determined as part of the City's park in-lieu fee calculation.

- A **periodic update** of the Technical Report should occur every three to five years. This update should include a thorough review of the infrastructure costs, development activity, and collection and use of fees to that date. This 2012 Fee Report is the first periodic update to the 2008 original fee.

2. TRANSIT AREA DEVELOPMENT PROGRAM

The *TASP* was approved as a General Plan Amendment by the City of Milpitas on June 3, 2008. The *TASP* covers approximately 437 acres of territory and establishes a transit-oriented land use plan for the Transit Area, including a detailed assessment of infrastructure needed to support and provide municipal services to proposed development. **Figure 1** presents a map of the territory included in the Transit Area.

The *TASP* created a significant amount of new development capacity for residential and commercial development in the area. For example, if all the undeveloped and underdeveloped residential designated areas were constructed at the midrange of permitted densities, an additional 7,900 residential units could be constructed. A number of factors make this level of residential development unlikely, including the current fragmented parcel pattern, existing land uses, and various other constraints. Because of these constraints, a more conservative "development scenario" was used as the basis of the *TADIF* technical analyses. This development scenario assumes that the development projects that have been officially submitted for processing and/or are in the planning stages will be built as submitted and other development potential will be reached over time.

Table 3 shows the estimated development scenario by land use. This estimate is based on the following steps:

- **Use development program envisioned in the 2008 as baseline.** The 2008 Fee Report included a Phase 1 development program and the likely (not maximum) Transit Area buildout estimate.
- **Review recent development applications and approvals.** Working with City staff, EPS reviewed six projects which have been approved in the Transit Area. While many of the projects conform with the Phase 1 projects envisioned in 2008, others are on parcels of land that were envisioned as occurring in later phases. The net result of these changes is that development is likely to occur in slightly different locations than projected in 2008, but at similar levels of density.

The overall result of this review is that, while the total number of Phase 1 residential units is below the number projected in 2008, the overall development program at buildout of the Specific Plan remains the same as that which was envisioned in 2008.

Figure 1 Map of Transit Area Specific Plan



Table 3 Development Program Summary

Land Use	Units	Rooms	Sq. Ft.
Residential	7,109	-	-
Retail/Commercial	-	-	287,075
Office	-	-	993,843
Hotel Rooms	-	350	175,500
Total	7,109	350	1,456,418

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The 7,100 residential units all fall into the multifamily type of development, ranging from townhomes and multistory apartment to stacked condominium flats and condominium towers (up to 20 stories, allowed in certain areas with a use permit). The *TASP* includes minimum and maximum densities for residential uses ranging from about 30 to 60 units per gross acre. The development scenario also includes 287,000 square feet of retail space, mostly in mixed-use format. Currently, there are no active development plans for office or hotel space within the Transit Area. For planning purposes, City staff has assumed that at buildout the Transit Area could include a total of about 994,000 square feet of office space and a 350-room hotel. These development estimates are based on 90 percent of the midpoint of the allowable density provided by the *TASP* and on assessments of individual parcels within the Transit Area. The required periodic updates of the *TADIF* can adjust for the changes in the mix, timing, and type of development that may occur within the allowed *TASP* buildout.

The development program is further specified by development phases, as defined in the *TASP* and based on information provided by City staff. Phase 1 development includes only current development proposals within the Transit Area that are expected to reach completion within the next eight to ten years. As shown in **Figure 2**, it is estimated that approximately 43 percent or about 3,970 dwelling units are projected to be constructed during Phase 1, while about 35 percent (100,000 square feet) of retail is likely to be developed during this initial phase. All remaining development is expected to occur in later phases. **Table 4** details this breakdown by phase.

Figure 2 Estimated Phasing of Development, by Land Use

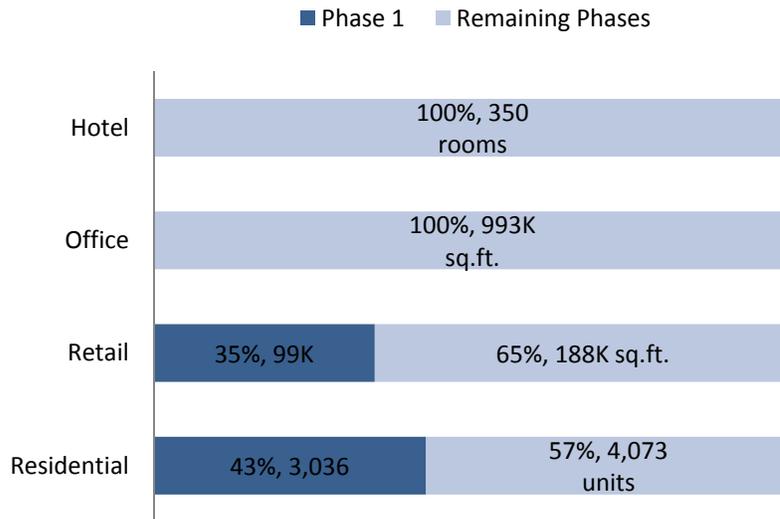


Table 4 Development Program, Detail by Phase

Land Use	Phase 1	Remaining Phases	Buildout
Total Units			
For-Sale, Multifamily	827	2,811	3,638
Rental, Multifamily	<u>2,209</u>	<u>1,262</u>	<u>3,471</u>
Total	3,036	4,073	7,109
Retail (sq.ft.)	99,523	187,552	287,075
Office (sq.ft.)	0	993,843	993,843
Hotel Rooms	0	350	350

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Source: TASP; City of Milpitas; Economic & Planning Systems.

3. BASIC INFRASTRUCTURE PROGRAM AND COST ALLOCATION

Basic Infrastructure Program

In 2008, a *BIP* was developed to organize and prioritize the basic infrastructure needed to serve the Transit Area. **Appendix B** presents a database listing of the *BIP* and includes references to each item's cost estimate in 2008 and the updated cost estimate in 2012, taking into account inflation and changes in the infrastructure item. The *BIP* does not include the "in-tract" improvements normally constructed by developers (e.g., neighborhood streets) as a part of project development.

Table 5 shows a summary listing of improvement items included in the 2012 Updated *BIP*. Total costs for infrastructure improvements for the Transit Area are estimated to be \$254.5 million; the net costs, after accounting for outside sources of funding, total \$240.9 million. Approximately 40 percent of these net costs or \$97.7 million will be required in Phase 1 of the planned development.

It is important to note that the items listed in the *BIP* are illustrative and are provided for documentation purposes. As planning and development projects move forward, the specific projects are likely to change. The *BIP* substantiates fees for general types of improvements (Roads, Parks/Trails, etc.) rather than specific improvements. Over time the individual improvement line items may be modified, replaced or funded with other sources that become available.

Table 5 TASP Infrastructure Cost Summary, Phase 1 and Buildout (2012\$)

Infrastructure Category	Phase 1 Net Costs	TASP Costs at Buildout (2012\$)		
		Total Costs	Other Sources	Net Costs
Roadway/Intersection - Backbone	\$3,125,731	\$29,260,026	\$1,673,662	\$27,586,365
Streetscape Improvements	\$6,922,917	\$17,284,008	-	\$17,284,008
Sewer	\$12,096,414	\$28,517,537	\$11,958,025	\$16,559,512
Water	\$11,534,129	\$34,062,732	-	\$34,062,732
Parks/Plazas/Community Facilities	\$35,512,143	\$94,512,895	-	\$94,512,895
Linear Parks/Trails	\$2,075,341	\$3,564,900	-	\$3,564,900
Specific Plan Preparation & PFP Update	<u>\$1,630,096</u>	<u>\$1,630,096</u>	-	<u>\$1,630,096</u>
Subtotal	\$72,896,770	\$208,832,193	\$13,631,686	\$195,200,507
Offsite Traffic Mitigation	\$24,778,563	\$45,738,387	-	\$45,738,387
Total Costs	\$97,675,332	\$254,570,580	\$13,631,686	\$240,938,894

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[1] Includes land acquisition and infrastructure improvement costs.

PFP = Public Financing Plan and Fee Study

Source: Appendix A - Land Appraisal; City of Milpitas; and Economic & Planning Systems.

Cost Allocation Procedures

The cost allocation procedure used in this analysis is consistent with the methodology used in 2008. Here, as in 2008, the costs of *BIP* items have been distributed to particular land uses based on the nexus principles required by AB 1600. **Table 6** summarizes the cost allocation techniques used to allocate infrastructure costs to land use types proposed in the Transit Area. Cost allocations have been made using factors that estimate the relative benefits of various improvements for each development type. Different land uses are assigned relative weights for each of these measures based on their demand for each facility, and the resulting factors are used to distribute costs among the land uses.

Table 6 Infrastructure Allocation Methodology

Infrastructure Cost Category	Allocation Factor	Allocation Factor Description
Roadway/Intersection - Backbone	Trips	Trip generation analysis. [1]
Streetscape Improvements	Trips	Trip generation analysis. [1]
Parks/Plazas/Community Facilities	Population	Total residential population.
Linear Parks/Trails	Population	Total residential population.
Sewer	Sewer	Base Water Flow (BWF) per person estimated; multiplied by total population (residents + employees + hotel guests); proportion of total BWF allocated by land use. [2]
Water	Water	Gallons of water per day per acre estimated; total acres of each land use is applied; proportion of total gallons of water used to allocate water costs. [3]
Specific Plan Preparation & PFP Update	Daytime Population	Equal to residential population plus one-half employee population.
Traffic Mitigation	Trips	Trip generation analysis.

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[1] See Appendix C: Kimley-Horn Report which describes four methods to allocate costs to TASP development: LOS/Delay Proportion; Project Traffic over Total Traffic; Project Traffic over 2004-to-2030 Traffic Growth; and Primary Benefit Considerations.

[2] See Sewer Master Plan Update, Section 3.2.1, adopted 2009.

[3] See Water Master Plan Update, Section 3.2.3, Water Use Factors, adopted 2009.

PFP = Public Financing Plan and Fee Study

Source: Sewer Master Plan; Water Mater Plan Update; Transportation Impact Fee Study (June 2008); Appendix C Kimley Horn Report; and Economic & Planning Systems.

Table 7 reports the results of this cost allocation, identifying the relative proportion of costs for each land use. Based on the development program illustrated in **Table 2**, the recommended fee levels are shown by land use in **Table 8**. An administrative fee of 2 percent is added to this amount to account for City staff costs to apply the fees, periodically update the fee, and other administrative tasks. The resulting, recommended fee levels are shown in this table.

Table 7 Infrastructure Cost Allocation at Buildout

Land Use	Improvement: Allocation Factor:	Roadway [1]		Sewer [2]		Water [3]		Parks/Community Facilities [4]	
		Trips	Costs	BWF/Day	Costs	GPD	Costs	Population	Costs
Residential		67%	\$30,052,939	76%	\$12,578,122	86%	\$29,432,871	100%	\$94,512,895
Retail/Commercial		4%	\$2,001,921	3%	\$575,883	3%	\$1,175,046	0%	\$0
Office		26%	\$11,472,858	17%	\$2,791,159	9%	\$3,119,949	0%	\$0
Hotel Rooms		3%	\$1,342,654	4%	\$614,349	1%	\$334,866	0%	\$0
Total			\$44,870,372		\$16,559,512		\$34,062,732		\$94,512,895

[1] Kimley-Horn describes four methods to allocate costs to TASP development: LOS/Delay Proportion; Project Traffic over Total Traffic; Project Traffic over 2004-to-2030 Traffic Growth; and Primary Benefit Considerations.

[2] See Sewer Master Plan Update (adopted 2009), Section 3.2.1. Allocation made according to Base Water Flow (BWF) units.

[3] See Water Master Plan Update, (adopted 2009) Section 3.2.3, Water Use Factors. Allocation made according to Gallons of Water per Day (GPD).

[4] Population refers to residential population..

Table 7 Infrastructure Cost Allocation at Buildout, Continued

Land Use	Improvement: Allocation Factor:	Linear Parks/Trails		SP Prep. + PFP [5]		Total Costs at Buildout	Estimated Fee per Unit/Sq.Ft./ Room	Traffic Mitigation [6] Fee	Total Fee per Unit/ per Sq. Ft./ per Room
		Population	Costs	Daytime Pop.	Costs				
Residential		100%	\$3,564,900	87%	\$1,425,344	\$171,567,070	\$24,134	\$4,309	\$28,443
Retail/Commercial		0%	\$0	2%	\$28,593	\$3,781,443	\$13.17	\$7.11	\$20.28
Office		0%	\$0	9%	\$146,733	\$17,530,699	\$17.64	\$11.77	\$29.41
Hotel Rooms		0%	\$0	2%	\$29,426	\$2,321,295	\$6,632	\$3,910	\$10,543
Total			\$3,564,900		\$1,630,096	\$195,200,507			

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[5] Daytime population is calculated as residential population plus one-half employee population.

[6] See Appendix C Kimley-Horn report from 2008. It includes costs allocated to TASP development for improvements to: (1) Calaveras Blvd & I-880 NP off-ramp, (2) Tasman Dr & McCarthy Blvd., (3) Tasman Dr. & Great Mall Pkwy, and (4) Milpitas Blvd. Extension projects and regional fair share contributions to (5) Great Mall Pkwy-Capitol Av & Montague, (6) Montague Widening, and (7) Capitol Av San Jose Traffic Improvements and costs for (8) Calaveras Blvd widening.
PFP = Public Financing Plan and Fee Study

Table 8 Proposed Fee Levels

Land Use	Fee per Unit/ Sq.Ft./Room <i>a</i>	Admin. Fee <i>b = a * 2.0%</i>	Total TADIF <i>c = a + b, rounded</i>
Residential	\$28,443	\$569	\$29,012
Retail	\$20.28	\$0.41	\$20.70
Office	\$29.41	\$0.59	\$30.00
Hotel	\$10,543	\$211	\$10,754

Source: Economic & Planning Systems

Fee and Expenditure Timing

The proposed fee levels, when combined with the projected development in the Transit Area, are sufficient to fund the *BIP*. However, there is a relatively small mismatch between the fee revenue expected from Phase 1 development and the total costs of infrastructure required to serve Phase 1 (see **Figure 3**). Infrastructure will be “oversized” to serve early phases and initial fee revenue may not fully cover initial costs; the shortfall is approximately \$7.5 million (3 percent of total *BIP* costs). Fee revenues from later phases will offset initial shortfalls. While the City is waiting for fee revenue to “catch up” to required infrastructure improvements several mechanisms may be available to cover any initial shortfalls:

- Refinement of infrastructure costs
- Deferral of certain costs to later phases
- Developer funding/reimbursement from subsequent fee revenues
- Grants or other sources of funding not currently available

Figure 3 Projected Fee Revenue and Costs by Phase (millions\$)



APPENDIX A

Appraisal for In-Lieu Park-Fees
Smith & Associates, Milpitas, CA
November 30, 2012



APPRAISAL FOR
In-Lieu Park Fees
City of Milpitas, California

File Number: T122204

PREPARED FOR:

Mr. Steven G. McHarris
Planning & Neighborhood Services Director
City of Milpitas
455 E. Calaveras Blvd.
Milpitas, CA 95035

PREPARED BY:

William O. Hurd, MAI
AG034899

Terry S. Larson, MAI
AG007041

SMITH & ASSOCIATES, INC.
140 Town and Country Drive, Suite F
Danville, California 94526
Phone (925) 855-4950
Fax (925) 855-4951

November 30, 2012

Mr. Steven G. McHarris
Planning & Neighborhood Services Director
City of Milpitas
455 E. Calaveras Blvd.
Milpitas, CA 95035

RE: Appraisal for In-Lieu Park Fees
City of Milpitas, California

Dear Mr. McHarris:

At your request, we have performed an appraisal for In-Lieu Park Fees. The purpose of the appraisal is to provide an opinion of the Average Market Value of a hypothetical one-acre parcel of land in the City of Milpitas Mid-Town and Transit Area Specific Plan areas with the potential of being developed with a park. This report does not consider any individual property, but rather looks at the Average Price per Acre throughout the specific plan areas, with residential zoning. The property rights considered are those of the Fee Simple Estate. The function of the report is for use by the City of Milpitas to assist in setting in-lieu park fees to be charged to developers in the specific plan areas.

The client is the City of Milpitas. The intended user of this appraisal is the City of Milpitas and the intended use is to assist in setting city-wide in-lieu park fees to be charged to developers.

The City has stated that a new city park is most likely to be located in the Transit Oriented and the Midtown Specific Planning Areas. Though these two planning areas have sites with commercial, industrial, and mixed-use designations, the majority of the acreage within both planning areas are zoned for High Density Residential. Also, it is residential use that triggers the need for parks and the desire is to have the parks within or adjacent to new residential development. Therefore, we considered only land sales intended for residential use. Though we are not evaluating a specific parcel, our primary purpose is to provide an opinion of value of a hypothetical one-acre site therefore, our conclusions are considered an appraisal.

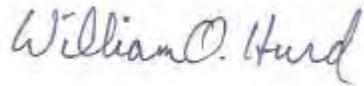
Based on our investigation and analysis, as described in the attached report, it is our opinion that the Average Market Value of the Fee Simple Estate in a potential park site location in the City of Milpitas Mid-Town and Transit Area Specific Plan areas, subject to the attached Extraordinary and General Assumptions and Limiting Conditions, and any Hypothetical Condition, as of November 30, 2012, is:

\$58.00 per square foot
or
\$2,526,480 per acre

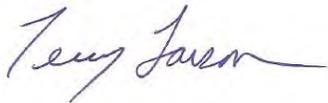
Mr. Steven G. McHarris
City of Milpitas
Page 2

The attached report contains the factual data and reasoning upon which the appraisal has been predicated. This report has been written in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP), the Appraisal Institute Standards, and the City of Milpitas.

Please see the General and Extraordinary Assumptions and Limiting Conditions and Hypothetical Conditions regarding the values presented in this appraisal report, as shown in Section I - Introduction.



William O. Hurd, MAI
Certified General Real Estate Appraiser
State of California #AG034899, exp. date 8-17-2014



Terry S. Larson, MAI
Certified General Real Estate Appraiser
State of California #AG007041, exp. date 11-30-2014

WOH, TSL
enclosure

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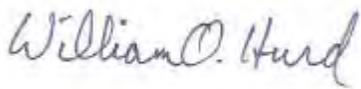
SUMMARY OF SALIENT FACTS AND CONCLUSIONS

Client:	City of Milpitas
Intended User:	City of Milpitas
Property Location:	Milpitas Mid-Town & Transit Area Specific Plan Areas
Property Type:	Potential Park Land
Assessor's Parcel Number:	N/A
Land Area:	Hypothetical One-Acre Parcel
Zoning:	Residential
General Plan:	Residential
Flood Hazard Zone:	No
Alquist Priolo Special Study Zone:	No
Present Use:	Residential
Highest and Best Use:	Residential – Suitable for Park Land
Estate Appraised:	Fee Simple
Purpose of the Appraisal:	Determine the Average Price of a Hypothetical one-acre site.
Value Premise:	Vacant and Ready for Development
Appraisal Date:	November 30, 2012
Average Market Value:	\$58.00 per square foot or \$2,526,480 per acre
	Subject to the attached General and Extraordinary Assumptions and Limiting Conditions
Appraisers:	William O. Hurd, MAI Certified General Real Estate Appraiser State of California #AG034899 Exp. date 8-17-2014
	Terry S. Larson, MAI Certified General Real Estate Appraiser State of California #AG007041 Exp. date 11-30-2014

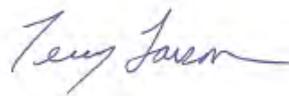
CERTIFICATION

We certify that, to the best of our knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are our personal, impartial, and unbiased professional analyses, opinions, and conclusions.
3. We have no present or prospective interest in the property that is the subject of this report, and we have no personal interest with respect to the parties involved.
4. We have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
5. Our engagement in this assignment was not contingent upon developing or reporting predetermined results.
6. Our compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
7. The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute, which include the *Uniform Standards of Professional Appraisal Practice*.
8. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
9. No one provided significant real property appraisal assistance to the persons signing this certification.
10. We are not evaluating a specific parcel, but rather providing a mathematical conclusion to be used in the Milpitas Mid-Town and Transit Area Specific Plan areas. Because the purpose of this assignment is to provide an opinion of value of a Hypothetical one-acre site, this is considered an appraisal. Mr. Terry S. Larson, MAI, has had personal discussions with the City of Milpitas regarding the scope and structure of this appraisal.
11. As of the date of this report, William O. Hurd, MAI and Terry S. Larson, MAI have completed the requirements under the continuing education program of the Appraisal Institute.
12. While not limited to a specific property, Smith & Associates has done a similar appraisal for the City of Milpitas in-lieu park fees within the three-year period immediately preceding acceptance of this assignment.



William O. Hurd, MAI
Certified General Real Estate Appraiser
State of California #AG034899, exp. 8-17-14



Terry S. Larson, MAI
Certified General Real Estate Appraiser
State of California #AG007041, exp. 11-30-14

GENERAL ASSUMPTIONS

This appraisal has been made with the following General Assumptions. An Assumption is defined as: "that which is taken to be true".

1. No responsibility is assumed for the legal description provided or for matters pertaining to legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated.
2. The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated.
3. Responsible ownership and competent property management are assumed.
4. The information furnished by others is believed to be reliable, but no warranty is given for its accuracy.
5. All engineering studies are assumed to be correct. The plot plans and illustrative material in this report are included only to help the reader visualize the property.
6. It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for obtaining the engineering studies that may be required to discover them.
7. It is assumed that the property is in full compliance with all applicable federal, state, and local environmental regulations and laws unless the lack of compliance is stated, described, and considered in the appraisal report.
8. It is assumed that the property conforms to all applicable zoning and use regulations and restrictions unless a nonconformity has been identified, described, and considered in the appraisal report.
9. It is assumed that all required licenses, certificates of occupancy, consents, and other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the opinion of value contained in this report is based.
10. It is assumed that the use of the land and improvements is confined within the boundaries or property lines of the property described and that there is no encroachment or trespass unless noted in the report.

GENERAL ASSUMPTIONS - CONTINUED

11. Unless otherwise stated in this report, the existence of hazardous materials, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation, and other potentially hazardous materials may affect the value of the property. The value estimated is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for such conditions or for any expertise or engineering knowledge required to discover them. The intended user is urged to retain an expert in this field, if desired.

GENERAL LIMITING CONDITIONS

This appraisal has been made with the following General Limiting Conditions. A Limiting Condition is defined as: "a condition that limits the Use of an Appraisal".

1. Any allocation of the total value estimated in this report between the land and the improvements applies only under the stated program of utilization. The separate values allocated to the land and buildings must not be used in conjunction with any other appraisal and are invalid if so used.
2. Any opinions of value provided in the report apply to the entire property, and any proration or division of the total into fractional interests will invalidate the opinion of value, unless such proration or division of interests has been set forth in the report.
3. Possession of this report, or a copy thereof, does not carry with it the right of publication.
4. The appraiser, by reason of this appraisal, is not required to give further consultation or testimony or to be in attendance in court with reference to the property in question unless arrangements have been previously made.
5. Disclosure of the contents of the appraisal report is governed by the Bylaws and Regulations of The Appraisal Institute.
6. Neither all, nor any part of the content of the report, or copy thereof (including conclusions as to the property value, the identity of the appraiser, professional designations, reference to any professional appraisal organizations, or the firm with which the appraiser is connected) shall be used for any purposes by anyone but the client specified in the report without the previous written consent of the Appraiser; nor shall it be disseminated to the public through advertising, public relations, news, sales, or other media without the prior written consent and approval of the appraiser. Any other party who uses or relies upon any information in this report, without the preparer's written consent, does so at their own risk.

EXTRAORDINARY ASSUMPTIONS

This appraisal has been made with the following Extraordinary Assumptions. An Extraordinary Assumption is defined as: “an assumption, directly related to a specific assignment, as of the effective date of the assignment results, which, if found to be false, could alter the appraiser’s opinions or conclusions”. The use of the Extraordinary Assumptions might have affected the assignment results.

1. This Appraisal is intended to determine the Average Market Value of a hypothetical one-acre parcel of land in the City of Milpitas Mid-Town and Transit Area Specific Plan areas with the potential of being developed with a park. This report does not consider any individual property, but rather looks at the Average Sales Price per Acre for residential land in the Milpitas Mid-Town and Transit Area Specific Plan areas.

HYPOTHETICAL CONDITIONS

This appraisal has been made with the following Hypothetical Conditions. A Hypothetical Condition is defined as: “a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis”. The use of the Hypothetical Conditions might have affected the assignment results.

1. None

IDENTIFICATION OF THE PROPERTY

This Appraisal is intended to determine the Average Market Value of a hypothetical one-acre parcel of land in the City of Milpitas Mid-Town and Transit Area Specific Plan areas with the potential of being developed with a park. This report does not consider any individual property, but rather looks at the Average Sales Price per Acre for residential land in the Milpitas Mid-Town and Transit Area Specific Plan areas.

PURPOSE AND PROPERTY RIGHTS APPRAISED

The purpose of the appraisal is to provide an opinion of the Average Market Value of a hypothetical one-acre parcel of land in the City of Milpitas Mid-Town and Transit Area Specific Plan areas with the potential of being developed with a park. The property rights are those of the Fee Simple Estate.

INTENDED USER AND INTENDED USE

The intended user of this appraisal is the City of Milpitas and the intended use is to assist in setting city-wide in-lieu park fees to be charged to developers in the Mid-Town and Transit Area Specific Plan areas. It is not to be used by any other entity for any purpose without the written consent of the appraisers. The appraisers are not responsible for unauthorized distribution and/or use of this report.

EFFECTIVE DATE OF THE APPRAISAL

The effective date of the appraisal is November 30, 2012.

COMPETENCY PROVISION

The appraisers possess both the knowledge and required ability to appraise property within the City of Milpitas. It is within the Smith & Associates, Inc. defined service area and the appraisers have the required resources, including zoning information, Assessor's records, Multiple Listing Service, Loopnet, Landvision and CoStar Comps, Inc. The appraisers affiliated with Smith & Associates, Inc. have appraised numerous properties of a similar type in the area and its competing environment. **Please see a copy of the appraiser's qualifications in the Addenda.**

DEFINITIONS

Fee Simple Estate

*"Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat."*¹

Market Value

"The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- a. Buyer and seller are typically motivated;*
- b. Both parties are well informed or well advised, and acting in what they consider their own best interests;*
- c. A reasonable time is allowed for exposure in the open market;*
- d. Payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and*
- e. The price represents the normal consideration for the property sold unaffected by creative financing or sale concessions granted by anyone associated with the sale."*

2

Average or Central Tendency

"The tendency of samples to cluster around a central point, or representative value, in a frequency distribution."

As Is Market Value

*"The estimate of the market value of real property in its current physical condition, use, and zoning as of the appraisal date."*³

Cash Equivalency

*"An analytical process in which the sale price of a transaction with nonmarket financing or financing with unusual conditions or incentives is converted into a price expressed in terms of cash."*⁴

¹ *The Dictionary of Real Estate Appraisal*, 5th Edition 2010, The Appraisal Institute, Page 78

² *Office of the Comptroller of the Currency (OCC)*, 12 CFR Part 34, *The Dictionary of Real Estate Appraisal*, 5th Edition, Page 123 and FIRREA

³ *The Dictionary of Real Estate Appraisal*, 5th Edition 2010, The Appraisal Institute, Page 12

⁴ *The Dictionary of Real Estate Appraisal*, 5th Edition 2010, The Appraisal Institute, Page 30

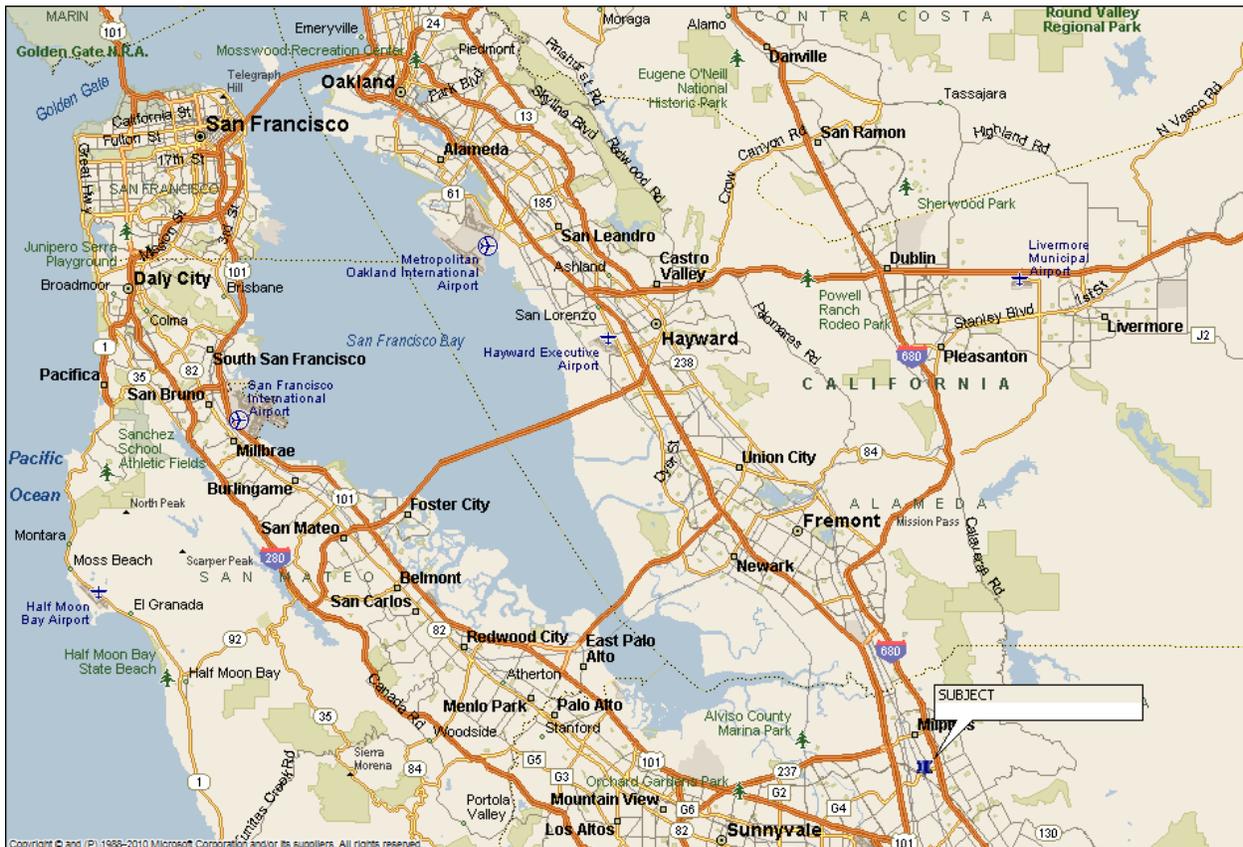
SCOPE OF THE APPRAISAL

Per the client's request, we have performed an appraisal and prepared a **Summary Report**. The methodology section of this report outlines the valuation procedures followed.

The specific steps in the appraisal process include the following:

- Research and analyze all of the applicable land sales within the City of Milpitas Mid-Town and Transit Area Specific Plan areas, or nearby areas with similar characteristics.
- The confirmation of the comparable sales was completed to the greatest extent possible and as many details of the transaction were confirmed with the participants of the transaction. These include but not limited to grantor and grantee, sale price, date, terms and conditions, development potential, number of residential units or square feet of commercial development, etc.
- An investigation of the sales was completed to the greatest extent possible. The most recent sales and those located in the City of Milpitas are given primary consideration. We also considered properties currently in contract and current listings. Consideration is also given to sales in nearby San Jose.
- We investigated land sales that reflect residential land uses of high (20-40 DU/AC) and very high (41-60+ DU/AC) densities, typical of those in the two specific plan areas.
- Once the complete sample of sales was identified and verified, the sales were adjusted for the following characteristics; property rights conveyed, financing, conditions of sale (listings), market conditions (time) and physical condition. A market conditions adjustment is important as the market can change over time and older sales may need to be adjusted to reflect upward or downward trends to the current date of the consultation service.
- Physical conditions are important as parcels are in different stages of improvement and need to be adjusted to a similar base condition. We considered a base value assuming a vacant, level site with all street improvements including curbs, gutters, sidewalks, utilities, and street lights, but no development entitlements. All of the sales have been adjusted to this standard.
- Other adjustments for location, density, etc. are not made, as the aim is to represent an Average Per Acre Value in Milpitas. These adjustments would be property specific and should not be made in estimating an average market value.
- Once the sales were adjusted, we then calculated a mathematical average per acre market value.
- Although we are not considering a specific property, this is an appraisal as the main purpose is to provide an opinion of value. Additionally, we have prepared a Summary Report that provides all of the necessary information to fully document the comparable sales and adjustments and explain the process leading to the final Average Per-Acre Determination of Market Value.

REGIONAL MAP



REGIONAL ANALYSIS – SANTA CLARA COUNTY

Santa Clara County encompasses a total land area of approximately 1,034 square miles and most of the commercial and residential development as well as the county's population reside on the floor of the 225 square mile Santa Clara Valley. Topographical features that generally border Santa Clara County include the San Francisco Bay and its associated tidelands to the north, the Mount Hamilton Range to the east, the Santa Cruz Mountains to the south, and the Cupertino Foothills to the west.

Originally Santa Clara County was an agricultural area. Before 1945 the county consisted of mostly fruit and nut orchards mainly because of the ideal climate and topographical features gave the agricultural crops protection from elements. Following World War II returning GIs and their new families relocated to Santa Clara Valley, as it became an ideal place for living. During the 1950s, 1960s and 1970s, Santa Clara County experienced an unprecedented housing boom. New subdivisions were built for miles, creating an area of suburban sprawl.

Similar growth patterns are still occurring, but the lack of vacant land available for development, as well as the geographical constraints, has created a shortage of new housing. The result was increased pricing above levels ever previously seen or achieved in Santa Clara County.

Transportation

Santa Clara County is well served by an extensive freeway system, major commercial expressways, commercial rail and passenger light rail systems, as well as an International Airport. Interstate 680, 880, and 280 connect with the west and east San Francisco Bay Areas and the rest of the state. US Highway 101 and State Highways 17, 85, 87 and 237 also add additional freeway access to most areas of Santa Clara County. The Lawrence, San Tomas, Capitol, Foothill, Montague and Central Expressways provide cross-valley routes that are superior to surface streets, but are slower than freeways. State Route 85 serves the south valley and results in a fairly complete road system. This addition has been of great benefit to South Valley residents as it links them directly to employment centers in Cupertino, Sunnyvale, Mt. View, and the San Francisco Peninsula. Nevertheless the overall system is taxed by heavy traffic congestion during commute hours.

The Norman Y. Mineta San Jose International Airport is located northwest near the intersection of Interstate 880, US Highway 101, and State Highway 87 (the Guadalupe Expressway), in the northern part of the city. National and International flight availability is considered above average and is expanding. Additional Domestic and International flights are also available from Oakland and San Francisco International Airports, which are within 40 miles of the Evergreen Views (D.R. Horton) site. The Reid Hillview Municipal Airport is located along Capitol Expressway but this is a small domestic airport that caters to local businesses and recreation flyers.

Union Pacific Railroad provides commercial rail service that serves the industrial developments throughout the City of San Jose and Santa Clara Valley. These corridors are mostly located along Monterey Highway to the west. The Valley Transportation Authority (VTA) provides Light Rail and bus service countywide and the light rail system connects with Caltrain at the Diridon (downtown San Jose), Tamien, Castro (downtown Mountain View), and Evelyn stations. The original light rail system operated primarily from downtown San Jose to points north, where many residents were employed. However, the light rail lines are now expanding in many directions, becoming more of a full service provider every year. All local transportation improvements have been made in an effort to lighten auto traffic, but to date, success has been moderate. Amtrak provides passenger rail service out of San Jose and Santa Clara, and has a commute line to the south valley, Morgan Hill and Gilroy. A future Light Rail Station is planned to be located along Capitol Expressway, but the timing remains unknown due to funding constraints.

Population

Between 1980 and 1990, the County of Santa Clara grew by 202,506 people. This growth represents a 16% increase in population. Similarly, between 1990 and 2000, the County grew by an additional 185,008, which accounts for a 12% change in population.

It is predicted that the County's population will continue to grow, but at a slower rate. Moderate rates of growth in employment and housing development may account for this slow down in population growth. According to the Association of Bay Area Governments' Projections 2009, by 2010, the County of Santa Clara's population was projected to increase by 139,415 people to 1,822,000. From 2010 to 2020, the County of Santa Clara's population growth is predicted to pick up again, increasing 241,100 people to 2,063,100.

This is due to the re-emergence of a strong tech sector and gains in the social media and alternative energy industries. The accuracy of that projection depends largely on continued improvements in employment and the economic health of the country.

Employment

In their October 19, 2012 report, the California Employment Development Department (EDD) reported that California's unemployment rate decreased to 10.2 percent in September, and nonfarm payroll jobs increased by 8,500 during the month for a total gain of 505,600 jobs since the recovery began in February 2010. The U.S. unemployment rate also decreased in September to 7.8 percent.

In August, the state's unemployment rate was 10.6 percent, and in September 2011, the unemployment rate was 11.7 percent. The unemployment rate is derived from a federal survey of 5,500 California households.

Nonfarm jobs in California totaled 14,347,900 in September, an increase of 8,500 jobs over the month, according to a survey of businesses that is larger and less variable statistically. The survey of 42,000 California businesses measures jobs in the economy. The year-over-year change (September 2011 to September 2012) shows an increase of 262,000 jobs (up 1.9 percent).

Income

High employment and high skill levels translate into high income. Santa Clara County is one of the most affluent metropolitan markets in the country. According to ABAG, the mean household income as of January 2000 was \$105,300 significantly higher than statewide or national mean incomes. However, the National, State, and Local Economy went into a significant recession in 2008 and mean household income has not rebounded to the levels reported from 1999 to 2001. Countywide Mean household income declined in 2005 about 11.43%, and the projected 2010 income level was expected to remain 7.72% below 2000 levels. This is the latest official data available, but anecdotal data indicates strong gains over the past year in Santa Clara County.

Regional Conclusion

Santa Clara County is known as the high-technology center of the San Francisco Bay Area and the world. It has a diverse economic base with several industrial and office regional employment centers as well as having a large residential base. Physical features attract both businesses and residents.

But while more resilient than many areas of the country, Silicon Valley is not immune from the current economic turmoil. ABAG's 25-year projection remains positive for the San Jose and the greater Bay Area as economists agree that growth in the area should be steady and slower for the long-term. While the Valley was one of the areas hit hardest at the start of the recession due to layoffs and a collapse in home values, it is still predicted by many to be one of the first areas to recover and will likely do so at a pace faster than the rest of the state and nation. This area is still attractive to businesses for its location, transportation options, highly educated population, and access to capital. The recent public offering announcement from Facebook, joining Google and Yahoo in the booming social media market, is a sign that Silicon Valley is still going strong and poised for another growth period.

AREA AND NEIGHBORHOOD ANALYSIS

The City of Milpitas is located in the northeastern section of Santa Clara County, and it is bounded to the north by the City of San Jose and to the south of the City of Fremont. It is also part of the eastern portion of Silicon Valley. Land uses within the city are relatively diverse with most of the residential development located in the city's northern and eastern areas, while the industrial, research and development, and commercial uses are located primarily in the southern and western areas.

The City is well served by several transportation systems. Highways 680 and 880 run north-south through Milpitas connecting with the East Bay and Oakland to the north, while Highway 237 runs east-west, connecting with Highway 101 and the lower San Francisco Peninsula to the west. Highway 237 connects Highways 680 and 880. Access to and from Milpitas to all parts of the Bay Area, and beyond, is easy and direct by virtue of these three highways passing through the city. Lastly, the City has two Light rail stations that allow residents and employees to connect easily with the high tech and manufacturing companies in located in the City of San Jose, Silicon Valley, and Santa Clara County.

Between I-880 and Highway 680, commercial development is generally oriented along the major thoroughfares of Calaveras Boulevard, North & South Milpitas Drive, Jacklin Road, Montague Expressway, and Main Street. Just west of I-880 are the developing R&D, Office, and older manufacturing facilities north of Montague Expressway and along McCarthy Boulevard and Tasman Drive. From 2000 to 2007 approximately 1,000,000 sq.ft. Office/R&D space was built within the McCarthy Ranch Development. This project extends north from Highway 237 to Dixon Landing Road adjacent to the west side of I-880. We spoke with one of the real estate brokers who stated that there remains approximately 250 vacant acres available for future Office/R&D and Retail development within McCarthy Ranch.

Along with R&D development, retail development has also been active in Milpitas. The McCarthy Ranch Marketplace was opened in 1994 and consists of a 550,000 square feet power center including such "big box" retailers as Wal-Mart, Office Max, and Pet-Smart. This center sold in 1999 for \$32 million. A number of small retail buildings on individual parcels are adjacent to the Marketplace and include a number of restaurants and fast food facilities. The Great Mall of Milpitas, consisting of mostly discount retailers, totals 1,300,000 square feet in an enclosed Super Regional Mall. It also opened in 1994 and sold in 1999 for \$130 million. Again, the central location and ease of access from the Bay Area highways has led to the development of Super Regional and Discount Malls.

Land uses in Milpitas include commercial, retail, R&D, and industrial to several classifications of residential. These include low density single-family at very low density (less than 1 dwelling unit per acre) to Very High Density Residential with densities that range from 40 dwelling units per acre to as high as 90 dwelling units per acre with a conditional use permit.

Other important considerations in Milpitas are the Milpitas Midtown Specific Plan and the Milpitas Transit Area Specific Plan. These are the areas where much of the future development and redevelopment activity is planned to take place and it is oriented towards mixed-use, high-density projects. The City has indicated that new City parks are likely to be needed in these two planning areas, and thus, we have focused our research attention in these two planning areas. Still, parks could be constructed in any and all zoning districts; therefore it is important to consider all types of land uses in determining land values.

This *Milpitas Midtown Specific Plan* provides a new vision for an area of approximately 942.9 acres of land that is currently undergoing changes as part of its growing role as a housing and employment center in the Silicon Valley. Development activity over the past several years has included approval and/or construction of 4,800 units of housing, reinvestment in the Great Mall, extension of the Santa Clara Valley Transportation Authority (VTA's) Tasman East Light Rail Line, and proposals to extend 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 of Milpitas undertook a specific plan process in order to look comprehensively at the planning area and provide a cohesive vision for the future. The purpose of the Specific Plan is to:

- Guide the development and further evolution of the Milpitas Midtown Planning Area (Midtown),
- Encourage development that responds to City and regional objectives, such as a compatible mixture of residential, retail, and commercial uses,
- Reflect neighborhood considerations, and
- Encourage private investment in the area.

The overall strategy in the Midtown Area is to create a mixed-use community that includes high-density transit-oriented housing and a central community “gathering place”, while maintaining needed industrial, service, and commercial uses.

The plan is long-range in nature, intended to guide development for the next 20 years. Some land in the Midtown Area is undeveloped and readily developable over the short-term, while other parcels may be redeveloped over a longer time frame.

Overall, the Midtown Specific Plan provides for up to 4,860 new dwelling units and supporting retail development, new office developments at key locations, bicycle and pedestrian trails and new parks to serve residential development.

The *Milpitas Transit Area Specific Plan* presents a tremendous opportunity to transform an older industrial area into a vibrant high-intensity transit-oriented district. The site is unique in the Bay Area, offering large land acreages; access to two freeways and an expressway; two light rail stations and a future BART station; property owners experienced in real estate development; the Great Mall as a retail anchor; and a City ready to facilitate new private sector development. The City undertook this Specific Plan in order to bring about an attractive and livable neighborhood that takes advantage of public investment in light rail and BART, and transforms an older light industrial district to meet high demand for housing, offices, and shopping in the Bay Area. The Plan creates a structure for a walkable, transit-oriented area with a mix of land uses, which thereby encourages walking, biking, and transit trips and minimizes vehicle trips. This type of development can accommodate substantial growth, minimize impacts on local roadways, and reduce urban sprawl at the periphery of the region.

Vision

The City has established the following overall vision for the Milpitas Transit Area, balancing its goals for fiscal stability and quality development with regional objectives for housing and transportation.

Vision Statement

Create attractive high density urban neighborhoods with a mix of land uses around the light rail stations and future BART station in Milpitas. Create pedestrian connections so that residents, visitors, and workers will walk, bike, and take transit. Design streets and public spaces to create a lively and attractive street character, and a distinctive identity for each subdistrict.

Goals

The following goals have guided the preparation of the Specific Plan and should be used to evaluate development proposals and any proposed future amendments to the Plan.

Land Use

- Transition from older industrial uses to a high intensity mixed use area with housing, office, retail, restaurants, personal services, hotels, parks, and community facilities.
- Add a large amount of housing in order to meet regional housing needs. Adding housing improves the jobs/housing balance in the South Bay and can thereby reduce regional traffic congestion.
- Develop land uses and high densities that maximize transit ridership, so that land use planning supports the large public investment in transit facilities. Locate the highest densities closest to the transit stations.
- Provide a mix of land uses that responds to market demand over the next twenty years, and provides opportunities for complementary uses, such as by locating hotels and offices near retail and restaurants.
- Site neighborhood-serving retail uses in each subdistrict of the Transit Area so residents and workers can easily walk to shops, restaurants, and services.
- Develop retail and hotel uses and other revenue-generating uses to help support the cost of capital improvements and ongoing public services for residents and workers in the Transit Area.
- Minimize noise and traffic impacts on residences.

In summary these two specific plans will encompass over 1,383 acres and redevelop a majority of the underutilized industrial commercially improved sites. In total the two plans are designed to develop over 12,060 residential units, 1,720,000 square feet of office space, 661,000 square feet of highway commercial, retail, and general commercial space as well as 48 acres of parks and open space.

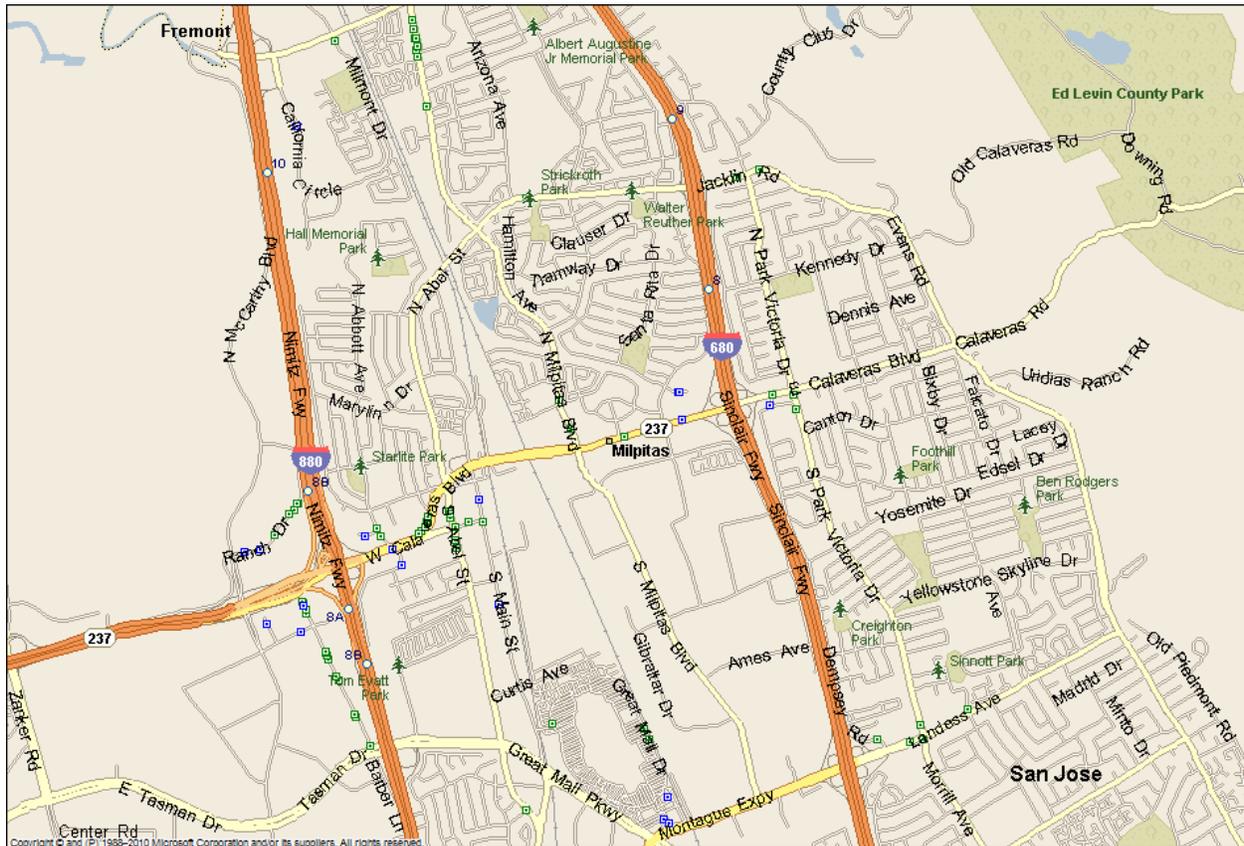
In November 2011, the Milpitas City Council approved several large residential projects, one of which is already under construction and the others are planned to start soon. On 12.3 acres at the northwest corner of Montague Expressway and McCandless Drive is D.R. Horton's Harmony project, envisioned as a high-density residential site with mixed uses and a new park with a school built on a developed site with three vacant industrial buildings on the property to the east. The 276-unit townhome and condominium complex is already under construction and a pedestrian bridge on the north side of the property that would cross over McCandless Drive is also planned.

A 734-unit Citation Montague Village residential project, has been approved to be built at 1200 Piper Drive in the *Transit Area Specific Plan (TASP)*. Shea Properties' 204-unit apartment development on the southern tip of the *Midtown Specific Plan* at 1201 S. Abel St. received approval with little opposition. The former Matteson Project, previously proposed for the same location, had called for 126 units and some retail space. And lastly, the council unanimously voted to approve Trumark Homes' residential project called Contour, which calls for redeveloping an 8.3-acre site along the 300 block of Montague Expressway with 134 residential units, installation of associated site improvements and setbacks and lot area requirements.

Conclusion

Although located on the east side of Silicon Valley, Milpitas has become an increasingly desirable location for business, as well as a desirable community in which to live. The high cost of housing and commercial property in the West Valley and lack of available developable land has drawn business and residents to the community. Ease of access to the Bay Area freeway system also helps make this a desirable location.

CITY MAP



NATIONAL AND STATE ECONOMIC CONDITIONS

The UCLA Anderson Forecast for California is the most widely followed and oft-cited in the state and was unique in predicting both the seriousness of the early-1990s downturn, and the strength of the state economy's rebound since 1993. Below is their most recent report, published on September 20, 2012.

UCLA Anderson Forecast Predicts Slow Growth at State and National Levels This Year

Faster Growth Expected by 2014

The UCLA Anderson Forecast says that Gross Domestic Product (GDP) growth in the U.S. will remain tepid throughout 2012. In its third quarterly report of 2012, the Forecast expects to see 1.3% growth for the third quarter of this year and 1.5% growth in the fourth. In 2013, the outlook is for growth above 2%, but 2014 “could very well put the run rate of GDP growth in excess of 3%, as economic activity is buoyed by strength in residential and nonresidential construction and a rebound in export growth.”

In California, the current forecast reflects the national forecast with continued, but slightly slower gains in employment through 2012, with faster-paced growth throughout the forecast period, which runs through 2014. This uptick in growth will result in a breakthrough to single-digit unemployment.

The National Forecast

In his September Forecast report, UCLA Anderson Forecast Senior Economist David Shulman labels current conditions in the U.S. as “the muddle through economy,” noting that the economy continues to limp along at a very sluggish pace as it has since the low point of the “Great Recession” in mid-2009. Shulman notes that real GDP growth has been in the 1-3% channel and is now operating at the lower end of that range.

Shulman says this tepid growth, combined with a structural adjustment in the economy, has caused employment gains to be modest, resulting in an unemployment rate above 8% for three and a half years. “With several quarters of 1-2% growth ahead of us we do not expect the unemployment rate to dip below 8% on a quarterly basis until the first quarter of 2014,” writes Shulman. “Simply put, job growth on the order of 160,000 a month in 2013 will not be sufficient to make any real dent in the unemployment rate. However, as job growth accelerates to 200,000 a month in 2014, the unemployment rate will begin to meaningfully improve.”

Shulman’s optimism about 2013 and 2014 is buoyed by what he calls “the lone bright spot in the economy,” the long awaited rebound in housing construction. “Led by multi-family construction, housing starts are ramping up from 612,000 units in 2011 to 763,000 units this year and just under one million units in 2013. By 2014, we anticipate that housing starts will be in excess of 1.3 million units (and) the growth in housing will account for about a full percentage point in GDP growth by 2014.” Shulman says the strength in housing is underpinned by gradually rising home prices, record low mortgage rates, improved household formations and modest employment growth.

On the flip side, Shulman warns that if Congress and the President fail to agree to an end of year compromise on taxes and spending, the economy could fall off the "fiscal cliff", leading to a downturn in 2013.

The California Forecast

In the California report, Senior Economist Jerry Nickelsburg examines how California's exports and their volumes affect employment growth in the state. After establishing that exports are an important part of the California economy (if exports of goods were an independent sector, it would be one of the state's top five), Nickelsburg's analysis reveals that "while California's exposure to the international economy is substantial, the sensitivity of the California economy to international risk is only marginally above the national risk."

The current California forecast calls for the state's unemployment rate to be at 7.9% and within 0.4% of the U.S. rate by the end of the forecast period. The forecast for 2012 calls for employment growth of 1.8%, 1.6% and 2.4% in 2012, 2013 and 2014 respectively. Payrolls will grow more steadily at 1.7%, 1.5% and 2.3% for the three forecast years. The unemployment rate will hover around 10.7% through 2012 and average 9.8% throughout 2013. In 2014, the forecast says the unemployment rate will drop to 8.5%, just shy of a percent higher than in the U.S.

MARKET OVERVIEW

We are developing an estimate of residential land values in the Midtown and Transit Area Specific Plan areas of Milpitas, so we looked at both home re-sale values and new home/apartment development. Both are indicators of the trends in housing prices and demand for multi-family housing. As single-family home prices start to rise again, and with many families unable to qualify for a loan after a foreclosure or short sale, the tendency is to down-size or turn to the rental market. First is information on the overall housing industry from DataQuick and the Gregory Group, then recent articles on apartment development from the San Jose Mercury News and Marcus & Millichap.

Housing Market – Excerpts from most recent DataQuick report

Bay Area Median Highest in Four Years

October 15, 2012

The median price paid for a Bay Area home rose to its highest level in more than four years in September, the result of a slowly improving economy, low mortgage interest rates and shifts in market mix, a real estate information service reported.

The median price paid for new and re-sale homes in the nine-county Bay Area rose to \$429,000 last month. That was up 4.6 percent from \$410,000 in August and up 17.5 percent from \$365,000 in September a year ago. It was the highest since August 2008 when it was \$447,000, according to San Diego-based DataQuick.

The low point of the current real estate cycle was \$290,000 in March 2009, while the peak was \$665,000 in June/July 2007. About half of the median's peak-to-trough drop, as well as the median's 17.5 percent increase over the last year, can be attributed to a shift in the sales mix. For example, foreclosure re-sales are at half the level of a year ago. And the number of homes that sold last month for less than \$500,000 fell by 12.4 percent year-over-year, while sales above that threshold increased 20.7 percent.

"It's obvious that a lot of fence-sitters are getting active. We're probably past that most attractive of mathematical sweet spots, the one that combines low interest rates and low prices. In other words, price increases the past few months outweigh mortgage rate declines. Potential buyers are also encountering fewer homes for sale. Additionally, going through today's qualification process for a mortgage is still a real grind," said John Walsh, DataQuick president.

A total of 6,850 new and re-sale homes were sold in the Bay Area last month. That was down 20.2 percent from 8,579 in August, and up 1.5 percent from 6,749 for September 2011.

An August-to-September sales decline is normal for the season, although last month's drop was exaggerated because the month started and ended with a weekend and had fewer business days. Sales for the month of September have varied from 5,014 in 2007 to 13,343 in 2003, while the average for all months of September since 1988, when DataQuick's statistics start, is 8,572.

Jumbo loans, mortgages above the old conforming limit of \$417,000, accounted for 37.1 percent of last month's purchase lending, down from a revised 38.8 percent in August, and up from 32.1 percent a year ago. Jumbo usage dropped to 17.1 percent in January 2009. Before the credit crunch struck in August 2007, jumbos accounted for nearly 60 percent of the Bay Area purchase loan market.

Adjustable-rate mortgages (ARMs), an important indicator of mortgage availability, accounted for 11.7 percent of the Bay Area's home purchase loans. That was up from a revised 11.5 percent in August, and down from 12.8 percent in September last year. Since 2000, ARMs have accounted for 49.2 percent of all purchase loans. ARMs hit a low of 3.0 percent of purchase loans in January 2009.

Last month foreclosure re-sales – homes that had been foreclosed on in the prior 12 months – accounted for 13.9 percent of the re-sale market, down from a revised 14.5 percent in August, and down from 25.4 percent a year ago. Last month was the lowest since foreclosure re-sales were 10.1 percent in November 2007. Foreclosure re-sales peaked at 52.0 percent in February 2009. The monthly average for foreclosure re-sales over the past 17 years is about 10 percent.

Short sales – transactions where the sale price fell short of what was owed on the property – made up an estimated 23.5 percent of Bay Area re-sales last month. That was up from an estimated 23.0 percent in August and down from 24.4 percent a year earlier.

Last month absentee buyers – mostly investors – purchased a near-record 24.1 percent of all Bay Area homes, up from 22.8 percent in August, and up from 21.9 percent a year ago. Absentee buyers paid a median \$285,000 in September, up from \$280,000 in August and up 16.5 percent from \$245,000 a year ago.

Home flipping has picked up this year. The number of Bay Area homes that sold twice on the open market within a six-month period rose to 3.9 percent of all homes sold in September. That was up from a flipping rate of 3.6 percent in August and up from 2.7 percent a year earlier.

All homes	Sales Volume			Median Price		
	Sep-11	Sep-12	% Chng	Sep-11	Sep-12	% Chng
Alameda	1,348	1,322	-1.9%	\$348,000	\$379,000	8.9%
Contra Costa	1,394	1,403	0.6%	\$252,000	\$320,000	27.0%
Marin	239	268	12.1%	\$628,409	\$650,000	3.4%
Napa	124	126	1.6%	\$315,000	\$345,000	9.5%
Santa Clara	1,560	1,601	2.6%	\$470,000	\$550,000	17.0%
San Francisco	399	492	23.3%	\$613,750	\$745,000	21.4%
San Mateo	607	655	7.9%	\$551,000	\$620,000	12.5%
Solano	606	537	-11.4%	\$195,000	\$200,000	2.6%
Sonoma	472	446	-5.5%	\$307,000	\$335,000	9.1%
Bay Area	6,749	6,850	1.5%	\$365,000	\$429,000	17.5%

Source: DataQuick, www.DQNews.com

New Home Sales

The following chart for Santa Clara County is from The Gregory Group, which tracks new home development and sales. There have been no single-family home projects in Milpitas recently, but the numbers show the trends in the surrounding areas of Santa Clara County. Year-to-date 2012 has shown only moderate increases in home prices, but significant increase in sales as home-buyers have taken advantage of favorable mortgage rates and decided that home prices won't get any lower.

County/Community (Average Price/ Quarter Sales)	4th Qtr	2010				2011				2012			Quarter % Change	Year Ago % Change
		1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	1st Qtr	2nd Qtr	3rd Qtr		
Santa Clara County	\$649,673	\$660,398	\$621,228	\$628,546	\$564,490	\$568,844	\$570,991	\$676,948	\$667,583	\$633,361	\$639,368	\$672,821	5.2%	-0.6%
	200	258	137	99	94	74	112	232	216	325	332	255	-23.2%	9.9%
Campbell	\$617,167	\$613,000	\$613,000	\$613,000	\$613,000	\$613,000	\$613,000	--	--	\$728,240	\$737,823	\$737,157	-0.1%	--
	2	5	6	-1	0	-2	8	--	--	2	10	6	-40.0%	--
Gilroy	\$646,473	\$646,473	\$673,900	\$673,900	\$682,900	\$681,650	\$681,650	\$547,354	\$518,863	\$520,100	\$538,599	\$550,671	2.2%	0.6%
	3	4	11	7	7	3	2	49	42	42	116	79	-31.9%	61.2%
Morgan Hill	\$982,636	\$988,545	\$922,000	\$868,547	\$883,750	\$792,000	\$792,000	\$671,778	\$635,848	\$662,774	\$679,766	\$707,946	4.2%	5.4%
	2	3	0	12	0	2	4	31	32	18	26	23	-11.5%	-25.8%
Mountain View	\$703,422	\$697,422	\$646,429	\$646,429	--	--	--	\$1,348,493	\$1,449,488	\$1,459,300	\$1,470,663	\$1,470,663	0.0%	9.1%
	13	17	8	7	--	--	--	19	29	31	14	3	-78.6%	-84.2%
Palo Alto	\$821,738	\$839,950	\$839,950	\$695,667	\$695,667	\$695,667	\$695,667	\$695,667	\$695,667	--	--	--	--	--
	8	7	6	1	11	17	14	3	1	--	--	--	--	--
San Jose	\$586,760	\$599,947	\$594,701	\$596,153	\$497,279	\$501,769	\$503,438	\$544,529	\$546,317	\$504,106	\$482,373	\$524,372	8.7%	-3.7%
	100	162	90	72	59	49	70	60	58	132	107	94	-12.2%	56.7%
Santa Clara	--	--	--	\$769,990	\$769,990	\$769,990	\$771,657	\$675,578	\$675,578	\$678,241	\$678,241	\$579,500	-14.6%	-14.2%
	--	--	--	1	9	5	9	17	15	28	17	3	-82.4%	-82.4%
Sunnyvale	\$598,593	\$597,732	\$597,732	\$641,245	\$658,495	\$658,495	\$658,495	\$526,089	\$525,423	\$525,423	\$536,089	\$521,801	-2.7%	-0.8%
	33	35	16	0	8	0	5	49	35	72	42	47	11.9%	-4.1%

Mercury News – 8/9/12 – “As rents rise, so does Silicon Valley apartment construction”

An apartment building boom is breaking records in the South Bay as developers race to complete projects for the tens of thousands of new hires in Silicon Valley's expanding economy.

The surge in construction will add 4,000 new apartments this year to San Jose alone, a record, and eventually bring an estimated 9,000 units to the South Bay, according to city officials and apartment industry analysts.

The demand for apartments close to work should continue "as long as the job market continues to expand and people are moving into that area because of all the great things that are happening there," said Peter Solar, development director for Equity Residential, which has a project in North San Jose.

In Silicon Valley, builders are responding to a wave of hiring that has added more than 30,000 jobs in the past 12 months, many of them in the well-paid professional, technical or computing areas. In addition, the tight housing market means many people who want to buy can't find homes and end up in apartments.

Amid a vast tract of tech companies and high-end apartments in North San Jose, builders are racing to complete more than half a dozen large projects.

Statistics from Marcus & Millichap – Third Quarter 2012 Apartment Research San Jose Metro Area

Construction: Following the delivery of 392 units in 2011, production will jump to 3,700 rentals this year, one of the highest totals on record. An average of 540 rentals were completed annually in the past five years.

Vacancy: Demand growth will slightly exceed additions to rental stock in 2012. The metro-wide vacancy rate will decline 20 basis points this year to 2.7 percent, following a 90-basis point drop in 2011.

Rents: This year, asking rents will rise 6.1 percent to \$1,607 per month, and effective rents will advance 7.3 percent to \$1,522 per month. Asking rents advanced 4.7 percent in 2011 and effective rents added 5.1 percent.

Market Participants

We spoke at length with representatives of Warmington Homes and Republic Urban Properties, who indicated that there is more current demand for multi-family housing (townhomes/condos/apartments) than for single-family. They are both familiar with the Milpitas market area and both gave estimates of \$2M - \$2.5M per acre, or about \$46/s.f. - \$57/s.f. for vacant land zoned for high density. Very High density Transit Oriented land would be higher.

Another interesting comment came from the contact at Trumark Properties regarding entitlements. Regarding Sale 6, he said it closed contingent on "full Tentative Map approval. Without that, it's like being 'partially' pregnant. Without full entitlement, beyond discretionary approvals, the discount would generally be 50%." In other words, regardless of the zoning when entering contract, a developer is unlikely to close escrow until proper zoning and at least a tentative map are in place. Otherwise, there is too much risk and they would only pay half as much for the land. This is the typical process that developers use to purchase "unentitled" land.

CONCLUSIONS

While there are still problems with the economy and unemployment is too high, we are finally seeing some signs of improvement in the housing industry. The number of foreclosure and short sales is declining and home prices are creeping up due to a lack of inventory.

However, the real growth seems to be in multi-family housing, i.e. townhomes, condos and apartments. Technology companies have once again created a crop of young professionals with good salaries. This effect is strongest on the Peninsula and in the West Valley, but is quickly moving through Central and up to North San Jose and Milpitas. Those who can't yet afford a single-family home in the area they want are going to townhome/condo developments with other young professionals or renting until the right deal comes along. Putting additional pressure on the apartment market are those individuals and families who have lost their homes and can't afford a down payment or can't get credit. We are by no means out of the woods. But these are the most positive signs we have seen in the housing market in the last 4 years.

APPRAISAL METHODOLOGY – SALES COMPARISON APPROACH

The most common way of estimating land value is the Sales Comparison Approach in which recent sales or offerings of vacant land are gathered and analyzed. Typically, the values indicated by the comparable transactions are reduced to a unit of comparison such as sales price per square foot of land area, price per buildable unit, or price per square foot of developable building area. We should point out that many of these “land” sales have existing buildings on them that must be torn down. Because we are interested in the base land value we must include these demolition costs, since they are part of the cost to the buyer to get vacant land.

The land sales and listings developed for this assignment are displayed on the following **Comparable Land Sales Summary Tables**. Details and comments with respect to each sale are provided in the table, while discussions on adjustments to the unit of comparison are discussed in the following paragraphs. We have also included **Land Sales Adjustment Tables**.

The sales and listings are adjusted for property rights conveyed, financing, conditions of sale, market conditions (time), and physical factors, where necessary. Adjustments for other factors, such as location and density, etc. are not necessary as they would be property specific and should not be made in determining an average market value. The following narrative discussion will explain the adjustments for each comparable.

Land Sales Discussion

The following tables identify several sales and listings that we believe are comparable for this appraisal. In the residential market, there have been several sales in the City of Milpitas over the past couple of years, and a couple were added from nearby areas. We also included two listings and two pending deals. *Criteria for researching and selecting comparable sales as follows:*

Time: There is only one sale from late 2010 and the rest are newer. Since most of these multi-family projects are coming to market based on similar economic conditions, we have made no adjustment for time.

Location: We gave highest priority to sales from the Milpitas specific plan areas, but also included a few nearby San Jose sales with the same zoning and intended use of high or very high residential. Pending Sale 4 is in East San Jose and is the only one that required an upward adjustment, as all brokers we spoke with agreed that that area is inferior to Milpitas.

Land Use: The City has stated that a new city park is most likely to be located in the Transit Oriented and the Midtown Specific Planning Areas. Though these two planning areas have sites with commercial, industrial, and mixed-use designations, the majority of the acreage within both planning areas are zoned for High Density Residential. Also, it is residential use that triggers the need for parks and the desire is to have the parks within or adjacent to new residential development. Therefore, we considered only land sales intended for residential use.

COMPARABLE RESIDENTIAL LAND SALES							
	ADDRESS APN	BUYER	SALE DATE	LOT SIZE S.F.	PRICE TOTAL	INTENDED USE	COMMENTS
		SELLER	DOC #	ACRES	PER SF	ZONING	
LISTINGS							
1	554 S. Main St. Milpitas 086-25-012		Listing	20,235 0.46	\$1,850,000 \$91.43	MXD - Mixed Use 21-30 DU/Ac	Ground Floor Commercial
2	808 S. Main St. Milpitas 086-25-021		Listing	30,056 0.69	\$1,895,000 \$63.05	MXD - Mixed Use 21-30 DU/Ac	
PENDING							
3	CONFIDENTIAL Milpitas		Pending	223,027 5.12	\$8,200,000 \$212,000 \$8,412,000 \$37.72	High Density Residential R5 60+ DU/AC	Irregular shape Large easement restricts building envelope \$212,000 for demo
4	CONFIDENTIAL East San Jose		Pending	126,780 2.91	\$5,410,000 \$880,000 \$6,290,000 \$49.61	High Density Residential PD 80 DU/AC	Assemblage required \$500,000 for lease buyout \$380,000 for demo
SALES							
5	1201 S. Main St Milpitas 086-16-100	Shea Properties Matteson Companies	Aug-12 21793603	118,483 2.72	\$7,750,000 \$65.41	204 Apts. R4 w/TOD overlay 75 DU/Ac	Subject to Entitlements
6	Trade Zone Blvd. & Montague Milpitas 086-36-043	Trumark Companies Mission West Properties	Jul-12 21741832	361,548 8.30	\$18,500,000 \$1,043,000 \$19,543,000 \$54.05	134 Units 16 DU/Ac R-3	Subject to Entitlements \$1,043,000 for demo of three industrial buildings < 1/2 mile to light rail
7	1435-1620 McCandless Dr. Milpitas 086-33-094, 095, 098, 099	Taylor Morrison Mission West Properites LP V	Apr-12 21646463	420,790 9.66	\$19,350,000 \$1,000,000 \$20,350,000 \$48.36	200 Townhomes 20.7 DU/Ac R-3/PD	\$1,000,000 for demo of 4 industrial buildings 1/3 mile to light rail Subject to Entitlements
8	W. San Carlos & Meridian Ave. San Jose 277-20-006 thru 015	Meridian Associates LLC Dubronik Properties LLC & Alicia & Patrick Curci	Dec-11 21474997 Dec-10 21027961	154,298 3.54	\$13,525,500 \$625,000 \$14,150,500 \$91.71	218 Apts. 15,100 s.f. Ret. PD - 61 DU/Ac	\$625,000 est. demo Subject to Entitlements
9	1415-1425 McCandless Milpitas 086-33-093	Integral Communities Mission West Properites LP II	Oct-11 21387784	112,603 2.59	\$7,320,000 \$270,000 \$7,590,000 \$67.40	218 Apts. 84 DU/Ac. MXD2 TOD Overlay	\$270,000 est. demo Mixed Use High Density Subject to Entitlements
10	1030 Leigh Ave. San Jose 284-32-014	First Community Housing 1030 Leigh Ave. LLC	Sep-11 21046580	43,124 0.99	\$2,610,000 \$60.52	64 Apts. 7,532 s.f. Ret PD - 66 DU/Ac.	Vacant Site Subject to Entitlements
11	Murphy Ranch Rd. Milpitas 086-01-046	ORA Murphy Ranch 285 LLC Fairview Murphy Rd. LLC	Jun-11 21196423	567,587 13.03	\$24,811,000 \$43.71	285 TH 22 DU/Ac R-4 PD	Subject to Entitlements 1/2 mile to light rail
12	259 E. Taylor St. San Jose 249-05-071 thru 075	Berkelend Family Trust Wells Fargo Bank	Jan-11 21046580	11,326 0.26	\$525,000 \$10,500 \$535,500 \$47.28	4 TH, 1 SFR 19.2 DU/Ac PUD	REO - 7,500 SFR \$10,500 demo < 1/2 mile to light rail
13	1325-1375 McCandless Dr Milpitas 086-33-092	Milpitas Project Owner LP Mission West Properites LP II	Oct-10 20932543	217,364 4.99	\$14,123,000 \$500,000 \$14,623,000 \$67.27	350 Apts. 70 DU/Ac. MXD2 TOD Overlay	\$500,000 est. demo Mixed Use High Density Subject to Entitlements

As stated at the beginning of this section, we are estimating the value of vacant land. Therefore, an estimate of demolition costs has been included with each sale that has site improvements, to get the true price paid for the land only.

Adjustments to the Comparables

All of the pertinent information for the comparables is presented in the Summary Tables and only adjustments to the sales will be discussed here. Since we are providing an opinion of the Average Market Value of a hypothetical one-acre parcel of land for the City of Milpitas and not a specific property, the overall adjustments are minor.

Conditions of Sale

Due to a master plan established 4 years ago, Pending Sale 4 requires that the buyer assemble this property with an adjacent land owner to develop the land to its highest and best use. The buyer's offer price takes this extra work into consideration, so an upward adjustment is required compared to typical sales that do not require assemblage. Sale 8 also required assemblage and the second seller used this knowledge to negotiate a premium from the buyer. Therefore this sale warrants a downward adjustment.

Market Conditions

Only the two listings are adjusted for market conditions. Since there is no firm offer at this time, a final price would likely involve negotiating, most often to a discounted price. Therefore, a small downward adjustment is applied.

Location

As stated earlier, only Pending Sale 4 in East San Jose is adjusted for location.

Entitlements

The two pending deals and all of the sales, except for Sale 12, went into escrow "subject to entitlements." This means that during the escrow period, the buyer initiates and pays for all the steps to get an entitled project. If their original expectations cannot be executed, they have the ability to walk away from the deal with only the loss of a deposit in most cases. But this seems to be the typical way that un-entitled land is purchased – it will be entitled by the time escrow closes, but the buyer pays for the entitlement process on top of the price they paid for the un-entitled land. Sale 12 is a smaller development and already had the zoning and approvals to build townhomes, so that sale warrants a downward adjustment for superior entitlements.

Utility

The final adjustment is to Pending Sale 3 for utility. This site is irregular in shape and has a major gas pipeline running through it, so the building envelope is greatly reduced from the gross land area. An upward adjustment is applied for the inferior utility.

Conclusion

While we have attempted to adjust the sales to the hypothetical subject property for the differences identified in the adjustment grid, it must be remembered that the adjustment process is not an exact science. It reflects the appraiser's judgment regarding these differences and their magnitude relative to the overall sale price. The table below summarizes these adjustments and then averages the values by various groupings – with and without the listings and pending sales, all sales, and Milpitas sales only.

COMPARABLE LAND SALES - RESIDENTIAL

ELEMENT OF COMPARISON	LIST 1	LIST 2	PEND 3	PEND 4	SALE 5	SALE 6	SALE 7	SALE 8	SALE 9	SALE 10	SALE 11	SALE 12	SALE 13
DATE OF SALE	LISTING	LISTING	ESCROW	ESCROW	Aug-12	Jul-12	Apr-12	Dec-11	Oct-11	Sep-11	Jun-11	Jan-11	Oct-10
BASE PRICE PER SF LAND	\$91.43	\$63.05	\$37.72	\$49.61	\$65.41	\$54.05	\$48.36	\$91.71	\$67.40	\$60.52	\$43.71	\$47.28	\$67.27
PROPERTY RIGHTS CONVEYED	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
ADJ. PRICE	\$91.43	\$63.05	\$37.72	\$49.61	\$65.41	\$54.05	\$48.36	\$91.71	\$67.40	\$60.52	\$43.71	\$47.28	\$67.27
FINANCING TERMS	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
ADJ. PRICE	\$91.43	\$63.05	\$37.72	\$49.61	\$65.41	\$54.05	\$48.36	\$91.71	\$67.40	\$60.52	\$43.71	\$47.28	\$67.27
CONDITIONS OF SALE	0.0%	0.0%	0.0%	10.0%	0.0%	0.0%	0.0%	-20.0%	0.0%	0.0%	0.0%	0.0%	0.0%
ADJ. PRICE	\$91.43	\$63.05	\$37.72	\$54.57	\$65.41	\$54.05	\$48.36	\$73.37	\$67.40	\$60.52	\$43.71	\$47.28	\$67.27
MARKET CONDITIONS (TIME)	-5.0%	-5.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
ADJ. PRICE	\$86.85	\$59.90	\$37.72	\$54.57	\$65.41	\$54.05	\$48.36	\$73.37	\$67.40	\$60.52	\$43.71	\$47.28	\$67.27
LOCATION	0.0%	0.0%	0.0%	10.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
PHYSICAL CHARACTERISTICS													
STREET IMPROVEMENTS	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
DEMO	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
ENTITLEMENTS	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-10.0%	0.0%
UTILITY/USE	0.0%	0.0%	20.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
TOTAL ADJUSTMENT	0.0%	0.0%	20.0%	10.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-10.0%	0.0%
INDICATED PRICE PER SF LAND	\$86.85	\$59.90	\$45.26	\$60.03	\$65.41	\$54.05	\$48.36	\$73.37	\$67.40	\$60.52	\$43.71	\$42.55	\$67.27

All sales + listings + pendings \$59.59

All sales + pendings \$57.09

Sales only \$58.07

Milpitas Sales Only \$57.70

FINAL VALUE RECONCILIATION

With respect to reconciliation, there is, in this case, only one applicable approach to value, the Sales Comparison Approach. As a result, this is the sole basis for the value conclusion. The Sales Comparison Approach to value is believed to be the most relevant indicator of value, as it is the most likely method of valuation for vacant land.

All four groupings in our table of comparables form a very tight range, from \$57.09/s.f. to \$59.59/s.f. Given this consistency, we concluded that the most weight should be put on those sales in the Milpitas area.

Based on our investigation and analysis, it is our opinion that the Average Market Value of the Fee Simple Estate in a potential park site location in the City of Milpitas Mid-Town and Transit Area Specific Plan areas, subject to the attached General and Extraordinary Assumptions and Limiting Conditions, and any Hypothetical Conditions, as of November 30, 2012, is:

\$58.00 per square foot
or
\$2,526,480 per acre

William O. Hurd

State License #AG034899

SUMMARY

Bringing over 20 years of professionalism and attention to detail to the Real Estate appraisal industry. Associate member of Appraisal Institute, pursuing MAI designation. Appraisal experience in the entire San Francisco Bay Area and Sacramento.

Property types valued and analyzed include the following:

- * *Commercial (Office, Medical, Retail, Restaurant)*
- * *Industrial (Warehouse, Light Industry, Production)*
- * *Vacant Land (Commercial, Industrial, Mixed-Use)*
- * *Specialty (Eminent Domain, Right-of-Way, Arbitration)*
- * *Subdivision (Lots, SFR, Condominiums)*

WORK HISTORY

2004 - Present	Commercial Appraiser	Smith & Associates, Inc.
2003 - 2004	Owner	Twin Oak Properties
2001 - 2003	V.P. Bus. Development	Imperial Technology
1999 - 2001	Dir. Field Services	Provato
1988 - 1998	Dir. Sales Engineering	Sybase
1980 - 1988	Technical Sales	AT&T

EDUCATION

Bachelor of Science, Psychology *University of Dayton, Dayton, Ohio*

Anthony Schools Courses: *Basic Real Estate Appraisal; Legal Considerations in Appraisal; Math and Regulations for Appraisers; Uniform Standards of Professional Appraisal Practice*

Appraisal Institute Courses: *Advanced Income Capitalization, Subdivision Valuation, Advanced Highest and Best Use, Narrative Report Writing, Advanced Sales Comparison and Cost Approaches*

AFFILIATIONS

The Appraisal Institute, Associate Member

Terry S. Larson, MAI - Partner

California Certified General Real Estate Appraiser No. AG007041

QUALIFICATIONS

Terry Larson has been a professional real estate appraiser and consultant in Northern California since 1981. He concentrates his work in the San Francisco Bay Area and Sacramento Regions, but has also performed national assignments in over twenty states.

Terry began his career with American Appraisal Associates, the largest full service valuation firm in the world, providing valuation services for real estate, personal property, and intangible business assets. As manager of the Northern California Real Estate Valuation Group, his staff and territory covered California and assignments across the country.

Upon joining Smith & Associates in 1997, Terry expanded the firm's territory into Santa Clara, San Mateo, San Francisco and Marin Counties and built a group of appraisers that emphasize litigation support, eminent domain, partial interest valuations and special purpose properties, including airport appraisals. With over \$2 billion in annual valuations, Smith & Associates has three offices to serve client needs; Danville in the East Bay, San Mateo in Silicon Valley and Folsom in the Sacramento Region.

Terry regularly provides litigation support services for property analysis and valuation, deposition and expert witness testimony, arbitration & mediation services in disputes regarding real estate values and fair rental rates, and related matters.

CLIENTS

Banks and other lenders, developers, attorneys, private property owners, government agencies including cities and counties, the State of California, and the Federal Government. For a client list see our web page at www.SmithAssociatesInc.com.

EXPERT WITNESS TESTIMONY

Testified in dozens of cases including eminent domain representing agencies and private property owners, fire damage, diminution in value, contract fraud, land slide and breach of fiduciary responsibilities in real estate transactions.

Qualified Expert Witness in Superior Court for Santa Clara, Contra Costa, Marin and Sacramento Counties. Testified at San Mateo County Tax Board regarding the Redwood Shores Special Assessment District with an estimated value of \$1 billion. Testified in Santa Clara County Criminal Court as a percipient witness in a real estate fraud case.

SPEAKING ENGAGEMENTS

Southwest Chapter of the American Association of Airport Executives
Appraisals and Lease Negotiations, January 2011.

Santa Clara County Brokers Association
Role of the Real Estate Appraiser, June 2008.

Terry S. Larson, MAI - Partner

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PROPERTY TYPES APPRAISED

Commercial	Retail, Office, Apartments, Hotels, & Restaurants.
Industrial	Warehouse, Industrial, R&D, Mini-Storage, Manufacturing Plants, Truck Facilities, Cross Docks, & Corporate Campuses.
Vacant Land	Industrial, Commercial, Agricultural, Residential & Mitigation.
Specialty	Golf Courses, Mixed-Use Projects, Food Processing, Jet Hangars, Fixed Base Operations, Sr. Housing, RV Parks, Right-of-Way, Easements, Detrimental Conditions, Partial Interests, Eminent Domain, Residential Subdivisions, Arbitration, Mediation & Appraisal Reviews.

WORK HISTORY

1997 – Present	Partner	Smith & Associates, Inc.
1996 - 1997	Commercial Realtor	Cornish & Carey, Investment Services Group
1988 - 1996	Senior Appraiser	Hulberg & Associates, Inc.
1981 - 1988	Appraisal Manager	American Appraisal Associates, Inc.

EDUCATION

Bachelor of Science, School of Business Finance, University of Oregon, 1980

Appraisal Institute Courses:

Real Estate Appraisal Principles; Basic Valuation Procedures; Capitalization Theory and Techniques; Standards of Professional Practice; Case Studies in Real Estate Valuation; Valuation Analysis and Report Writing; Uniform Standards of Professional Appraisal Practice (USPAP); Case Studies in California Eminent Domain; Federal and State Laws and Regulations; The Appraisers Workfile; Appraisals for Estate Tax Purposes; Valuations of Partial Interests; Fractional Interest and Business; California's Condemnation Process; Appraisal of Nursing Facilities; Right of Way Acquisitions; Uniform Appraisal Standards for Federal Land Acquisitions (Yellow Book).

International Right of Way Association Courses:

Appraisal of Partial Acquisitions; Eminent Domain Law, Basics for Right of Way; Issues in Eminent Domain Valuation; Telecommunications and Rights of Way.

PROFESSIONAL AFFILIATIONS

State of California Certified General Real Estate Appraiser, License No. AG007041

Member of the Appraisal Institute, MAI No. 11046

Member of the International Right of Way Association, Member No. 2508

California Department of Real Estate Salesperson, License No. 01213728

APPENDIX B

Detailed TASP Infrastructure Cost Database Tables



Table B-1
Basic Infrastructure Program - 2012 Updated Costs
Milpitas TASP Fee Program Update; EPS# 121030

DB No.	Dev. Phase	General Improvement	Improvement Item	Location/Segment	Units	Quantity	Unit Costs	Contingency	Design, Constr. & Contingency	ROW or Land	Total Costs	Other Revenue Sources	Net TASP Development Share
1	1	Roadway/Intersection - Backbone	Phase 1 TASP share of regional traffic mitigations (see "Transportation Impact Fee Study," Kimley-Horn)	Throughout plan	--	--	--	--	\$24,778,563	--	\$24,778,563	--	\$24,778,563
2	2	Roadway/Intersection - Backbone	Phase 2 TASP share of regional traffic mitigations (see "Transportation Impact Fee Study," Kimley-Horn)	Throughout plan	--	--	--	--	\$20,959,824	--	\$20,959,824	--	\$20,959,824
3	2	Roadway/Intersection - Backbone	Reconfigured roads: Falcon Drive, as described in Transit Area Specific Plan	See Fig 5-18	LF	620	\$1,384	20%	\$1,029,369	--	\$1,029,369	--	\$1,029,369
4	1	Roadway/Intersection - Backbone	Reconfigured roads: Trade Zone Blvd as described in Transit Area Specific Plan	See Fig 5-12	LF	1,610	\$1,618	20%	\$3,125,731	--	\$3,125,731	--	\$3,125,731
5	1	Streetscape Improvements	Great Mall Parkway and Capitol Avenue	Great Mall Parkway and Capitol Avenue	--	--	--	--	\$6,922,917	--	\$6,922,917	--	\$6,922,917
6	2	Streetscape Improvements	Post-widening Montague Expressway	Montague Expressway	--	--	--	--	\$10,361,091	--	\$10,361,091	--	\$10,361,091
7	2	Roadway/Intersection - Backbone	Pedestrian bridges over Montague Expressway.	at Montague	Bridge	2	\$10,041,971	--	\$20,083,941	--	\$20,083,941	--	\$20,083,941
8	2	Roadway/Intersection - Backbone	Pedestrian walkway over future BART trench; at Piper Drive	at Piper	Bridge	1	\$1,673,662	--	\$1,673,662	--	\$1,673,662	\$1,673,662	--
9	2	Roadway/Intersection - Backbone	Vehicle bridges over Penitencia Drive, at Penitencia	at Penitencia	Bridge	2	\$1,673,662	--	\$3,347,324	--	\$3,347,324	--	\$3,347,324
10A	1	Sewer	#11A: Replace 370 LF of 12-inch with 27-inch #11A: Replace 590 LF of 18-inch with 27-inch	Throughout plan	LF	960	--	--	\$1,681,714	--	\$1,681,714	\$420,429	\$1,261,285
10B	1	Sewer	Same as above	Throughout plan	--	--	--	--	\$415,048	--	\$415,048	--	\$415,048
11	1	Sewer	#11B: Replace 360 LF of 15-inch with 18-inch #11B: Replace 1,820 LF of 10-inch with 18-inch #11B: Replace 450 LF of 10-inch with 15-inch	Throughout plan	LF	360	--	--	\$1,595,854	--	\$1,595,854	\$797,927	\$797,927
12	1	Sewer	#11C: Replace 885 LF of 10-inch with 12-inch #11C: Replace 30 LF of 8-inch with 15-inch #11C: Replace 325 LF of 8-inch with 12-inch	Throughout plan	LF	885	--	--	\$517,450	--	\$517,450	\$258,725	\$258,725
13	1	Sewer	#11D: Replace 2,060 LF of 8-inch with 12-inch	Throughout plan	LF	2,060	--	--	\$800,333	--	\$800,333	\$760,316	\$40,017
14A	1	Sewer	Additional capacity	Offsite	Gal.	500,000	\$8.93	--	\$4,463,098	--	\$4,463,098	--	\$4,463,098
14B	2	Sewer	Additional capacity	Offsite	Gal.	500,000	\$8.93	--	\$4,463,098	--	\$4,463,098	--	\$4,463,098
15	1	Sewer	Main Sewer Pump Station	Offsite	--	--	--	--	\$14,580,941	--	\$14,580,941	\$9,720,628	\$4,860,314
16	1	Water	12" pipe to eliminate dead ends at Pectin Ct	Pipe 227	LF	150	--	--	\$304,606	--	\$304,606	--	\$304,606
17A	1	Water	Land for SC Turnout at Montague	PRV, between Pipes 212, 227	SF	13,500	\$58	--	--	\$783,000	\$783,000	--	\$783,000
17B	2	Water	SC Turnout at Montague	PRV, between Pipes 212, 227	--	1	--	--	\$3,075,075	--	\$3,075,075	--	\$3,075,075
18	2	Water	SC Tank & PS; SCVWD Zone	SCVWD Zone	--	1	--	--	\$19,453,529	--	\$19,453,529	--	\$19,453,529
19	1	Water	Land for SC Tank & PS; SCVWD Zone	SCVWD Zone	--	1.75	\$2,526,480	--	--	\$4,421,340	\$4,421,340	--	\$4,421,340
20	1	Water	Recycled water: Complete distribution system with 8" pipe to eliminate dead ends	Throughout plan	--	18,000	\$335	--	\$6,025,182	--	\$6,025,182	--	\$6,025,182
21A	1	Parks/Plazas/Community Facilities	Park in subdistrict: McCandless South Parks	Penitencia Creek / McCandless	Ac.	10.87	\$1,115,775	--	\$12,128,469	--	\$12,128,469	--	\$12,128,469
21B		Parks/Plazas/Community Facilities	McCandless Park Streetscape (eastside)	Penitencia Creek / McCandless	--	--	--	--	\$557,887	--	\$557,887	--	\$557,887
22	1	Parks/Plazas/Community Facilities	Land for park in subdistrict: McCandless South Parks	Penitencia Creek / McCandless	Ac.	10.87	\$1,987,121	--	--	\$21,600,000	\$21,600,000	--	\$21,600,000
23	1	Parks/Plazas/Community Facilities	Park in subdistrict: McCandless/Centre Point, Southeast area	Penitencia Creek	Ac.	--	\$1,115,775	--	--	--	--	--	--
24	1	Parks/Plazas/Community Facilities	Land for park in subdistrict: McCandless/Centre Point, Southeast area	Penitencia Creek	Ac.	--	\$1,987,121	--	--	--	--	--	--
25	1	Parks/Plazas/Community Facilities	Park in subdistrict: McCandless/Centre Point, North area	McCandless Dr, just south of Great Mall Parkway	Ac.	0.60	\$446,310	--	\$267,786	--	\$267,786	--	\$267,786

Table B-1
Basic Infrastructure Program - 2012 Updated Costs
Milpitas TASP Fee Program Update; EPS# 121030

DB No.	Dev. Phase	General Improvement	Improvement Item	Location/Segment	Units	Quantity	Unit Costs	Contingency	Design, Constr. & Contingency	ROW or Land	Total Costs	Other Revenue Sources	Net TASP Development Share
26	1	Parks/Plazas/Community Facilities	Land for park in subdistrict: McCandless/Centre Point, North area	McCandless Dr, just south of Great Mall Parkway	Ac.	0.60	\$2,526,480	--	--	\$1,515,888	\$1,515,888	--	\$1,515,888
27	2	Parks/Plazas/Community Facilities	Park in subdistrict: Trade Zone/Montague, Central area	Sango Court at Tarob Court	Ac.	5.10	\$557,887	--	\$2,845,225	--	\$2,845,225	--	\$2,845,225
28	2	Parks/Plazas/Community Facilities	Land for park in subdistrict: Trade Zone/Montague, Central area	Sango Court at Tarob Court	Ac.	5.10	\$2,526,480	--	--	\$12,885,048	\$12,885,048	--	\$12,885,048
29	2	Parks/Plazas/Community Facilities	Park in subdistrict: Trade Zone/Montague, just north of Penitencia	Penitencia Creek at Milpitas Blvd. Extension	Ac.	2.51	\$446,310	--	\$1,120,238	--	\$1,120,238	--	\$1,120,238
30	2	Parks/Plazas/Community Facilities	Land for park in subdistrict: Trade Zone/Montague, just north of Penitencia	Penitencia Creek at Milpitas Blvd. Extension	Ac.	2.51	\$2,526,480	--	--	\$6,341,465	\$6,341,465	--	\$6,341,465
31	2	Parks/Plazas/Community Facilities	Park in subdistrict: Piper/Montague, North & South area	North & South green area of Subdistrict	Ac.	3.00	\$2,000,000	--	\$6,000,000	--	\$6,000,000	--	\$6,000,000
32	2	Parks/Plazas/Community Facilities	Land for park in subdistrict: Piper/Montague, North & South area	North green area of Subdistrict	Ac.	3.00	\$2,526,480	--	--	\$7,579,440	\$7,579,440	--	\$7,579,440
33	2	Parks/Plazas/Community Facilities	Park in subdistrict: Piper/Montague, South area	South green area of Subdistrict	Ac.	--	\$446,310	--	--	--	--	--	--
34	2	Parks/Plazas/Community Facilities	Land for park in subdistrict: Piper/Montague, South area	South green area of Subdistrict	Ac.	--	\$2,526,480	--	--	--	--	--	--
35	2	Parks/Plazas/Community Facilities	Park in subdistrict: BART station area	BART Station area subdistrict	Ac.	1.66	\$446,310	--	\$740,874	--	\$740,874	--	\$740,874
36	2	Parks/Plazas/Community Facilities	Land for park in subdistrict: BART station area	BART Station area subdistrict	Ac.	1.66	\$2,526,480	--	--	\$4,193,957	\$4,193,957	--	\$4,193,957
37	2	Linear Parks/Trails	Linear parks/trails in subdistrict: Piper Montague; throughout subdistrict (See Fig. 3-6, TASP)	Throughout subdistrict (See Fig. 3-6, TASP)	Ac.	0.72	\$334,732	--	\$241,007	--	\$241,007	--	\$241,007
38	2	Linear Parks/Trails	Linear parks/trails in subdistrict: BART station area; throughout subdistrict (See Fig. 3-6, TASP)	Throughout subdistrict (See Fig. 3-6, TASP)	Ac.	1.34	\$334,732	--	\$448,541	--	\$448,541	--	\$448,541
39	2	Linear Parks/Trails	Linear parks/trails in subdistricts: Montague Corridor and Trade Zone/Montague; throughout subdistrict (See Fig. 3-6, TASP)	Throughout subdistrict (See Fig. 3-6, TASP)	Ac.	2.39	\$334,732	--	\$800,010	--	\$800,010	--	\$800,010
40	1	Linear Parks/Trails	Linear parks/trails in subdistrict: McCandless/Centre Point; throughout subdistrict (See Fig. 3-6, TASP)	Throughout subdistrict (See Fig. 3-6, TASP)	Ac.	6.20	\$334,732	--	\$2,075,341	--	\$2,075,341	--	\$2,075,341
41	2	Parks/Plazas/Community Facilities	Community facilities at Park in McCandless/Centre Point Subdistrict, Southeast area; McCandless Dr, just south of Great Mall Parkway	McCandless Dr, just south of Great Mall Parkway	SF	12,000	\$1,395	--	\$16,736,618	--	\$16,736,618	--	\$16,736,618
42	1	Planning	Specific Plan preparation	N/A	--	--	--	--	\$1,485,096	--	\$1,485,096	--	\$1,485,096
43	1	Planning	TASP Fee Program Update	N/A	--	--	--	--	\$145,000	--	\$145,000	--	\$145,000
TOTAL									\$195,250,443	\$59,320,138	\$254,570,580	\$13,631,686	\$240,938,894

Source: City of Milpitas; ENR Construction Cost Indices; and Economic & Planning Systems.

Table B-2
Basic Infrastructure Program - Original and Updated Costs and Quantities
Milpitas TASP Fee Program Update; EPS# 121030

DB No.	Dev. Phase	General Improvement	Improvement Item	Location/Segment	Units	Quantity		Unit Costs		Contingency	Design, Constr. & Contingency			ROW or Land			Total Costs			Other Revenue Sources			Net Development Share			Notes on Cost Changes
						2008	Updated	2008\$	2012\$		2008\$	Updated 2008\$	2012\$	2008\$	Updated 2008\$	2012\$	2008\$	Updated 2008\$	2012\$	2008\$	updated 2008\$	2012\$	2008\$	updated 2008\$	2012\$	
1	1	Roadway/Inter-section - Backbone	Phase 1 TASP share of regional traffic mitigations (see "Transportation Impact Fee Study," Kimley-Horn)	Throughout plan	--	--	--	--	--	--	\$5,207,500	\$22,207,500	\$24,778,563	--	--	--	\$5,207,500	\$22,207,500	\$24,778,563	--	--	--	\$5,207,500	\$22,207,500	\$24,778,563	Added \$17M (2008\$) from Ph 2; Inflation escalation (ENR Index)
2	2	Roadway/Inter-section - Backbone	Phase 2 TASP share of regional traffic mitigations (see "Transportation Impact Fee Study," Kimley-Horn)	Throughout plan	--	--	--	--	--	--	\$35,785,000	\$18,785,000	\$20,959,824	--	--	--	\$35,785,000	\$18,785,000	\$20,959,824	--	--	--	\$35,785,000	\$18,785,000	\$20,959,824	Moved \$17M (2008\$) to Ph 1; Inflation escalation (ENR Index)
3	2	Roadway/Inter-section - Backbone	Reconfigured roads: Falcon Drive, as described in Transit Area Specific Plan	See Fig 5-18	LF	620	620	\$1,240	\$1,384	20%	\$922,560	\$922,560	\$1,029,369	--	--	--	\$922,560	\$922,560	\$1,029,369	--	--	--	\$922,560	\$922,560	\$1,029,369	Inflation escalation (ENR Index)
4	1	Roadway/Inter-section - Backbone	Reconfigured roads: Trade Zone Blvd as described in Transit Area Specific Plan	See Fig 5-12	LF	1,610	1,610	\$1,450	\$1,618	20%	\$2,801,400	\$2,801,400	\$3,125,731	--	--	--	\$2,801,400	\$2,801,400	\$3,125,731	--	--	--	\$2,801,400	\$2,801,400	\$3,125,731	Inflation escalation (ENR Index). Item moved from Phase 2 to Phase 1
5	1	Streetscape Improvements	Great Mall Parkway and Capitol Avenue	Great Mall Parkway and Capitol Avenue	--	--	--	--	--	--	\$6,204,584	\$6,204,584	\$6,922,917	--	--	--	\$6,204,584	\$6,204,584	\$6,922,917	--	--	--	\$6,204,584	\$6,204,584	\$6,922,917	Inflation escalation (ENR Index)
6	2	Streetscape Improvements	Post-widening Montague Expressway	Montague Expressway	--	--	--	--	--	--	\$9,286,008	\$9,286,008	\$10,361,091	--	--	--	\$9,286,008	\$9,286,008	\$10,361,091	--	--	--	\$9,286,008	\$9,286,008	\$10,361,091	Inflation escalation (ENR Index)
7	2	Roadway/Inter-section - Backbone	Pedestrian bridges over Montague Expressway.	at Montague	Bridge	2	2	\$9,000,000	\$10,041,971	--	\$18,000,000	\$18,000,000	\$20,083,941	--	--	--	\$18,000,000	\$18,000,000	\$20,083,941	\$9,000,000	--	--	\$9,000,000	\$18,000,000	\$20,083,941	Removed \$9M (2008\$) of other revenue from VTA; Inflation escalation (ENR Index)
8	2	Roadway/Inter-section - Backbone	Pedestrian walkway over future BART trench; at Piper Drive	at Piper	Bridge	1	1	\$1,500,000	\$1,673,662	--	\$1,500,000	\$1,500,000	\$1,673,662	--	--	--	\$1,500,000	\$1,500,000	\$1,673,662	\$1,500,000	\$1,500,000	\$1,673,662	--	--	--	Inflation escalation (ENR Index)
9	2	Roadway/Inter-section - Backbone	Vehicle bridges over Penitencia Drive, at Penitencia	at Penitencia	Bridge	2	2	\$1,500,000	\$1,673,662	--	\$3,000,000	\$3,000,000	\$3,347,324	--	--	--	\$3,000,000	\$3,000,000	\$3,347,324	--	--	--	\$3,000,000	\$3,000,000	\$3,347,324	Inflation escalation (ENR Index)
10A	1	Sewer	#11A: Replace 370 LF of 12-inch with 27-inch #11A: Replace 590 LF of 18-inch with 27-inch	Throughout plan	LF	960	960	--	--	--	\$1,101,750	\$1,469,000	\$1,681,714	--	--	--	\$1,101,750	\$1,469,000	\$1,681,714	--	\$367,250	\$420,429	\$1,101,750	\$1,101,750	\$1,261,285	Inflation escalation (City calculation)
10B	1	Sewer	Same as above	Throughout plan	--	--	--	--	--	--	--	--	\$415,048	--	--	--	--	--	\$415,048	--	--	--	--	--	\$415,048	New cost item \$415,048 (2012\$), added 11/21/2012
11	1	Sewer	#11B: Replace 360 LF of 15-inch with 18-inch #11B: Replace 1,820 LF of 10-inch with 18-inch #11B: Replace 450 LF of 10-inch with 15-inch	Throughout plan	LF	360	360	--	--	--	\$697,000	\$1,394,000	\$1,595,854	--	--	--	\$697,000	\$1,394,000	\$1,595,854	--	\$697,000	\$797,927	\$697,000	\$697,000	\$797,927	Inflation escalation (City calculation)
12	1	Sewer	#11C: Replace 885 LF of 10-inch with 12-inch #11C: Replace 30 LF of 8-inch with 15-inch #11C: Replace 325 LF of 8-inch with 12-inch	Throughout plan	LF	885	885	--	--	--	\$226,000	\$452,000	\$517,450	--	--	--	\$226,000	\$452,000	\$517,450	--	\$226,000	\$258,725	\$226,000	\$226,000	\$258,725	Inflation escalation (City calculation)
13	1	Sewer	#11D: Replace 2,060 LF of 8-inch with 12-inch	Throughout plan	LF	2,060	2,060	--	--	--	\$37,450	\$749,000	\$800,333	--	--	--	\$37,450	\$749,000	\$800,333	--	\$711,550	\$760,316	\$37,450	\$37,450	\$40,017	Inflation escalation (City calculation)
14A	1	Sewer	Additional capacity	Offsite	Gal.	1,000,000	500,000	\$8.00	\$8.93	--	\$8,000,000	\$4,000,000	\$4,463,098	--	--	--	\$8,000,000	\$4,000,000	\$4,463,098	--	--	--	\$8,000,000	\$4,000,000	\$4,463,098	Moved 50% of cost to Ph. 2; Inflation escalation (ENR Index)
14B	2	Sewer	Additional capacity	Offsite	Gal.	--	500,000	\$8.00	\$8.93	--	--	\$4,000,000	\$4,463,098	--	--	--	--	\$4,000,000	\$4,463,098	--	--	--	--	\$4,000,000	\$4,463,098	Cost moved from Phase 1
15	1	Sewer	Main Sewer Pump Station	Offsite	--	--	--	--	--	--	\$4,356,000	\$13,068,000	\$14,580,941	--	--	--	\$4,356,000	\$13,068,000	\$14,580,941	--	\$8,712,000	\$9,720,628	\$4,356,000	\$4,356,000	\$4,860,314	Inflation escalation (ENR Index)
16	1	Water	12" pipe to eliminate dead ends at Pectin Ct	Pipe 227	LF	150	150	--	--	--	\$273,000	\$273,000	\$304,606	--	--	--	\$273,000	\$273,000	\$304,606	--	--	--	\$273,000	\$273,000	\$304,606	Inflation escalation (ENR Index)
17A	1	Water	Land for SC Turnout at Montague	PRV, between Pipes 212	SF	--	13,500	\$55	\$58	--	--	--	--	--	\$742,500	\$783,000	--	\$742,500	\$783,000	--	--	--	--	\$742,500	\$783,000	New cost item for land, added 11/2/2012
17B	2	Water	SC Turnout at Montague	PRV, between Pipes 212	--	1	1	--	--	--	\$2,756,000	\$2,756,000	\$3,075,075	--	--	--	\$2,756,000	\$2,756,000	\$3,075,075	--	--	--	\$2,756,000	\$2,756,000	\$3,075,075	Cost moved from Phase 1 to Ph. 2. Inflation escalation (ENR Index).
18	2	Water	SC Tank & PS; SCVWD Zone	SCVWD Zone	--	1	1	--	--	--	\$17,435,000	\$17,435,000	\$19,453,529	--	--	--	\$17,435,000	\$17,435,000	\$19,453,529	--	--	--	\$17,435,000	\$17,435,000	\$19,453,529	Cost moved from Phase 1 to Ph. 2. Inflation escalation (ENR Index).
19	1	Water	Land for SC Tank & PS; SCVWD Zone	SCVWD Zone	--	1.75	1.75	\$2,395,800	\$2,526,480	--	--	--	--	\$4,192,650	\$4,192,650	\$4,421,340	\$4,192,650	\$4,192,650	\$4,421,340	--	--	--	\$4,192,650	\$4,192,650	\$4,421,340	Increase in land cost per acre
20	1	Water	Recycled water: Complete distribution system with 8" pipe to eliminate dead ends	Throughout plan	--	18,000	18,000	\$300	\$335	--	\$5,400,000	\$5,400,000	\$6,025,182	--	--	--	\$5,400,000	\$5,400,000	\$6,025,182	--	--	--	\$5,400,000	\$5,400,000	\$6,025,182	Inflation escalation (ENR Index)
21A	1	Parks/Plazas/Community Facilities	Park in subdistrict: McCandless South Parks	Penitencia Creek / McCandless	Ac.	6.94	10.87	\$1,000,000	\$1,115,775	--	\$6,940,000	\$10,870,000	\$12,128,469	--	--	--	\$6,940,000	\$10,870,000	\$12,128,469	--	--	--	\$6,940,000	\$10,870,000	\$12,128,469	Increase in acreage; Inflation escalation (ENR Index)
21B		Parks/Plazas/Community Facilities	McCandless Park Streetscape (eastside)	Penitencia Creek / McCandless	--	--	--	--	--	--	\$500,000	\$557,887	--	--	--	--	\$500,000	\$557,887	--	--	--	--	\$500,000	\$557,887	\$557,887	New cost item \$500,000 (2008\$), added 11/2/2012
22	1	Parks/Plazas/Community Facilities	Land for park in subdistrict: McCandless South Parks	Penitencia Creek / McCandless	Ac.	6.94	10.87	\$2,395,800	\$1,987,121	--	--	--	--	\$16,626,852	\$26,042,346	\$21,600,000	\$16,626,852	\$26,042,346	\$21,600,000	--	--	--	\$16,626,852	\$26,042,346	\$21,600,000	Increase in acreage; Reduction in land cost per acre
23	1	Parks/Plazas/Community Facilities	Park in subdistrict: McCandless/Centre Point, Southeast area	Penitencia Creek	Ac.	--	--	\$1,000,000	\$1,115,775	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Combined with item 21
24	1	Parks/Plazas/Community Facilities	Land for park in subdistrict: McCandless/Centre Point, Southeast area	Penitencia Creek	Ac.	--	--	\$2,395,800	\$1,987,121	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Combined with item 22
25	1	Parks/Plazas/Community Facilities	Park in subdistrict: McCandless/Centre Point, North area	McCandless Dr, just south of Great Mall Parkway	Ac.	0.86	0.60	\$400,000	\$446,310	--	\$344,000	\$240,000	\$267,786	--	--	--	\$344,000	\$240,000	\$267,786	--	--	--	\$344,000	\$240,000	\$267,786	Reduction in acreage; Inflation escalation (ENR Index)

Table B2
Basic Infrastructure Program - Original and Updated Costs and Quantities
Milpitas TASP Fee Program Update; EPS# 121030

DB No.	Dev. Phase	General Improvement	Improvement Item	Location/Segment	Units	Quantity		Unit Costs		Contingency	Design, Constr. & Contingency			ROW or Land			Total Costs			Other Revenue Sources			Net Development Share			Notes on Cost Changes
						2008	Updated	2008\$	2012\$		2008\$	Updated 2008\$	2012\$	2008\$	Updated 2008\$	2012\$	2008\$	Updated 2008\$	2012\$	2008\$	updated 2008\$	2012\$	2008\$	updated 2008\$	2012\$	
26	1	Parks/Plazas/Community Facilities	Land for park in subdistrict: McCandless/Centre Point, North area	McCandless Dr, just south of Great Mall Parkway	Ac.	0.86	0.60	\$2,395,800	\$2,526,480	--	--	--	--	\$2,060,388	\$1,437,480	\$1,515,888	\$2,060,388	\$1,437,480	\$1,515,888	--	--	--	\$2,060,388	\$1,437,480	\$1,515,888	Reduction in acreage; Increase in land cost per acre
27	2	Parks/Plazas/Community Facilities	Park in subdistrict: Trade Zone/Montague, Central area	Sango Court at Tarob Court	Ac.	5.10	5.10	\$500,000	\$557,887	--	\$2,550,000	\$2,550,000	\$2,845,225	--	--	--	\$2,550,000	\$2,550,000	\$2,845,225	--	--	--	\$2,550,000	\$2,550,000	\$2,845,225	Inflation escalation (ENR Index)
28	2	Parks/Plazas/Community Facilities	Land for park in subdistrict: Trade Zone/Montague, Central area	Sango Court at Tarob Court	Ac.	5.10	5.10	\$2,395,800	\$2,526,480	--	--	--	--	\$12,218,580	\$12,218,580	\$12,885,048	\$12,218,580	\$12,218,580	\$12,885,048	--	--	--	\$12,218,580	\$12,218,580	\$12,885,048	Increase in land cost per acre
29	2	Parks/Plazas/Community Facilities	Park in subdistrict: Trade Zone/Montague, just north of Penitencia	Penitencia Creek at Milpitas Blvd. Extension	Ac.	2.51	2.51	\$400,000	\$446,310	--	\$1,004,000	\$1,004,000	\$1,120,238	--	--	--	\$1,004,000	\$1,004,000	\$1,120,238	--	--	--	\$1,004,000	\$1,004,000	\$1,120,238	Inflation escalation (ENR Index)
30	2	Parks/Plazas/Community Facilities	Land for park in subdistrict: Trade Zone/Montague, just north of Penitencia	Penitencia Creek at Milpitas Blvd. Extension	Ac.	2.51	2.51	\$2,395,800	\$2,526,480	--	--	--	--	\$6,013,458	\$6,013,458	\$6,341,465	\$6,013,458	\$6,013,458	\$6,341,465	--	--	--	\$6,013,458	\$6,013,458	\$6,341,465	Increase in land cost per acre
31	2	Parks/Plazas/Community Facilities	Park in subdistrict: Piper/Montague, North & South area	North & South green area of Subdistrict	Ac.	3.28	3.00	\$400,000	\$2,000,000	--	\$1,312,000	\$1,200,000	\$6,000,000	--	--	--	\$1,312,000	\$1,200,000	\$6,000,000	--	--	--	\$1,312,000	\$1,200,000	\$6,000,000	Reduction in acreage; New improvement cost of \$6M provided by City on 10/31/2012
32	2	Parks/Plazas/Community Facilities	Land for park in subdistrict: Piper/Montague, North & South area	North green area of Subdistrict	Ac.	3.28	3.00	\$2,395,800	\$2,526,480	--	--	--	--	\$7,858,224	\$7,187,400	\$7,579,440	\$7,858,224	\$7,187,400	\$7,579,440	--	--	--	\$7,858,224	\$7,187,400	\$7,579,440	Reduction in acreage; Increase in land cost per acre
33	2	Parks/Plazas/Community Facilities	Park in subdistrict: Piper/Montague, South area	South green area of Subdistrict	Ac.	--	--	\$400,000	\$446,310	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Site acres rolled up in Item 31 above. Per City, three projects to provide 3 acres.
34	2	Parks/Plazas/Community Facilities	Land for park in subdistrict: Piper/Montague, South area	South green area of Subdistrict	Ac.	--	--	\$2,395,800	\$2,526,480	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	Site acres rolled up in Item 31 above. Per City, three projects to provide 3 acres.
35	2	Parks/Plazas/Community Facilities	Park in subdistrict: BART station area	BART Station area subdistrict	Ac.	1.66	1.66	\$400,000	\$446,310	--	\$664,000	\$664,000	\$740,874	--	--	--	\$664,000	\$664,000	\$740,874	--	--	--	\$664,000	\$664,000	\$740,874	Inflation escalation (ENR Index)
36	2	Parks/Plazas/Community Facilities	Land for park in subdistrict: BART station area	BART Station area subdistrict	Ac.	1.66	1.66	\$2,395,800	\$2,526,480	--	--	--	--	\$3,977,028	\$3,977,028	\$4,193,957	\$3,977,028	\$3,977,028	\$4,193,957	--	--	--	\$3,977,028	\$3,977,028	\$4,193,957	Increase in land cost per acre
37	2	Linear Parks/Trails	Linear parks/trails in subdistrict: Piper Montague; throughout subdistrict (See Fig. 3-6, TASP)	Throughout subdistrict (See Fig. 3-6, TASP)	Ac.	0.72	0.72	\$300,000	\$334,732	--	\$216,000	\$216,000	\$241,007	--	--	--	\$216,000	\$216,000	\$241,007	--	--	--	\$216,000	\$216,000	\$241,007	Inflation escalation (ENR Index)
38	2	Linear Parks/Trails	Linear parks/trails in subdistrict: BART station area; throughout subdistrict (See Fig. 3-6, TASP)	Throughout subdistrict (See Fig. 3-6, TASP)	Ac.	1.34	1.34	\$300,000	\$334,732	--	\$402,000	\$402,000	\$448,541	--	--	--	\$402,000	\$402,000	\$448,541	--	--	--	\$402,000	\$402,000	\$448,541	Inflation escalation (ENR Index)
39	2	Linear Parks/Trails	Linear parks/trails in subdistricts: Montague Corridor and Trade Zone/Montague; throughout subdistrict (See Fig. 3-6, TASP)	Throughout subdistrict (See Fig. 3-6, TASP)	Ac.	2.39	2.39	\$300,000	\$334,732	--	\$717,000	\$717,000	\$800,010	--	--	--	\$717,000	\$717,000	\$800,010	--	--	--	\$717,000	\$717,000	\$800,010	Inflation escalation (ENR Index)
40	1	Linear Parks/Trails	Linear parks/trails in subdistrict: McCandless/Centre Point; throughout subdistrict (See Fig. 3-6, TASP)	Throughout subdistrict (See Fig. 3-6, TASP)	Ac.	6.20	6.20	\$300,000	\$334,732	--	\$1,860,000	\$1,860,000	\$2,075,341	--	--	--	\$1,860,000	\$1,860,000	\$2,075,341	--	--	--	\$1,860,000	\$1,860,000	\$2,075,341	Inflation escalation (ENR Index)
41	2	Parks/Plazas/Community Facilities	Community facilities at Park in McCandless/Centre Point Subdistrict, Southeast area; McCandless Dr, just south of Great Mall Parkway	McCandless Dr, just south of Great Mall Parkway	SF	12,000	12,000	\$1,250	\$1,395	--	\$15,000,000	\$15,000,000	\$16,736,618	--	--	--	\$15,000,000	\$15,000,000	\$16,736,618	--	--	--	\$15,000,000	\$15,000,000	\$16,736,618	Cost moved from Phase 1 to Ph. 2. Inflation escalation (ENR Index)
42	1	Planning	Specific Plan preparation	N/A	--	--	--	--	--	--	\$1,331,000	\$1,331,000	\$1,485,096	--	--	--	\$1,331,000	\$1,331,000	\$1,485,096	--	--	--	\$1,331,000	\$1,331,000	\$1,485,096	Inflation escalation (ENR Index)
43	1	Planning	TASP Fee Program Update	N/A	--	--	--	--	--	--	--	\$145,000	--	--	--	--	\$145,000	--	\$145,000	--	--	--	--	--	\$145,000	New planning cost addition
TOTAL											\$155,329,252	\$170,257,052	\$195,250,443	\$52,947,180	\$61,811,442	\$59,320,138	\$208,276,432	\$232,068,494	\$254,570,580	\$10,500,000	\$12,213,800	\$13,631,686	\$197,776,432	\$219,854,694	\$240,938,894	

Source: City of Milpitas; ENR Construction Cost Indices; and Economic & Planning Systems.

APPENDIX C

City of Milpitas Transit Area Specific Plan
Transportation Impact Fee Final
Kimley-Horn, June 2008



City of Milpitas Transit Area Specific Plan

Transportation Impact Fee Study FINAL

Prepared by:



**Kimley-Horn
and Associates, Inc.**

June 2008
097384003

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List of Acronyms

DEIR	Draft Environmental Impact Report, Milpitas Transit Specific Plan, October 2007
DU	Dwelling Unit
GC66000	Section 66000 et seq. of the State of California's Government Code
ITE	Institute of Transportation Engineers
LOS	Level of Service
MFDU	Multi-Family Dwelling Unit
SF	Square Feet
SFDU	Single Family Dwelling Unit
TASP	Milpitas Transit Area Specific Plan, October 2007
TIF	Traffic Impact Fee

1.0 EXECUTIVE SUMMARY

1.1 PURPOSE OF STUDY

The purpose of this study is to provide the quantified basis for the establishment of transportation impact fees (TIF) to be levied on the development of the Milpitas Transit Area Specific Plan (TASP) area to fund transportation improvement projects to accommodate future growth. Information for this study was based on the *Draft Environmental Impact Report (DEIR), Milpitas Transit Area Specific Plan (TASP)* and City estimates of project costs.

1.2 METHODOLOGY

Government Code 66000 requires that there is a reasonable relationship or a proportionality between the amount of a traffic impact fee and the development on which that fee is imposed. Further, the legislation requires that an analysis should be presented in enough detail to demonstrate that logical, thorough consideration was applied in the process of defining the fee imposed on new development.

Based on these requirements, the following method was used to determine the TASP TIF:

- Step 1: Identify the time horizon and the development growth projections within the time horizon.
- Step 2: Determine the transportation facilities needed to serve the projected growth.
- Step 3: Estimate the gross cost of facilities needed to serve projected growth; the costs of facilities needed to correct existing deficiencies in the transportation system are excluded from the total cost.
- Step 4: Subtract revenues available from alternative funding sources to identify a total net facilities cost.
- Step 5: Assign PM peak hour trip rates to each land use category; these will be used to estimate the relative impact of each development type/land use, determine the benefit received by each development type, and allocate facilities costs to each development type/land use.
- Step 6: Determine the total projected trips that will be generated by future development by multiplying the expected future development by its respective PM peak hour trip rate.
- Step 7: Divide the total net facilities cost by the total projected trips from Step 6 to calculate a cost per trip.
- Step 8: Finally, multiply the cost per trip by the trip rate assigned to each land use category in Step 5 to determine the TIF for each land use category.

1.3 KEY TABLES

The following transportation improvement projects were included in the fee program:

- Calaveras Blvd & I-880 NB Off-Ramp (Project A)
- Tasman Dr & McCarthy Blvd (Project B)
- Tasman Dr / Great Mall Pkwy & I-880 Ramps (Project C)
- Milpitas Blvd Extension (Project D)
- Great Mall Pkwy-Capitol Ave & Montague Expressway Improvements (Project E)
- Montague Widening Project (Project F)



- Capitol Ave San Jose Traffic Improvements (Project G)
- Calaveras Blvd Widening: Abel St to Milpitas Blvd (Project H)

The fees that can be levied by the City on development are based on the transportation needs to accommodate future growth. The City has the discretion to levy fees that are less than the fees that can be justified in this study. The following tables compare the justifiable and recommended cost per peak hour trip and the resulting justifiable and recommended fees. The table also summarizes the transportation improvement costs used in calculating the justifiable and recommended fees.

Summary of Transportation Improvement Project Costs

Total Transportation Improvement Costs	\$158,350,000
Total Unfunded Transportation Improvement Costs	\$121,775,000
Total Milpitas Local Match Responsibility Costs	\$121,775,000
Total TASP Area TIF	\$40,992,500

The service demand variable used to quantify the impact and establish a nexus between new development and the impact on the roadway system is trip generation. Peak hour traffic is to determine the transportation impact from each development/land use type rather than average daily traffic because peak volumes determine the need for street and intersection capacity. The development utilized in this study are based on the DEIR as clarified by City staff in March 2008. Key changes in commercial development include a reduction in size and a focus on neighborhood shopping centers (from Regional Shopping Centers). The PM peak hour trip generation rates are based on the Institute of Transportation Engineers (ITE) *Trip Generation, 7th Edition*, adjusted for transit use, pass-by, modal and re-use factors. Based on these rates, the total new trips were calculated. The total new trips is used to distribute the total TAP TIF among the various land uses. The fee per development unit (e.g., dwelling unit or square foot) is determined by re-applying the above trip generation factors.

Total New PM Peak Net Trips

Land Uses	New Growth ⁽¹⁾	Units	PM Peak Net Trips
Neighborhood Commercial	287,075	SF	249 (4.46%)
Hotel	350	DU	167 (2.99%)
Office	993,843	SF	1427 (25.57%)
Residential	7109	DU	3738 (66.98%)
TOTAL			5581 (100.00%)

Calculated Transportation Fees

Land Uses	Total Land Use Fee	Fee per Unit
Neighborhood Commercial	\$1,829,110	\$6.37 per SF
Hotel	\$1,224,115	\$3,497 per DU
Office	\$10,482,850	\$10.55 per SF
Residential	\$27,456,424	\$3,862 per DU
TOTAL	\$40,992,500	



1.4 COMPARATIVE TABLE

The following table compares the Milpitas TAP fees to those charged in the neighboring cities of Fremont and San Jose. Fees are also included from the Pleasanton/ Tri-Valley area.

Fee Rate Comparison

City / County	Study Last Updated	SFDU Rate / Unit	MFDU Rate / Unit	Hotel Rate/ Unit	Commer- cial Rate / SF	Office Rate / SF	Industrial Rate / SF
<i>Milpitas TAP</i>	2008	NA	\$3,862	\$3,497	\$6.37	\$10.55	NA
San Jose (North Area)	2005	\$6,994	\$5,996	NA	NA	(3)	\$10.44
Fremont	2004	\$2,220	\$1,722	NA	\$4.42	\$5.62	\$2.03
Pleasanton ⁽¹⁾ (N Pleasanton Improvement Dist. #3)	(2)	\$1,117	\$781	NA	\$3.13	\$1.49	\$1.12
Pleasanton ⁽¹⁾ (All other areas)	(2)	\$3,548	\$2,483	NA	\$9.99	\$4.72	\$3.55
Tri-Valley Transportation Development Fee ⁽¹⁾	(2)	\$1,736	\$1,103	NA	\$1.16	\$3.11	\$2.11

NA - Not Applicable

(1) Tri-Valley Transportation Development Fees are in addition to fees charged by Pleasanton.

(2) Unable to locate information regarding the last fee study update.

(3) Appears to be the same as industrial rate in North Area



2.0 INTRODUCTION

The purpose of this study is to provide the quantified basis for the establishment of transportation impact fees (TIF) to be levied on the development of the Milpitas Transit Area Specific Plan (TASP) area to fund transportation improvement projects to accommodate future growth.

2.1 BACKGROUND

GC66000, also called the Mitigation Fee Act, requires all public agencies to satisfy the following requirements when establishing, increasing or imposing a fee as a condition of new development:

1. Identify the purpose of the fee;
2. Identify the use to which the fee will be put;
3. Determine that there is a reasonable relationship between:
 - a. The fee's use and the type of development on which the fee is to be imposed;
 - b. The need for the facility and the type of development on which the fee is to be imposed; and
 - c. The amount of the fee and the facility cost attributable to the development project. (Applies only upon imposition of fees.)

Identifying these requirements would establish the nexus and the proportionality requirements of the Mitigation Fee Act and other requirements of state and federal law. Each of those requirements is discussed in more detail below.

2.1.1 Identifying the Purpose of the Fees

The broad purpose of impact fees is to protect the public health, safety and general welfare by providing for adequate public facilities. The specific purpose of the fees calculated in this study is to fund the construction of certain capital improvements identified in this report. Those improvements are needed to mitigate the impacts of expected development in the City, and thereby prevent deterioration in public services that would result from additional development if impact fee revenues were not available to fund such improvements.

2.1.2 Identifying the Use of the Fees

According to Section 66001, if a fee is used to finance public facilities, those facilities must be identified. Projects can be identified in, but not limited to, the capital improvements plan, the general plan, a specific plan, or a combination of these sources. A capital improvements plan may be used for that purpose, but is not mandatory if the facilities are identified in the General Plan, a Specific Plan, or in other public documents. If a capital improvement plan is used to identify the use of the fees, it must be updated annually by resolution of the governing body at a noticed public hearing. Impact fees calculated in this study are based on specific capital facilities identified elsewhere in this report, which is intended to serve as the public document identifying the use of the fees.

2.1.3 Reasonable Relationship Requirement

As discussed above, Section 66001 requires that, for fees subject to its provisions, that the City determine the following:

1. How there is a "reasonable relationship" between the fee's use and the type of development project on which the fee is imposed;



2. How there is a “reasonable relationship” between the need for the public facility and the type of development project on which the fee is imposed.
3. The amount of the fee and the facility cost attributable to the development on which the fee is imposed.

These three reasonable relationship requirements as defined in the statute parallel “essential nexus” and “rough proportionality” requirements under the law. (*Nollan vs. California Coastal Commission* (1987) 483 U.S. 825 (*Nollan*), *Dolan vs. City of Tigard* (1994) 512 U.S. 374 (*Dolan*) and *Erlich vs. City of Culver City* (1996) 12 Cal. 4th. 854. More recently, however, the California Supreme Court held that development mitigation fees such as the City’s TIF that are established pursuant to a legislative mandate or formula imposed on a broad class of projects, rather than individualized exactions, are not subject to the heightened scrutiny of the *Nollan/Dolan* tests, but nevertheless require that there be a reasonable relationship between the fee and the deleterious impacts for mitigation of which the fee is collected. *San Remo Hotel vs. City and County of San Francisco*. (2002) 27 Cal 4th 643.

This study of the Transportation Impact Fee for the Milpitas TASP Area adheres to the reasonable relationship requirements of section 66001 by being concise and descriptive and to signify that the methods used to calculate impact fees in this study demonstrate that such a reasonable relationship exists.

2.1.4 Demonstrating an Impact

All new development in a community creates additional demands on some, or all, public facilities provided by local government. If the supply of facilities is not increased to satisfy that additional demand, the quality or availability of public services for the entire community will deteriorate. Impact fees may be used to recover the cost of development-related facilities, but only to the extent that the need for facilities is a consequence of development that is subject to the fees. Court decisions reinforced the principle that development exactions may be used only to mitigate conditions created by the developments upon which they are imposed. That principle clearly applies to impact fees. In this study, the impact of development on transportation improvement needs is analyzed in terms of quantifiable relationships between development and the demand for specific roadway and intersection improvements, based on applicable level of service standards. This report contains the information needed to demonstrate this element of the nexus.

2.1.5 Demonstrating a Benefit

The City’s TIF is a legislatively enacted fee of general applicability imposed on a broad range or classes of development projects throughout the City. They are not imposed on an individualized, discretionary basis on a particular development project. The use of the term proportionality in this study is for the purpose of identifying development related facility costs, and the methods used to calculate impact fees for the various types of facilities and categories of development. In this study, the demand for facilities is measured in terms of level of service, and proportion of development traffic added to the impacted and mitigated facilities. In calculating impact fees, costs for capital improvements are allocated in proportion to the traffic demand created by different types of development. Trip generation rates by land use category are used to proportion costs to different land uses.

2.1.6 Demonstrating Proportionality

The requirement that exactions be proportional to the impacts of development was clearly stated by the U.S. Supreme Court in court cases and is logically necessary to establish a proper nexus. Proportionality is established through the procedures used to identify development-related facility costs, and in the methods used to calculate impact fees for various types of facilities and categories of development. In this



study, the demand for facilities is measured in terms of level of service, and proportion of development traffic added to impacted and mitigated facilities. In calculating impact fees, costs for capital improvements are allocated in proportion to the traffic demand created by different types of development. Trip generation rates by land use category are used to proportion costs to different types of land uses.

2.1.7 Impact Fees for Existing Facilities

It is important to note that impact fees may be used to pay for existing facilities, provided that those facilities are needed to serve additional development and have the capacity to do so, given relevant level of service standards. In other words, it must be possible to show that the fees meet the need and benefit elements of the nexus.

3.0 FEE METHODOLOGY

Various findings must be made to ensure that there is a reasonable relationship or a proportionality between the amount of the fee and the development on which that fee is imposed. Although the U.S. Supreme Court specifically stated, “no precise mathematical calculation is required...” an analysis should be presented in enough detail to demonstrate that logical, thorough consideration was applied in the process of defining the fee imposed on new development.

Any one of several generally accepted methods may be used to calculate impact fees for new development. The choice of a particular method depends primarily on the type of facility for which a fee is being calculated. Reduced to its simplest terms, the process of calculating impact fees involves only two steps: determining the cost of development-related capital improvements, and allocating those costs equitably to various types of development, usually in terms of the development’s traffic generation. In practice, though, the calculation of impact fees can become quite complicated because of the many variables involved in defining the relationship between development and the need for facilities.

The following paragraphs discuss the methodology used for calculating the TAP TIF.

3.1 PLAN-BASED METHODOLOGY

The plan-based method allocates costs for a specified set of improvements based on future demand projections of the Milpitas TASP Area. The road improvement projects details, including scopes and cost estimates, are collected from reference documents and information provided by the City of Milpitas. Costs are allocated to various categories of development in proportion to the amount of development and the relative intensity of traffic generation for each category.

The steps to calculate the TIF under the plan-based methodology are as follows:

- Step 1: Identify the time horizon and the development growth projections within the time horizon.
- Step 2: Determine the transportation facilities needed to serve the projected growth.
- Step 3: Estimate the gross cost of facilities needed to serve projected growth; the costs of facilities needed to correct existing deficiencies in the transportation system should be excluded from the total cost.
- Step 4: Subtract revenues available from alternative funding sources to identify a total net facilities cost.
- Step 5: Assign PM peak hour trip rates generated by each land use category; these will be used to determine the benefit received by each development type and also to allocate facilities costs to each development type/land use.
- Step 6: Determine the total projected trips that will be generated by future development by multiplying the expected future development by its respective PM peak hour trip rate.
- Step 7: Divide the total net facilities cost by the total projected trips from Step 6 to calculate a cost per trip.
- Step 8: Finally, multiply the cost per trip by the net trip rate assigned to each land use category in Step 5 to determine the TIF for each land use category.

This method assumes that the entire service capacity of a specified improvement will be absorbed by the planned development, or that any excess capacity is unavoidably related to serving that development. For



example, it may be necessary to widen a street from two lanes to four lanes to serve planned development, but that development may not use all of the added capacity. Assuming these improvements are needed only to serve the new development paying the fees, it is justifiable to recover the full cost of the improvements through impact fees.

The plan-based method is often the most practical approach where actual usage is difficult to measure or where capacity cannot always be matched closely to demand. Conversely, this method is relatively inflexible in the sense that it is based on a particular land use plan. If the plan changes significantly, the fees may have to be recalculated.



4.0 LAND USE CATEGORIES

Section 66001 of the Government Code requires that a reasonable relationship exist between the need for public facilities and the type of development on which a fee is imposed. The need for public facilities is related to the maintenance of a level of service standard, which is impacted by the number of residents or employees generated by a particular land use type. Therefore, land use categories have been defined to distinguish between their relative impacts on transportation facilities. The following land use categories are identified for purposes of this Study:

1. Multi-Family Residential.
2. Hotel.
3. Office Park.
4. Regional Shopping Center.
5. Neighborhood Commercial
6. Industrial Park (No Commercial).

Data on land use and development used in this study are based on the DEIR and clarifications/ updates from City staff. In this study, quantities of existing and planned development are measured in terms of certain units of development. Land use projections are available in the two types of measurements discussed below.

- Dwelling Units.** The dwelling unit (DU) is the standard unit of measure of residential development used in this study.
- Building Area.** Building area in square feet (SF) is used to represent nonresidential development in this study.

4.1 MILPITAS TASP AREA LAND USE

The Milpitas TASP Area is a proposed new development described in the *Draft Environmental Impact Report* (DEIR) and the *Milpitas Transit Area Specific Plan* (TASP), as being bounded by the Great Mall shopping center and the railroad spur to the north; Trade Zone Boulevard, Lundy Place, and Trimble Road to the south; the Union Pacific Railroad line and Main Street to the west; and South Milpitas Boulevard and Berryessa Creek to the east.

As per Table 3.3-8 on page 3.3-43 of DEIR, May 2006 Preferred Plan of Milpitas TASP Area development consists of the following

Table 1: Land Uses of May 2006 Preferred Plan

Land Use	Size
Proposed Uses	
Regional Shopping Center	520,026 SF
Hotel	350 DU
Office Park	813,343 SF
Multi-Family Residential	7,185 DU
Existing Uses Being Redeveloped	
Industrial Park	2,977,555 SF

Source: DEIR



The land uses of May 2006 Preferred Plan were later altered in the final version of the TASP. As clarified by the City in March 2008, The resulting land uses after the changes in buildout projections are as follows.

Table 2: Land Uses of Final Plan

Land Use	SIZE	Units
Neighborhood Commercial	287,075	SF
Hotel	350	DU
Office	993,843	SF
Multi-Family Residential	7109	DU

Key changes in commercial development include a reduction in size and a focus on neighborhood commercial (instead of Regional Shopping Centers). The total number of trips from the revised development plan is consistent with the range of impacts presented in the DEIR.



5.0 TRANSPORTATION FACILITIES

Section 66001 of the Government Code requires that a reasonable relationship exist between the need for a public facility and the type of development on which a fee is imposed. This chapter discusses the facilities, associated costs, and alternative financing sources for funding transportation improvements in the City. The transportation facilities in this report have been identified as requiring improvements to maintain an acceptable level of service as the result of the Milpitas TASP Area.

5.1 FACILITIES AND COSTS

Kimley-Horn and the City's public works staff have developed a list of improvements needed to serve the additional traffic associated with future development of the Milpitas TASP Area. The list was generated from the reference documents and information provided by the City of Milpitas, including DEIR and TASP. **Appendix A** lists the improvement projects and estimated costs.

Facilities have been sized to accommodate the additional vehicle trips that will be generated by future growth of the Milpitas TASP Area. As shown in **Appendix A**, the total cost of future transportation improvements is \$ 158.35 million and includes contingencies, mobilization, engineering design, and construction management. Previously collected funds and other funding total \$35.575 million, leaving an unfunded total of \$121.775 million. Milpitas' total local match responsibility for these projects is \$121.775 million.

Only projects that are needed to accommodate future growth can be included in the TIF. In some cases, only a portion of the costs can be included in the TIF such as any traffic signal controller replacement project or any project that improves an existing deficiency. The amount included in the TIF is dependent on the type of project. For instance, the amount that can be included in the TIF for a roadway widening project or installation of a new traffic signal is based on the level of service.

5.2 LEVEL OF SERVICE

A level of service (LOS) as it relates to road facilities is defined in the Highway Capacity Manual as "a quantitative measure describing operational conditions within a traffic stream and their perception by motorists and/or passengers." A level of service definition describes these conditions in terms of speed, travel time, traffic flow interruptions, comfort and convenience, safety, and freedom to maneuver.

There are six levels of service, with LOS A representing the best operating condition and LOS F representing the worst. Level of service is also quantified in terms of average control vehicular delay as described on page 3.3-17 of DEIR. Definitions of level of service and the average control delay (signalized intersection) for each level are as per Table 3.3-2 on page 3.3-17 of DEIR.

Roadways and intersections operating at less than the level of service described above would represent an existing roadway deficiency. Improvements correcting an existing deficiency cannot be funded with TIF revenue from future development; however, any additional capacity created by correcting an existing deficiency could be funded with TIF revenue because the additional capacity will serve future development. Projects included in **Appendix A** that meet these criteria include:

- Calaveras Blvd & I-880 NB Off-Ramp (Project A)
- Tasman Dr & McCarthy Blvd (Project B)
- Tasman Dr / Great Mall Pkwy & I-880 Ramps (Project C)
- Milpitas Blvd Extension (Project D)
- Great Mall Pkwy-Capitol Ave & Montague Expressway Improvements (Project E)



- Montague Widening Project (Project F)
- Capitol Ave San Jose Traffic Improvements (Project G)
- Calaveras Blvd Widening: Abel St to Milpitas Blvd (Project H)

5.3 PROJECTS NOT INCLUDED

The list of projects shown on **Appendix A** is assumed to be complete. No unlisted projects were included in the TIF calculations.

5.4 SERVICE DEMAND VARIABLE

The service demand variable used to quantify the impact and establish a nexus between new development and the impact on the roadway system is trip generation. Trip generation can be calculated either as average daily trip generation or peak hour trip generation. Average daily trip generation rates represent the number of trips accumulated over the course of the day for each land use type. Peak hour trip rates represent trips generated during the busiest period of the day, when the road segment will have the most vehicles traveling at one time (typically during the evening rush hour). Peak hour traffic is to determine the transportation impact from each development/land use type rather than average daily traffic because peak volumes determine the need for street and intersection capacity. The PM peak hour trip generation rates utilized in this study as shown in **Appendix C**.

6.0 TASP AREA COST SHARE

The TIF for Milpitas TASP Area are calculated by multiplying the Milpitas local match cost with the TAP Traffic Impact (%) for each project as illustrated in **Appendix A**. For reference, the TASP Area cost share (%) was calculated with three different methodologies as might be appropriate for the type of transportation improvement and the available data. Details of these methodologies are provided below.

6.1 TRAFFIC IMPACT METHODOLOGIES

Several traffic impact methodologies were considered in determining the TAP traffic impact including the Following: LOS/Delay Proportion, Project Traffic over Total Future Traffic (after development), Project Traffic over 2004-to-2030 Traffic Growth; and Primary Benefit.

LOS/Delay Proportion

For LOS/Delay Proportion methodology, the TIF cost share (%) is based on LOS and the control delay. The LOS values used in the calculation were obtained from DEIR (see Table 3.3-14 on page 3.3-75 of DEIR). The percent TIF allowable for the applicable projects (Project A and B) listed in **Appendix D** is based on level of service using the following calculation steps:

- a. Calculate the existing control delay based on the existing number of lanes and background volumes from the traffic model.
- b. Determine the new control delay for the proposed transportation improvement projects listed above.
- c. Determine the total improvement in control delay (b minus a).
- d. Determine the control delay above the acceptable standard (mid-LOS D).
- e. The percent of the improvement above mid-LOS D (d divided by c) is the percent of the project's capacity that can be applied toward the development.

Project Traffic over Total Traffic

For Project Traffic over Total Future Traffic methodology, the TIF cost share (%) is based on the ratio of Project traffic over the total future traffic (after development). It assumes that the development is responsible of the overall add-on traffic impact. This methodology was applied on Project C and E since the level of service of the mitigation improvement of each project was determined to be "Significant Unavoidable" within the DEIR (see Table 3.3-14 on page 3.3-76 of DEIR). The percent TIF allowable calculations for Project C and E are illustrated in **Appendix D**.

Project Traffic over 2004-to-2030 Traffic Growth

For Project Traffic over 2004-to-2030 Traffic Growth methodology, the percent TIF is based on the ratio of project traffic volume over the total 2030 traffic growth. Project F, G and H adopted this methodology since these projects are corridor-wide roadway improvements, and the 2030 total traffic forecasts of the corresponding roadway segments are available from Table 3.3-12 on page 3.3-62 of DEIR. It assumes that the evaluated development is responsible of the add-on traffic impact as a ratio of the growth. The detailed calculations of Project F, G and H are illustrated in **Appendix D**.

Primary Benefit Considerations

The traffic impact for Project D (Milpitas Blvd Extension) and Project G (Capitol Avenue San Jose Traffic Improvements) was based on primary benefit considerations. For Project D, the roadway extension is internal to the TASP Area and benefits the area. A 2-lane roadway would be sufficient to provide access for developments in the TASP Area; however, a wider roadway would be needed for



BART station access. The costs for the initial roadway are assigned fully to the TASP Area, with the full build-out cost included in other funding. For Project G, the project cost is Milpitas share of Capitol Ave improvements in San Jose as per San Jose-Milpitas agreement to offset the traffic from the TASP Area.



7.0 FEE CALCULATION AND JUSTIFICATION

The fee amount that can be justified for each development type is calculated by dividing the total unfunded project costs by the total trips generated by future development to determine a justifiable cost per trip. Total unfunded cost per trip can be multiplied by generated trips ratio of each land-use type (trips generated by land-use type over total trips generated by the development) and divided by the number of development unit of each land-use type to determine the respective fee for each land use. The following simplified example below demonstrates this methodology.

Example:

New Development: 1,000 Single Family Dwelling Units
100,000 Square Feet of Office Building

Trip Generation Characteristics: Single Family Unit generates 1.01 trips
Office Building generates 2.31 trips / 1,000 SF
Housing-Office Mixed-Use reduces 1% off office

Roadway Improvements: 10 lane miles of roadway at a total cost of \$1,000,000
New Development Cost Share is assessed to be 100%

Step 1: Calculate the total trips generated by new development

No. of DUs	*	DU Trip Rate	+	Office KSF	*	Office Trip Rate	-	Mixed-Use Reduction (1% off Office)	=	Total Trips
1,000	*	1.01	+	100	*	2.31	-	1	=	1,240 Trips

Step 2: Calculate the Cost Per-Trip

Improvement Cost (100% Development Share)	/	Total Trips	=	Cost Per Trip
\$1,000,000	/	1,240	=	\$806 Per Trip

Step 3: Calculate the Fee per Unit (e.g. residential)

Residential: Improvement Cost	*	Trip Ratio	/	No. of DUs	=	Fee per Unit
\$1,000,000	*	1,010 / 1,240	/	1,000	=	\$814

or

Residential: Per-Trip Cost	*	Net Trip Rate	=	Fee per Unit
\$806	*	1.01	=	\$814

7.1 TASP AREA FEE CALCULATIONS

Appendix B illustrates the calculations of the TIF. The total number of PM peak hour trips generated by future development within Milpitas TASP Area as well as the corresponding trip generation rates are shown in **Appendix C**. The total TASP Area costs allowable are shown in **Table 3**. As seen in **Table 3**,

dividing the total TASP Area share costs by the total number of PM peak hour trips yields the justifiable cost per trip. The calculated TIFs per development unit are summarized in both **Appendix B** and **Table 4**. These are the fee rates the City could potentially be charging development of Milpitas TASP Area, pursuant to the Mitigation Fee Act, based on the total unfunded project costs and the generated project trips.

Table 3: Average Cost per Peak Hour Trip - Justifiable

New Development Cost Share	Transit Area Share ¹	Added PM Peak Hour Net Trips ²	Justifiable Cost per Peak Hour Trip ³
Transportation Improvements	\$40,992,500	5,581	\$7,345.01

¹ See Appendix A

² See Appendix B

³ Average cost per peak hour trip = estimated cost / added peak hour net trips

Table 4: Calculated Transportation Fees

Land Uses	Justified Fee per Dwelling Unit (DU) or Square Foot (SF)	Cost Ratio
Neighborhood Commercial	\$6.37 per SF	4.46%
Hotel	\$3,497 per DU	2.99%
Office	\$10.55 per SF	25.57%
Residential	\$3,862 per DU	66.98%

As noted, the peak hour trip generation rate assigned to a particular category of development in this study is intended to represent the entire category, based on the expected mix of development types in that category. The formula for calculating the impact fee may also potentially be as follows:

$$\text{Number of Development Units in Project} \times \text{Net Trips per Development Unit (after relevant trip reduction applied)} \times \text{Cost per Trip}$$

Previously referenced **Table 4** shows the fees that could potentially be levied by the City on Milpitas TASP Area. The City recognizes that adopting these fee rates would put the City at a competitive disadvantage in relation to some of the surrounding cities in terms of attracting future development to the City. By law, the City cannot levy fees that are higher than the nexus-related fees shown in **Table 4**. The City does, however, have the discretion to levy fees that are less than those shown in **Table 4**.

The Fees calculated in this study are reflected in 2008 dollars. These Fees may be adjusted in future years to reflect revised facility standards, receipt of additional funding from alternative sources (i.e., state or federal grants), revised mitigation project costs, or changes in TASP Area's land use plan. In addition to such periodic adjustments, the Fees should be inflated each year by a predetermined index, such as the Engineering News Record Construction Cost Index for the San Francisco area.



7.2 COMPARATIVE TABLE

The following table compares the Milpitas TAP fees to those charged in the neighboring cities of Fremont and San Jose. Fees are also included from the Pleasanton/ Tri-Valley area.

Fee Rate Comparison

City / County	Study Last Updated	SFDU Rate / Unit	MFDU Rate / Unit	Hotel Rate/ Unit	Commer- cial Rate / SF	Office Rate / SF	Industrial Rate / SF
<i>Milpitas TAP</i>	2008	NA	\$3,862	\$3,497	\$6.37	\$10.55	NA
San Jose (North Area)	2005	\$6,994	\$5,996	NA	NA	(3)	\$10.44
Fremont	2004	\$2,220	\$1,722	NA	\$4.42	\$5.62	\$2.03
Pleasanton ⁽¹⁾ (N Pleasanton Improvement Dist. #3)	(2)	\$1,117	\$781	NA	\$3.13	\$1.49	\$1.12
Pleasanton ⁽¹⁾ (All other areas)	(2)	\$3,548	\$2,483	NA	\$9.99	\$4.72	\$3.55
Tri-Valley Transportation Development Fee ⁽¹⁾	(2)	\$1,736	\$1,103	NA	\$1.16	\$3.11	\$2.11

NA - Not Applicable

(1) Tri-Valley Transportation Development Fees are in addition to fees charged by Pleasanton.

(2) Unable to locate information regarding the last fee study update.

(3) Appears to be the same as industrial rate in North Area



8.0 APPENDIX

Appendix A

City of Milpitas - Transit Area Plan Transportation Impact Fee Study

Project Costs and Funding Sources

6/4/2008

Project No.	Intersection No. (DEIR)	Project Name	Est. Project Cost (\$)	Previously Collected Funds (\$)	Other Funding (\$)	Unfunded Component Cost (\$)	Milpitas Local Match Responsibility	Milpitas Local Match Cost	Calculated TAP Impact (%)	Transit Area Cost (\$)	Comment
LOCAL IMPROVEMENTS											
A	1	Calaveras Blvd & I-880 NB Off-Ramp: Convert NB center left-turn lane to shared left-turn/right-turn lane.	\$500,000	None	\$500,000	\$0	100%	\$0	100%	\$0	Other funding: Improvement being carried out by Caltrans.
B	18	Tasman Dr & McCarthy Blvd: Conversion of one SB through lane to left-turn lane.	\$75,000	None	\$75,000	\$0	100%	\$0	51%	\$0	Other funding: Improvement to be carried out by other development (Milpitas Square, Landmark)
C	20, 21	Tasman Dr/Great Mall Pkwy & I-880 Ramps: Provide signal coordination with adjacent ramps.	\$75,000	None	None	\$75,000	100%	\$75,000	10%	\$7,500	
D	NA	Milpitas Blvd Extension: Build half of ultimate width for access to new developments	\$44,000,000	None	\$23,000,000	\$21,000,000	100%	\$21,000,000	100%	\$21,000,000	Roadway improvement within TAP. Other funding: VTA would build-out fully for BART Station access.
REGIONAL FAIR SHARE CONTRIBUTIONS											
E	26	Great Mall Pkwy-Capitol Av & Montague Expressway Improvements	\$35,000,000	None	None	\$35,000,000	100%	\$35,000,000	22%	\$7,700,000	
F	Link-Improvement	Montague Widening Project	\$38,500,000	\$2,000,000	\$11,000,000	\$25,500,000	100%	\$25,500,000	27%	\$6,885,000	
G	Link-Improvement	Capitol Av San Jose Traffic Improvements	\$200,000	None	None	\$200,000	100%	\$200,000	100%	\$200,000	Project cost is Milpitas share of Capitol Ave improvements as per San Jose-Milpitas agreement.
CALAVERAS BOULEVARD IMPROVEMENT											
H	Link-Improvement	Calaveras Blvd Widening: Abel St to Milpitas Blvd.	\$40,000,000	None	None	\$40,000,000	100%	\$40,000,000	13%	\$5,200,000	

\$158,350,000

\$2,000,000
\$36,575,000

\$34,575,000

\$121,775,000

\$121,775,000

Total TAP Transportation Fees: \$40,992,500

Appendix B
City of Milpitas - Transit Area Plan Transportation Impact Fee Study
Impact Fee breakdown by land use
6/4/2008

* Existing Uses Being Redeveloped

	Neighborhood Commercial	Hotel Share	Office Share	Residential Share	Total
Development size	287,075	350	993,843	7109	
Unit size	1000 sq. ft	dwelling unit	1000 sq. ft	dwelling unit	
PM Peak Trips	377	252	2,158	5,652	8439
Trips Reduction*	128	85	731	1914	2858
PM Peak Net Trip	249	167	1427	3738	5581
Cost Share Ratio	4.46%	2.99%	25.57%	66.98%	

Project No.	Project Name	Transit Area Cost (\$)	Neighborhood Commercial Share (\$ per 1,000 SF)	Hotel Share (\$ per DU)	Office Share (\$ per 1,000 SF)	Residential Share (\$ per DU)
LOCAL IMPROVEMENTS						
A	Calaveras Blvd & I-880 NB Off-Ramp: Convert NB center left-turn lane to shared left-turn/right-turn lane.	\$0	\$0	\$0	\$0	\$0
B	Tasman Dr & McCarthy Blvd: Conversion of one SB through lane to left-turn lane.	\$0	-	-	-	-
C	Tasman Dr/Great Mall Pkwy & I-880 Ramps: Provide signal coordination with adjacent ramps.	\$7,500	\$1	\$1	\$2	\$1
D	Milpitas Blvd Extension: Build half of ultimate width for access to new developments	\$21,000,000	\$3,264	\$1,792	\$5,404	\$1,979
REGIONAL FAIR SHARE CONTRIBUTIONS						
E	Great Mall Pkwy-Capitol Av & Montague Expressway Improvements	\$7,700,000	\$1,197	\$657	\$1,981	\$725
F	Montague Widening Project	\$6,885,000	\$1,070	\$587	\$1,772	\$649
G	Capitol Av San Jose Traffic Improvements	\$200,000	\$31	\$17	\$51	\$19
CALAVERAS BOULEVARD IMPROVEMENT						
H	Calaveras Blvd Widening: Abel St to Milpitas Blvd.	\$5,200,000	\$808	\$444	\$1,338	\$490
Total Unit Fee (\$ per 1,000 SF or DU)			\$6,372	\$3,497	\$10,548	\$3,862
Total Unit Fee (\$ per SF or DU)			\$6.37	\$3.497	\$10.55	\$3.862
Total Cost (\$)		\$40,992,500	\$1,829,110	\$1,224,115	\$10,482,850	\$27,456,424
			4.46%	2.99%	25.57%	66.98%

Appendix C: Project Trip Generation Estimates

6/4/2008

Land Use	TIF Study		
	Size (DU or 1,000 SF)	Trip Generatio n Rates	PM
Proposed Uses			
Neighborhood Shopping	287.075	2.71	778
Hotel	350	0.8	280
Gross Commercial			1,058
Commercial Near Transit Reduction (10%)		-0.1	-106
Housing-Retail Mixed-Use Reduction (13% off retail)		-0.13	-101
Hotel-Retail Mixed-Use Reduction (10% off hotel)		-0.1	-28
Pass-by Reduction (25% off retail)		-0.25	-194
Net Commercial (A)			629
Office Park (Gross)	993.843	2.31	2,296
Office Near Fixed Rail Reduction (3%)		-0.03	-69
Housing-Office Mixed-Use Reduction (3% off office)		-0.03	-69
Net Office (B)			2,158
Multi-Family Residential (Gross)	7109	0.9	6,398
Housing Near Fixed Rail (9%)		-0.09	-576
Housing-Retail Mixed-Use Reduction (13%)		-0.13	-101
Housing-Office Mixed-Use Reduction (3%)		-0.03	-69
Net Residential (C)			5,652
Net Total (A+B+C)			8,439



Appendix D: TAP TIF Cost Share Calculations

LOS/Delay Proportion Methodology

Project: A

Project Description: Convert NB center left-turn lane to shared left-turn/right-turn lane

	W. Calaveras Blvd / I-880 NB Ramps	
	PM Delay	PM LOS
Project Development (a)	57.2	E+
Mitigation Improvement (b)	25.7	C
Background (c)	50.3	D
Standard LOS (d)	50.3	D
Total Improvement (c-b)	24.6	
Existing Deficiency (c-d)	6.9	
Future Capacity (d – b)	24.6	
Additional Capacity	100.00%	

Project: B

Project Description: Convert SB shared through/right-turn lane to exclusive right-turn lane with overlap signal phasing and 80-sec PM cycle

	Tasman Dr / McCarthy Blvd (M)	
	PM Delay	PM LOS
Project Development (a)	62.4	E
Mitigation Improvement (b)	36.0	D+
Background (c)	53.8	D-
Standard LOS (d)	39.1 to 51.0 = 45.0*	D
Total Improvement (c-b)	17.8	
Existing Deficiency (c-d)	8.8	
Future Capacity (d – b)	9	
Additional Capacity	51.00%	



Project Traffic over Total Future Traffic Methodology

Project: C

Project Description: Provide signal coordination with adjacent ramps

	Tasman Dr / I-880 SB Ramps (M)	
	PM Delay	PM LOS
Project Development (a)	76.6	E-
Mitigation Improvement (b)	Significant Unavoidable	
Background (c)	63.1	E
Standard LOS (d)	39.1 to 51.0 = 45.0*	D
	Total PM Peak Hour Traffic Volume	
Background	5,564	
Project Add-on	647	
Project + Background	6,211	
Project Volume %	10.00%	

	Tasman Dr / I-880 NB Ramps (M)	
	PM Delay	PM LOS
Project Development (a)	34.2	C-
Mitigation Improvement (b)	Significant Unavoidable	
Background (c)	30.0	C
Standard LOS (d)	39.1 to 51.0 = 45.0*	D
	Total PM Peak Hour Traffic Volume	
Background	4,942	
Project Add-on	197	
Project + Background	5,139	
Project Volume %	4.00%	

Project: E

Project Description: An urban interchange with Great Mall Parkway/Capitol Avenue elevated over Montague Expressway is proposed in regional planning documents

	Great Mall Pkwy-E. Capitol Ave/Montague Expwy (CMP, M)	
	PM Delay	PM LOS
Project Development (a)	165.7	F
Mitigation Improvement (b)	Significant Unavoidable	
Background (c)	121.4	F
Standard LOS (d)	39.1 to 51.0 = 45.0*	D
	Total PM Peak Hour Traffic Volume	
Background	8,137	
Project Add-on	2,259	
Project	10,396	
Project Volume %	22.00%	

Project Traffic over 2004-to-2030 Traffic Growth Methodology

Project: F

Montague Expressway

From	To	2004			2030 General Plan			2030 + Proposed Plan			2030 - 2004	
		EB	WB	Total	EB	WB	Total	EB	WB	Total	Project Volume	Total Growth
McCandless	Great Mall	2,200	1,720	3,920	4,630	2,830	7,460	4,790	3,440	8,230	770	3,540
Great Mall	Milpitas	2,620	1,639	4,259	4,490	2,500	6,990	4,990	3,060	8,050	1,060	2,731
Milpitas	I-680	3,200	1,242	4,442	5,130	2,450	7,580	5,230	3,020	8,250	670	3,138
Sum											833	3,136
Ratio												27%

Project: G

Tasman Drive / Great Mall Parkway / Capitol Ave

From	To	2004			2030 General Plan			2030 + Proposed Plan			2030 - 2004	
		EB	WB	Total	EB	WB	Total	EB	WB	Total	Project Volume	Total Growth
S. Main St	Montague Expwy	1810	680	2490	3180	2230	5410	3820	2580	6400	990	2,920
Sum											990	2,920
Ratio												34%

Project: H

State Route 237 / Calaveras Blvd

From	To	2004			2030 General Plan			2030 + Proposed Plan			2030 - 2004	
		EB	WB	Total	EB	WB	Total	EB	WB	Total	Project Volume	Total Growth
I-880	Abbott	3,360	2,070	5,430	4,220	2,460	6,680	4,450	2,520	6,970	290	1,250
Abbott	Abel	2,940	1,800	4,740	3,400	1,900	5,300	3,630	1,930	5,560	260	560
Abel	Milpitas	2,290	1,510	3,800	3,100	1,630	4,730	3,080	1,700	4,780	50	930
Milpitas	Hillview	2,550	1,490	4,040	3,410	2,160	5,570	3,390	2,200	5,590	20	1,530
Hillview	I-680	2,900	1,780	4,680	3,710	2,010	5,720	3,740	2,050	5,790	70	1,040
Sum											690	5,310
Ratio												13%

RESOLUTION NO. 8215

B

AN URGENCY RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS ADJUSTING EXISTING TRANSIT AREA DEVELOPMENT IMPACT FEE FOR PUBLIC INFRASTRUCTURE AND IMPROVEMENTS

RECITALS

WHEREAS, the City Council of the City of Milpitas has previously established a development impact fee program, as set forth in Chapter 4 of Title VIII of the Milpitas Municipal Code, in order to collect revenues to defray the cost of public infrastructure and improvements necessitated by new development; and

WHEREAS, pursuant to Chapter 4 of Title VIII of the Milpitas Municipal Code, the Council may adopt development impact fees for different areas within the City by resolutions that set forth the bases for such fees and the formulae to calculate such fees and that make the appropriate findings; and

WHEREAS, on June 3, 2008, the City Council adopted Resolution No. 7760 approving the Transit Area Specific Plan, which identified basic public infrastructure needed to serve new development in the area and to maintain or improve existing levels of service for public facilities; and

WHEREAS, on September 2, 2008, the City Council adopted Resolution 7778 approving and establishing development impact fees pursuant to Government Code Section 66000, *et seq.*, after required public notice and hearing in order to defray the costs of constructing such public infrastructure; and

WHEREAS, on December 18, 2012 the City Council adopted Resolution 8214 increasing the Transit Area Development Impact Fee applicable to new development situated within the Transit Area Specific Plan area in order to defray additional costs of constructing such public infrastructure that have been imposed by new conditions occurring since the time of the original fee adoption on September 2, 2008; and

WHEREAS, Resolution No. 8214 increasing the Transit Area Development Impact Fee by law will not be effective until 60 days after passage and it will be necessary to enact this interim urgency measure in accordance with Government Code Section 66017(b) in order to capture the full cost of development impacts in the period of time before the new Resolution becomes effective. The facts supporting a finding of current and immediate threat to the public health, welfare and safety are that staff has informed the Council that numerous projects are ready for permit issuance and may not be covered by the increased fees when it becomes effective in 60 days, creating a significant potential shortfall in funding of the true cost of infrastructure improvements, resulting in a residual cost burden to the public in general, unless the interim period is covered by this Resolution; and

WHEREAS, establishing fees for the purpose of obtaining funds for impact mitigation is not an essential step culminating in action which may affect the environment and is statutorily exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15273 of the CEQA Guidelines.

FINDINGS

NOW THEREFORE, the City Council of the City of Milpitas after duly considering the record before it makes the following findings and determinations based on the reports, testimony and other materials before it, including but not limited to the documents and information listed in the Recitals above, which are incorporated herein by reference:

1. In order to protect the public health, welfare and safety, it is necessary to enact as an urgency measure the fees imposed by Resolution No. 8214 immediately so that the true cost of impacts by development within the Transit Area are recouped during the time between enactment of that Resolution and its effective date 60 days later. It is essential that development projects for which building permits are issued within the 60-day period pay their fair share of public infrastructure costs such that these costs do not become a residual burden upon the public in general. This is a matter of urgency because the City predicts numerous projects will be or might be subject to the new fees and which would avoid them during the 60-day period if this urgency measure does not become immediately effective.

The facts provided herein and from all sources constitute a current and immediate threat to the public health, welfare and safety.

2. The proposed Transit Area Development Impact Fee as adopted as an interim measure by this Resolution is consistent with the City of Milpitas General Plan and the Transit Area Specific Plan.

RESOLVED ACTIONS

NOW THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

Section 1. General.

- A) This Resolution is adopted pursuant to California Government Code Section 66000 *et seq.* (“Mitigation Fee Act”), Article XI, Section 7 of the California Constitution, and the provisions of Chapter 4 of Title VIII of the Milpitas Municipal Code (“Fees for New Development”).
- B) The fee established by this Resolution shall apply to new development within the Transit Area immediately and is based upon the findings set forth above. The fee is established as an interim urgency measure and does hereby incorporate by reference as if set forth herein in their entirety, the Recitals, Findings and Resolved Action contained in Resolution No. 8214, except its effective date. More specifically, the fees described in Section 3 of Resolution No. 8214 are hereby adopted on an interim basis.
- C) This interim urgency measure is enacted under the authority of Government Code Section 66017(b) and by the terms thereof must be adopted by a 4/5 vote and shall be effective for 30 days. After notice and public hearing pursuant to Government Code Section 66016 this interim measure may be extended for another 30 days upon a 4/5 vote. No more than two extensions shall be approved.

Section 2. Severability. The provisions of this Resolution are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

Section 3. Effective Date. This Resolution shall take effect immediately upon adoption, as provided by Section 66017(b). Prior to the expiration of 15 days from the passage thereof, this Resolution shall be posted in at least three public places in the City of Milpitas.

PASSED AND ADOPTED this ____ day of _____, by the following vote: (4/5 required for adoption)

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney