

Final Environmental Impact Report

Milpitas Square
Mixed-Use Development
SCH# 2008022065

City of Milpitas
August 2009

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PREFACE

This document, together with the April 2009 Draft Environmental Impact Report (Draft EIR) for the Milpitas Square Mixed-Use Development project constitutes the Final Environmental Impact Report (“Final EIR” or “FEIR”) for the proposed project. Under the California Environmental Quality Act (CEQA), the Final EIR is an informational document prepared by the Lead Agency that must be considered by the decision-makers before approving the proposed project. CEQA Guidelines Section 15132 specifies that a Final EIR shall consist of the following:

- The Draft EIR or a revision of the draft;
- Comments and recommendations received on the Draft EIR either verbatim or in summary;
- A list of persons, organizations, and public agencies commenting on the Draft EIR;
- The responses of the Lead Agency to the significant environmental points raised in the review and consultation process; and
- Any other information added by the Lead Agency.

In conformance with the CEQA Guidelines, the Final EIR provides objective information regarding the environmental consequences of the proposed project. The Final EIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The Final EIR will be used by the City and other Responsible Agencies in making decisions regarding the project. The CEQA Guidelines require that, while the information in the Final EIR does not control the agency’s ultimate discretion on the project, the agency must respond to each significant effect identified in the Draft EIR by making written findings for each of those significant effects before it approves a project.

According to Section 21081 of the California Public Resources Code, no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

- (A) The public agency makes one or more of the following findings with respect to each significant effect:
 - (1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
 - (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

- (B) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (A), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

The Final EIR will be made available to the public and commenting public agencies 10 days prior to the EIR certification hearing.

All documents referenced in this EIR are available for public review at the Planning Division, located at 455 East Calaveras Boulevard, Milpitas, California, on weekdays during normal business hours.

SECTION 1 LIST OF AGENCIES AND INDIVIDUALS RECEIVING THE DRAFT EIR OR NOTICE OF AVAILABILITY OF THE DRAFT EIR

State of California (via State Clearinghouse)

- Resources Agency
- Department of Fish and Game, Region 3
- Office of Historic Preservation
- Department of Parks and Recreation
- Department of Water Resources
- Office of Emergency Services
- California Highway Patrol
- Caltrans, District 4
- Department of Housing and Community Development
- Integrated Waste Management Board
- Regional Water Quality Control Board, Region 2
- Department of Toxic Substances Control
- Native American Heritage Commission

County and Regional Agencies

- Santa Clara County Open Space District
- Santa Clara Valley Water District
- Valley Transportation Authority
- Santa Clara County Planning Department
- Bay Area Air Quality Management District
- Santa Clara County Department of Roads and Airports
- Metropolitan Transportation Commission

Local Governments

- City of San José
- City of Fremont
- City of San Francisco

School Districts

- East Side Union School District
- Berryessa Unified School District
- Milpitas Unified School District

Organizations, Companies, and Individuals

- Wilton Rancheria
- Ione Band of Miwok Indians
- AT&T
- Pacific Gas and Electric
- Ben Chuaqui, Van Meter Williams Pollack

The Draft EIR was also on file and available for review at the Milpitas Community Library and on the City of Milpitas website www.ci.milpitas.ca.gov.

SECTION 2 LIST OF AGENCIES AND INDIVIDUALS COMMENTING ON THE DEIR

<u>Comment Received From</u>	<u>Date of Letter</u>	<u>Response on Page</u>
State Agencies		
A. Department of Toxic Substances Control	May 7, 2009	7
B. Department of Transportation	June 8, 2009	8
County and Regional Agencies		
C. County Roads and Airports Department	May 18, 2009	10
D. Santa Clara Valley Transportation Authority	June 8, 2009	11
Organizations and Individuals		
E. Van Meter Williams Pollack, LLP	June 5, 2009	14

SECTION 3 RESPONSES TO COMMENTS RECEIVED ON THE DEIR

The following section includes all of the comments requiring responses contained in letters received during the advertised 45-day review period by the City of Milpitas regarding this DEIR. The comments are organized under headings containing the source of the letter and its date. The specific comments have been excerpted from the letters and are presented as “comment” with each response directly following. Each of these letters submitted to the City of Milpitas is contained in its entirety in Section 5 of this document.

A. RESPONSES TO COMMENTS ON THE DRAFT EIR FROM THE CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES CONTROL, DATED MAY 7, 2009.

COMMENT A-1: According to the Draft EIR, there is a potential for organochlorine pesticides to be present on the site. While the Draft EIR has included a mitigation measure for this issue, there is no identification of what the appropriate screening levels would be or what agency would be overseeing the evaluation and potential cleanup of contamination.

RESPONSE A-1: Any future remediation required due to the presence of organochlorine pesticides or other hazardous materials contamination on the site would be overseen by the Santa Clara County Department of Environmental Health. Contamination exceeding the residential environmental screening levels (ESLs) established by the Regional Water Quality Control Board will require preparation of a Soil Management Plan consistent with the mitigation identified as MM HM-1.1 and MM HM-2.1 in the Draft EIR. Mitigation measures MM HM-1.1 and MM HM-2.1 are modified for clarification purposes as shown in *Section 4 Revisions to the Text of the Draft EIR*.

COMMENT A-2: If hazardous substances are expected to be encountered, they will need to be addressed as part of this project. For example, if hazardous substances are expected to be encountered, the CEQA compliance document should include: (1) an assessment of air impacts and health impacts associated with the excavation activities; (2) identification of any applicable local standards which may be exceeded by the excavation activities, including dust level and noise; (3) transportation impacts from the removal or remedial activities; and (4) risk of public upset should there be an accident at the site.

RESPONSE A-2: It is not expected that hazardous substances will be encountered but it cannot be precluded. The project would be required to incorporate the demolition and construction dust mitigation recommendations of the Bay Area Air Quality Management District identified as mitigation measures MM AQ-6.1 in the Draft EIR. Incorporation of these measures would reduce the air, health, and dust impacts of the project to a less than significant level. Construction noise impacts, which include noise from excavation activities, are addressed in Section 4.4.2.5 of the Draft EIR. Construction noise mitigation measures are required of future development on the site to ensure construction noise would be reduced to a less than significant level. Truck traffic resulting from removal or remediation activities on the site would be temporary and would not result in any new level of service impacts not previously identified in the Draft EIR. Materials removed from the site as part of remediation activities would not be acutely toxic such that any

accidental release of these materials would have the potential to impact public health.

B. RESPONSES TO COMMENTS ON THE DRAFT EIR FROM THE DEPARTMENT OF TRANSPORTATION, DATED JUNE 8, 2009.

COMMENT B-1: Traffic Forecasting

Appendix A, Transportation Impact Analysis (TIA), Figure 10A, Project Trip Assignment, Intersection 8 shows that there is only one project driveway with AM (PM) inbound/outbound trips of 0(12)/0(8) vehicles per hour (vph). However, Table 8 shows AM (PM) inbound/outbound trips as 115(556)/461(245) vph. The project driveway AM (PM) inbound/outbound traffic should be the same as the AM (PM) inbound/outbound generated trips. Please correct this by reassigning the project driveway trips generated in the AM (PM) inbound/outbound as 115 (556)/461 (245) vph as contained in intersection 8.

RESPONSE B-1: As shown on Figure 4 of the DEIR there are five access points to the project site on Barber Lane: one located north of Bellew Drive, one forming the east leg of the Barber Lane/Bellew Drive intersection (study intersection 8), and three located south of Bellew Drive. The driveway locations north and south of Bellew Drive accommodate project traffic, but are not illustrated in the intersection figures. Therefore, all traffic is accounted for in the analysis.

COMMENT B-2: Highway Operations

DEIR Summary, page 8: Specify the direction for the McCarthy Blvd/Bellew Dr. intersection (I/S), which is to be mitigated by providing two left turn and one shared through right turn lanes.

RESPONSE B-2: The eastbound approach on Bellew Drive will be mitigated. The text describing the McCarthy Blvd./Bellew Drive intersection mitigation on page 8 of the DEIR is modified for clarification purposes as shown in *Section 4 Revisions to the Text of the Draft EIR*. The text on page 85 of the DEIR is also modified for clarification purposes.

COMMENT B-3: DEIR Summary, page 10: Will there be a coop-agreement between the City of San José and the City of Milpitas for implementation of sidewalk mitigation measures for the project?

RESPONSE B-3: The City of Milpitas continues to work with the County of Santa Clara and the City of San José regarding impacts to adjacent intersections when development occurs within Milpitas. One example relevant to this project is the square-loop interchange proposed by the City of San José at the McCarthy Boulevard-O'Toole Avenue/Montague Expressway intersection under Phase 3 of the North San José Area Development Policy (NSJADP). The intersection is impacted by the project. The NSJADP is the adopted program that would allow for a fair-share contribution to the mitigation. The City of San José's preferred mitigation is payment of an in-lieu fee towards the planned square-loop interchange at the McCarthy Boulevard-O'Toole Avenue/Montague Expressway intersection [indicated as MM TRANS-6.2 (Option 2)] not MM TRANS-6.1 (Option 1), which would require sidewalk modifications. There will be a coop-agreement for MM TRANS-6.2.

COMMENT B-4: A Regional Map with wider limits should be included showing the locations of freeway interchanges that are mentioned in the freeway segment study, such as Mission Boulevard and Brokaw Road.

RESPONSE B-4: The Figure 6 Existing Roadway Network and Study Intersections map in *Section 4.2 Transportation* of the Draft EIR has been expanded to show the location of the site in context to all roadway segments analyzed for the project. The revised Figure 6 is shown in *Section 4 Revisions to the Text of the Draft EIR*.

COMMENT B-5: DEIR, Figure 4- Site Plan: please clarify why the roadway turning lane configurations along Barber Lane as shown are different from what was shown in Figure 2 of Appendix A – TIA. Which is correct?

RESPONSE B-5: The DEIR Figure 4 is a more recent site plan that includes modifications recommended in the TIA. Thus, Figure 2 of Appendix A is not the proposed geometric configuration for the project.

COMMENT B-6: Appendix A, TIA, pages 53 and 54, under Site Access: What is meant by “...access (left-turn in and right turns in and out)...”? As shown in Figure 2 – Site plan geometric shows that there is also left-turn out movement from Buildings A and B that needs to be identified. Please clarify.

RESPONSE B-6: The project driveway description on page 53 of the TIA has been modified to clarify the site access discussion as shown in *Section 4 Revisions to the Text of the Draft EIR*.

COMMENT B-7: Appendix A, TIA, pages 53 and 54, under recommendations to improve site access: We suggest that the anticipated recommended improvements for the site and on-site access, as in the proposed site plan be implemented, instead of implementing the project proponent’s proposed Barber Lane geometrics, which would ultimately need to be reconfigured later to accommodate project traffic.

RESPONSE B-7: It is assumed that the commenter is comparing the site plan presented in Figure 2 of the TIA to the roadway improvements discussed on pages 53 and 54 of the TIA. As noted above in Response B-5, the site plan presented in Figure 4 of the Draft EIR is a more recent site plan that includes the modifications recommended in the TIA.

COMMENT B-8: Design
As the proposed project is so close to the ramp connector from State Route 237 to Interstate 880 the Department would like to see the complete project design when it is ready.

RESPONSE B-8: The City of Milpitas will continue to provide the Department of Transportation (Caltrans) with details of the project design as the project progresses from conceptual plans to construction-ready documents, as necessary, to ensure the design complies with Caltrans requirements.

COMMENT B-9: Encroachment Permit

Work that encroaches onto the State Right of Way (ROW) requires an encroachment permit that is issued by the Department. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to the address below. Traffic-related mitigation measures should be incorporated into the construction plans during the encroachment permit process.

Office of Permits
California DOT, District 4
P.O. Box 23660
Oakland, CA 94623-0660

See the website link below for more information.
<http://www.dot.ca.gov/hq/traffops/developserv/permits/>

RESPONSE B-9: Caltrans concern regarding work on the project site encroaching onto the State's ROW is acknowledged. Any future work required for the project within the State's ROW will obtain all necessary permits.

COMMENT B-10: Community Planning

The department notes that the project proposes improving pedestrian, bicycle, and transit facilities as mitigation to reduce the project generated vehicle trips. However, these mitigation measures would not reduce the project's freeway impacts to a less than significant level. In order to further lessen traffic impacts on the state highways, please consider additional mitigation measures for reducing the motorized vehicle trip generation from this project. These measures could include instituting a Transportation Demand Management (TDM) Program in which employees at the project site can receive transit passes at a reduced rate in lieu of free parking and reducing the parking requirement for the proposed project site. Please see, "Reforming Parking Policies to Support Smart Growth," a Metropolitan Transportation Commission study, funded by the Department, to guide in effective parking studies based on context.

RESPONSE B-10: A shared parking analysis that accounts for the mix of uses on the project site and the peak parking characteristics of each use was completed for the proposed project and included in Appendix A of the Draft EIR. Based on the shared parking analysis the project has proposed adequate parking to meet the peak demand without providing an oversupply which may have encouraged increased vehicle trips to the site instead of the use of alternate forms of transportation. In addition, the City may require the project to provide Eco-passes to new residents and also may require the project to provide a shuttle to the Tasman light rail station as part of the development agreement.

C. RESPONSES TO COMMENTS ON THE DRAFT EIR FROM THE SANTA CLARA COUNTY ROADS AND AIRPORTS DEPARTMENT, DATED MAY 18, 2009.

COMMENT C-1: Page 10 & 11 of the summary of impacts and mitigation measures for McCarthy Blvd/O'Toole Montague Expressway will need to coordinate mitigation measures with the County as well as City of San José.

RESPONSE C-1: The City of Milpitas is working cooperatively with the County of Santa Clara and City of San José to implement the square-loop interchange planned at the McCarthy Boulevard-O’Toole Avenue/Montague Expressway intersection under Phase 3 of the North San José Area Development Policy (NSJADP). The NSJADP is the adopted program that would allow for a fair-share contribution to this mitigation.

COMMENT C-2: Other intersections along Montague will also need to be analyzed.

RESPONSE C-2: The traffic analysis was prepared following the City of Milpitas traffic impact analysis guidelines (2008) and the Santa Clara Valley Transportation Authority (VTA) Transportation Impact Analysis Guidelines (2004). Therefore, study intersections include those intersections where the proposed project is expected to add ten trips or more per lane. This threshold is used by the VTA and all jurisdictions in the County to identify potentially impacted intersections for inclusion in the transportation analysis. The project is expected to add less than ten trips per lane to Montague Expressway intersections not studied in the transportation impact analysis (TIA) and, therefore, those locations were not included in the analysis.

D. RESPONSES TO COMMENTS ON THE DRAFT EIR FROM THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY (VTA), DATED JUNE 8, 2009.

COMMENT D-1: Transportation Impacts and Mitigation Measures

VTA recommends early coordination in the planning process between the Lead Agency and the affected jurisdictions, specifically the VTA and the California Department of Transportation (Caltrans), in addressing the identified significant and unavoidable impacts to the Congestion Management Programs (CMP) and Caltrans intersection and roadway facilities.

VTA supports the current policy that requires developers to pay their fair share of the improvement costs to mitigate the anticipated cumulative impact of traffic from new developments on future deficient roadways as cited on page 49 of the Final TIA Report. In addition, it is the VTA’s understanding that the City of Milpitas is developing a citywide deficiency plan to identify local and regional transportation improvements. Please make sure that the improvements are consistent with the deficiency plan and with other future projects in the area.

RESPONSE D-1: The discussion on page 49 of the TIA identifies payment of an in-lieu fee as a method of contributing to mitigation for project impacts. The City of Milpitas is in the process of developing a deficiency plan. The improvements in that plan will be consistent with the mitigation presented in the Milpitas Square Mixed-Use Development Draft EIR.

COMMENT D-2: As mentioned above, Section 4.2 of the DEIR notes that the proposed project would have several Significant Unavoidable impacts to the transportation system in the vicinity of the project. Given these impacts but also considering the potential benefits of the project in terms of improving the jobs-housing balance in Milpitas and reducing commute distances, the City and the applicant should strive to reduce the project’s impacts by promoting the use of alternative transportation modes to the greatest extent possible. The following sections discuss specific measures to promote alternative transportation use.

Bus Stop Improvements and Other Transit Measures

There are two bus stops across the street from the proposed project that will provide the closest access to transit. The bus stops are: 1) Westbound Bellew Drive, west of Barber Lane; and 2) Southbound Barber Lane, south of Bellew Drive. The bus stop on Bellew Drive is located in a narrow curb lane with a five-foot wide sidewalk. There is a bike lane in the traffic lane adjacent to the Barber Lane bus stop. In order to provide convenient access to transit service, VTA recommends that the City condition the developer to provide the following improvements for both bus stops:

- A bus duckout (per VTA standards)
- An 8' by 40' passenger waiting pad
- Locate all trees or obstacles outside the bus loading zone
- Provide adequate lighting for the bus stop area

Given that encouraging the use of mass transit and reducing commuting by automobile is one of the basic objectives for the proposed project (DEIR p. 32) and that the proximity to transit is cited in other portions of the DEIR (Consistency with Bay Area 2005 Ozone Strategy on p. 45, Energy Efficiency and Use on p. 184), it seems reasonable for the applicant to provide these relatively low-cost bus stop improvements as a way of encouraging the transit use by project residents and visitors. VTA recommends that the City require these bus stop improvements as a condition of approval for the project.

RESPONSE D-2: The City will condition the project to improve the two existing bus stops on westbound Bellew Drive and southbound Barber Lane if it is physically feasible to construct the improvements within the existing right-of-way (ROW) or if ROW is required in these locations for other improvements already required of the project. The conditioning of these improvements is not due directly to an environmental impact resulting from the project since the bus stops are currently in place and the project design provides adequate access to these alternative transportation facilities. No changes to the text of the Draft EIR are proposed.

COMMENT D-3: Similarly, the Air Quality section of the DEIR (p. 105) includes “explore option to share or provide shuttle service to the Tasman light rail station” and “provide Eco-passes to all new residents” as reasonable and feasible measures that would reduce air pollutant emissions from the project. VTA recommends that the City require these measures as conditions of approval of the project. VTA requests that the applicant and the City coordinate with VTA on these transit-related measures as the project advances through the development process.

RESPONSE D-3: The City may require the project to provide Eco-passes to new residents and also may require the project to provide a shuttle to the Tasman light rail station as part of the development agreement. The City and applicant will continue to coordinate with VTA on transit-related measures for the project.

COMMENT D-4: Bicycle Parking

The mitigation measures listed in MM TRANS-9 and MM AQ-1.1 include bicycle facilities and bicycle parking. However, the project description and site plan in the DEIR make no mention of bicycle locations or quantities. VTA supports bicycling as an important transportation mode and thus recommends inclusion of conveniently located bicycle parking for the project. Bicycle parking

facilities can include bicycle lockers for long term parking and bicycle racks for short-term parking. VTA's Bicycle Technical Guidelines provide guidance for estimating supply, siting and design for bicycle parking facilities. This document may be downloaded from www.vta.org/news/vtacmp/Bikes<<http://www.vta.org/new/vtacmp/Bikes>>. VTA recommends that the City require the applicant to provide bicycle parking in the quantities specified in VTA's Bicycle Technical Guidelines as a condition of approval for the project.

RESPONSE D-4: The project will be required to provide adequate bicycle parking on the site to meet the Zoning Code. Based on the recommended parking supply for the project, per the Zoning Code (Table XI-10-53.09-1, Number of Parking Spaces Required), a total of approximately 126 bicycle parking spaces¹ is required for the 900 residences (384 one-bedroom units and 516 two-bedroom units) and 175,000 total square feet of commercial space proposed by the project. According to the VTA's Bicycle Technical Guidelines, the recommended bicycle parking supply is approximately 314 Class I and 89 Class II bicycle parking spaces. Although the number of bicycle parking spaces required for the project does not meet VTA's recommendations, the proposed supply is considered adequate because it will meet the bicycle parking space requirement in the City of Milpitas Zoning Code for mixed-use developments. The Zoning Code does not discourage the project proponents from providing a surplus of bicycle parking, so the applicant may decide to provide additional spaces. *Section 4.2.2.7 Parking* in the Draft EIR has been revised to include the above information (refer to *Section 4 Revision to the Text of the DEIR*, of this Final EIR).

COMMENT D-5: Automobile Parking
VTA supports the technical support to providing automobile parking proposed by the applicant and reflected in the DEIR. This includes the use of shared parking, as described in the Parking Study (DEIR Appendix A-3) and unbundling a portion of the residential parking spaces, as described in the Long Term Air Quality Impacts section of the DEIR (p. 104). These measures help promote the use of alternative transportation modes and make more efficient use of the project site.

RESPONSE D-5: The VTA's support for the proposed parking supply is acknowledged and may be considered by the City Council during their deliberation on the proposed project. No further response is necessary.

COMMENT D-6: Land Use Mix and Site Density
Taking into account the transportation impacts and mitigation measures described in the DEIR and discussed above, VTA supports the proposed land use mix and density of the proposed project. VTA commends the project applicant on a site design that is compact and pedestrian-friendly, incorporates a mix of land uses, and includes substantial residential density on a VTA bus line and within two-thirds of a mile of a VTA light-rail station. In addition, the VTA supports the pedestrian scale of the design, the incorporation of ground floor retail, use of on-street parallel and angled parking, and provision of plazas and public spaces throughout the development. These design features will help

¹ A parking study for the proposed project recommended a parking supply of 2,533 spaces based on the proposed mix of uses. Per the Zoning Code, bicycle parking spaces should be supplied at a rate of one per 20 vehicle parking spaces.

reduce automobile trip generation, promote the use of alternate transportation modes, and improve the jobs-housing balance in Milpitas, which can help reduce commute distances in the City.

RESPONSE D-6: The VTA's general support for the proposed project is acknowledged and may be considered by the City Council during their deliberation on the proposed project. No further response is necessary.

E. RESPONSES TO COMMENTS ON THE DRAFT EIR FROM VAN METER WILLIAMS POLLACK, LLP, DATED JUNE 5, 2009.

COMMENT E-1: We suggest, in reference to Section 4.1.2.2 (4.1.2.2 Land Use, LED Signs (Impact LU-1 Significant, Impact VIS-2 Less Than Significant), that the following be added to 4.1.3 as to MM LU – 1.1, at the end of the second sentence:

“and/or that the orientation and design of residential buildings on-site shall be reviewed and approved by the City taking into consideration measures mitigating any perceived negative impacts of such electronic displays on occupants of such buildings as well as in addition to location of such electronic signage displays.”

RESPONSE E-1: The applicant's comment is acknowledged. The text of mitigation measure MM LU-1.1 has been revised as shown in *Section 4 Revision to the Text of the DEIR*.

COMMENT E-2: We suggest, in reference to section 4.1.2.4 California Fire Code, Helicopter Pads (Impact LU-5, Significant) that the language be changed to reflect that the Milpitas Municipal Code provides that a helicopter pad “may” be required, not that such a helicopter pad must or “shall”, as stated, be required. The first section of Section 4.1.2.4 should be revised to accurately state this.

In addition, add to the last sentence of section 4.1.2.4 the following:

“or undertake and perform such other alternative measures in building construction and design for such buildings as the City may require upon review and approval of building permits for such buildings to conform to the Milpitas Municipal Code for such emergency ingress and egress.”

RESPONSE E-2: The Milpitas Municipal Code does state that a helicopter pad may be required for buildings exceeding 150 feet. The Fire Department will review building plans for consistency with the Fire Code and may consider alternative measures to the requirement for a helicopter pad on buildings exceeding 150 feet in height. The discussion of the fire code and mitigation measures has been revised as shown in *Section 4 Revision to the Text of the DEIR*.

COMMENT E-3: 5.4 Parks and Recreation (Impact PF-4)
This section of the DEIR does not include the documentation presented by the Project proponent based on the economic and demographic study from Economic and Planning Systems (EPS). Based on this EPS research and report, Section 5.4 should be revised to include the demographic numbers which suggest a lower number of persons per household average of 1.93 (as opposed to 2.7 as stated

in the DEIR). Based on this demographic of the lower number of persons per household and the actual amount of space provided on site, the calculation of the in-lieu fee should be adjusted.

RESPONSE E-3: Based on the economic and demographic study from Economic and Planning Systems, a lower number of persons per household than was assumed in the Draft EIR will be assumed for the project based on similar high-density developments. The discussion of parks and recreation impacts has been revised as shown in *Section 4 Revision to the Text of the DEIR*.

COMMENT E-4: The conclusion of the EPS report and additional evaluation of the amount of common and private open space and the construction cost of that open space was that the cost of constructing the open spaces, private and public, would be about four times greater than the required in-lieu fees and that the in-lieu fees should therefore be waived. We are attaching the EPS Study.

RESPONSE E-4: The amount of proposed public and private open space on the site does not meet the acreage requirements for neighborhood and community parks contained in the General Plan. For the purposes of the EIR, the project will be required to dedicate land or pay in-lieu fees to offset the significant impact resulting from increased demand for parkland due to the project.

COMMENT E-5: The last paragraph of Section 5.4 should be revised changing “2.7” to “1.93” and changing “2,430 residents” to “1,737 residents”; the numbers “8.51 acres” should be changed to “6.08 acres”.

RESPONSE E-5: Based on the EPS study of similar high-density residential developments, the assumptions for persons per household on the project site have been revised as shown in *Section 4 Revision to the Text of the DEIR*.

COMMENT E-6: Impact PF-4 should be revised to state:

“The project’s increase in demand for park and recreational services in the City of Milpitas would be offset through the provision of open space in the proposed development with the result that no in-lieu fee is required. (No Significant Impact).”

RESPONSE E-6: Based on the City’s General Plan policies, the project does not provide adequate parkland to serve the increase in residents resulting from the proposed development. The project will be required to mitigate the impact resulting to existing parkland due to the increase in residents using these facilities through the dedication of additional land or the payment of in-lieu fees. No changes to the text of the Draft EIR are proposed.

COMMENT E-7: Under Section 5.4.1 **MM PF-4.1** should be eliminated or revised to reflect the demographics stated in the EPS study and the resultant conclusion that no in-lieu fee for parkland is required.

RESPONSE E-7: Mitigation measure MM PF-4.1 will be revised to reflect the results of the EPS study as discussed in Response E-3 and Response E-5 (refer to *Section 4 Revision to the Text of the DEIR*).

SECTION 4 REVISIONS TO THE TEXT OF THE DEIR

The following section contains revisions to the text of the Draft Environmental Impact Report for the Milpitas Square Mixed-Use Development, dated April 2009. Revised or new language is underlined. All deletions are shown ~~with a line through the text~~.

Page 7 Summary, Land Use Mitigation and Avoidance Measures; **Insert** the following text to MM LU-1.1:

MM LU-1.1: The proposed shopping center identification signs with electronic displays shall be oriented so that the displays are visible primarily from the adjacent freeway traffic in order to reduce the incidence of light spillover onto adjacent properties. The proposed shopping center identification signs with electronic displays shall also be located so that the proposed buildings on the site will provide a buffer and shield views of the signs, to the extent feasible, from adjacent sensitive land uses and the residential development proposed on the site and/or that the orientation and design of residential buildings on-site shall be reviewed and approved by the City taking into consideration measures mitigating any perceived negative impacts of such electronic displays on occupants of such buildings as well as in addition to location of such electronic signage displays. The final location of the shopping center identification signs with electronic displays may require some modifications to the proposed bioswales on the site; however, the function of the proposed swales will be retained.

Page 8 Summary, Land Use Mitigation and Avoidance Measures; **Insert** the following text to MM LU-5.1:

MM LU-5.1: In accordance with the California Fire Code Section 1001.12, as amended by the Milpitas Municipal Code, the project will be conditioned to include the construction of helicopter pads on all buildings on the project site exceeding 150 feet in height (Buildings B and F) which meet the requirements of the Milpitas Fire Department or provide alternative measures for such buildings as required and approved by the Fire Department to conform to the Milpitas Municipal Code for emergency access. Prior to the issuance of an occupancy permit, the Fire Marshall shall inspect the helicopter pad and/or the construction of approved alternative measures to ensure compliance with the Municipal Code.

Page 8 Summary, Transportation Mitigation and Avoidance Measures; **Revise** the following text:

MM TRANS-1.1: *McCarthy Boulevard/Bellew Drive* – Prior to issuance of a building permit, the developer shall modify the roadway and traffic signal facilities or pay a fair share contribution into an account created by the City of Milpitas for the sole purpose of providing two eastbound left turn lanes and one shared through/right turn lane, which would provide acceptable (LOS D-) operations. This improvement, in conjunction with optimizing the signal coordination along the McCarthy Boulevard corridor, would also provide acceptable midday operations at this intersection. Installation of the double eastbound left turn lanes requires median island and traffic signal modification work on Bellew Drive from Barber Lane to Technology Drive and on McCarthy Boulevard from Bellew Drive to Ranch Drive.

To ensure proper operation, these improvements must also be coordinated with modifications for the intersection of Bellew Drive and Cypress Drive. **(Less Than Significant Impact with Mitigation)**

Page 28 Summary, Transportation Mitigation and Avoidance Measures; **Revise** the following text:

MM PF-4.1: Consistent with the City of Milpitas General Plan for new developments within the Midtown Specific Plan Area, three and one-half acres of neighborhood/community parks would be required per 1,000 residents due to the infill nature of the project. This requirement can be fulfilled through land dedication or through equivalent in-lieu fees. Up to 1.5 acres per 1,000 residents can be developed as usable on-site common or private open space within new residential developments, and the remaining ~~three~~ two acres must be developed as public parkland. The proposed project would provide housing for approximately ~~2,430~~ 1,737 residents and, therefore, would be required to provide approximately ~~8.51~~ 6.08 acres of neighborhood/community park. The on-site common open space areas proposed by the project total approximately ~~4.5~~ 1.76 acres. In accordance with the General Plan, the project would pay in-lieu fees for the remaining parkland acres required by the City.

Page 55 Section 4.1.2.4 California Fire Code; **Revise** the text of the first paragraph as follows:

The California Fire Code section 1001.12 (as amended by the Milpitas Municipal Code, Title V, Chapter 300-2.3928) ~~requires~~ states buildings greater than 150 feet in height (above the lowest level of Fire Department access) may be required to provide a helicopter pad meeting the requirements of the Fire Department.

Page 56 Section 4.1.2.4 California Fire Code; **Insert** the following text in the last sentence of the first full paragraph:

As a condition of project approval, the project shall be required to construct a helicopter pad meeting the requirements of the Milpitas Fire Department or alternative measures approved by the Fire Department and conforming to the Municipal Code.

Page 56 Section 4.1.3, Mitigation Measures for Land Use Impacts; **Insert** the following text to MM LU-1.1:

MM LU-1.1: The proposed shopping center identification signs with electronic displays shall be oriented so that the displays are visible primarily from the adjacent freeway traffic in order to reduce the incidence of light spillover onto adjacent properties. The proposed shopping center identification signs with electronic displays shall also be located so that the proposed buildings on the site will provide a buffer and shield views of the signs, to the extent feasible, from adjacent sensitive land uses and the residential development proposed on the site and/or that the orientation and design of residential buildings on-site shall be reviewed and approved by the City taking into consideration measures mitigating any perceived negative impacts of such electronic displays on occupants of such buildings as well as in

addition to location of such electronic signage displays. The final location of the shopping center identification signs with electronic displays may require some modifications to the proposed bioswales on the site; however, the function of the proposed swales will be retained.

Page 56 Section 4.1.3, Mitigation Measures for Land Use Impacts; **Insert** the following text to MM LU-5.1:

MM LU-5.1: In accordance with the California Fire Code Section 1001.12, as amended by the Milpitas Municipal Code, the project will be conditioned to include the construction of helicopter pads on all buildings on the project site exceeding 150 feet in height (Buildings B and F) which meet the requirements of the Milpitas Fire Department or provide alternative measures for such buildings as required and approved by the Fire Department to conform to the Milpitas Municipal Code for emergency access. Prior to the issuance of an occupancy permit, the Fire Marshall shall inspect the helicopter pad and/or the construction of approved alternative measures to ensure compliance with the Municipal Code.

Page 59 Section 4.2 Transportation; **Revise** Figure 6 as shown on page 21 of this document.

Page 85 Section 4.2.2.7 Parking; **Insert** the text below following the first paragraph:

In addition to the proposed vehicle parking on the site, the project will provide adequate bicycle parking to comply with the City's Zoning Code. Based on the estimated shared vehicle parking demand for the mixed-use development, the project will be required to provide at least 126 bicycle parking spaces.

Page 85 Section 4.2.3.1, McCarthy Boulevard/Bellew Drive; **Revise** the following text:

MM TRANS-1.1: *McCarthy Boulevard/Bellew Drive* – Prior to issuance of a building permit, the developer shall modify the roadway and traffic signal facilities or pay a fair share contribution into an account created by the City of Milpitas for the sole purpose of providing two eastbound left turn lanes and one shared through/right turn lane, which would provide acceptable (LOS D-) operations. This improvement, in conjunction with optimizing the signal coordination along the McCarthy Boulevard corridor, would also provide acceptable midday operations at this intersection. Installation of the double eastbound left turn lanes requires median island and traffic signal modification work on Bellew Drive from Barber Lane to Technology Drive and on McCarthy Boulevard from Bellew Drive to Ranch Drive. To ensure proper operation, these improvements must also be coordinated with modifications for the intersection of Bellew Drive and Cypress Drive. **(Less Than Significant Impact with Mitigation)**

Page 131 Section 4.5.3.1 On-Site Hazardous Materials Contamination; **Revise** the following text:

MM HM-1.1 & 2.1: Prior to the issuance of a Grading Permit, but after removal of pavement for each of the project phases, the developer shall implement the following measures, which would reduce potential impacts related to pesticide contaminated

soil to a less than significant level. These measures shall be printed on all construction documents, contracts, and project plans:

- Soil on the site will be sampled and tested for organochloride pesticides and associated heavy metals by qualified professionals (e.g., a California-Registered Environmental Assessor and analyzed by a State certified laboratory). The results of the soil sampling shall be submitted to the City of Milpitas for review.
- If the results of the soil sampling/testing indicate that the soil on the project site is contaminated with agricultural pesticides and/or heavy metals above ~~regulatory agency~~ residential Environmental Screening Level (ESL) thresholds established by the Regional Water Quality Control Board (RWQCB), a Soil Management Plan (SMP) will be prepared for the proposed project and submitted to the City of Milpitas for review and approval. The City may also refer this site to Santa Clara County Department of Environmental Health for further review if sample test results indicate contamination above California Human Health Screening Levels (CHHSLs). The SMP would detail the handling/disposal of the contaminated soil in a manner that ensures workers, adjacent uses, and the environment are protected. The main objective of the SMP is to establish protocols for the contractor in handling on-site soil during redevelopment of the site (e.g., preparation of a Health and Safety Plan).
- If the results of the soil sampling/testing indicate that the soil on the project site is contaminated with agricultural pesticides and/or heavy metals above ~~regulatory agency thresholds~~ CHHSLs, all soil off-hauled from the project site will be disposed of at an appropriate facility that is designed and operated to accept and dispose of contaminated soils. California Total Threshold Limit Concentration (TTLC) values may be used to assist in the proper disposal of the contaminated soil.

Page 185 Section 4.13.2 Population, Jobs, and Housing Impacts; **Revise** the last sentence on the page as follows:

Based on an average of ~~2.7~~ 1.93 residents per unit and 425 square feet per commercial employee² the proposed project is expected to provide housing for approximately ~~2,430~~ 1,737 new residents (at a density of approximately 53 dwelling units per acre) and 30 new jobs (411 total jobs).

Page 186 Section 4.13.2 Population, Jobs, and Housing Impacts; **Revise** the first sentence as follows:

The additional ~~2,430~~ 1,737 residents on the site would increase the City's population by approximately four percent, which is less than one-tenth of the 25,600 new residents predicted to live in the City of Milpitas by the year 2030.

Page 191 Section 5.4 Parks and Recreation; **Revise** the first full paragraph as follows:

² City of Milpitas. General Plan. March 19, 2002. Table 2-7.

Based on an estimate of ~~2.7~~ 1.93 residents per unit, the project could result in a population increase of ~~2,430³~~ 1,737 residents and would require approximately ~~8.51~~ 6.08 acres of new parkland to serve the proposed project consistent with City policies. The proposed project includes approximately ~~66,420 square feet~~ 2.04 acres of plazas and greenspace and approximately 1.76 acres of common and private open space (1.5 acres) which would partially offset the increased demand for recreational space resulting from the project.

Page 191 Section 5.4 Parks and Recreation; **Revise** footnote 62 as follows:

City of Milpitas, General Plan Land Use Element, 2002. Table 2-4. Economics & Planning Systems, Inc. Final Memorandum: Milpitas Square Park Fee Demographics. March 2, 2009.

Page 191 Section 5.4.1 Mitigation and Avoidance Measures for Parks and Recreation Impacts; **Revise** the text as follows:

MM PF-4.1: Consistent with the City of Milpitas General Plan for new developments within the Midtown Specific Plan Area, three and one-half acres of neighborhood/community parks would be required per 1,000 residents due to the infill nature of the project. This requirement can be fulfilled through land dedication or through equivalent in-lieu fees. Up to 1.5 acres per 1,000 residents can be developed as usable on-site common or private open space within new residential developments, and the remaining ~~three~~ two acres must be developed as public parkland. The proposed project would provide housing for approximately ~~2,430~~ 1,737 residents and, therefore, would be required to provide approximately ~~8.51~~ 6.08 acres of neighborhood/community park. The on-site common open space areas proposed by the project total approximately ~~4.5~~ 1.76 acres. In accordance with the General Plan, the project would pay in-lieu fees for the remaining parkland acres required by the City.

Page 192 Section 5.5 Libraries; **Revise** the first sentence of the last paragraph as follows:

The development of the proposed project would add up to ~~2,430~~ 1,737 additional residents to the City of Milpitas.

Page 222 Section 11.0 References; **Insert** the following text:

Economics & Planning Systems, Inc. Final Memorandum: Milpitas Square Park Fee Demographics. March 2, 2009.

Appendix A Page 53, Site Access; **Revise** the second sentence of the second paragraph as follows:

Of the driveways south of Bellew Drive, one provides full access (~~left-turn and right-turns in and right-turns in and out~~) to Building A's parking structure, one provides access to the internal on-site circulation roadway, and the third provides access (left-turn in and right-turns in and out) to the Building B parking structure.

³ City of Milpitas, General Plan Land Use Element, 2002. Table 2-4.

SECTION 5 COPIES OF COMMENT LETTERS

The original comment letters received on the Draft EIR are provided on the following pages.



Linda S. Adams
Secretary for
Environmental Protection



Department of Toxic Substances Control

Maziar Movassaghi
Acting Director
700 Heinz Avenue
Berkeley, California 94710-2721



Arnold Schwarzenegger
Governor

May 7, 2009

Mr. Sheldon S. Ah Sing
City Of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035

Dear Mr. Ah Sing:

Thank you for the opportunity to comment on the draft Environmental Impact Report (EIR) for the Milpitas Square Mixed Use Development (Project) SCH# 2008022065. The Project involves demolition of existing commercial buildings and construction of a very high density mixed use (residential/commercial) development.

As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a Responsible Agency, DTSC is submitting comments to ensure that the environmental documentation prepared for this project under the California Environmental Quality Act (CEQA) adequately addresses activities pertaining to releases of hazardous substances.

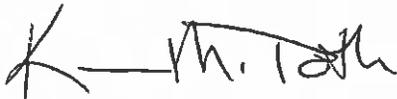
According to the draft EIR, there is a potential for organochlorine pesticides to be present on the site. While the Draft EIR has included a mitigation measure for this issue, there is no identification of what the appropriate screening levels would be or what agency would be overseeing the evaluation and potential cleanup of contamination.

Where concerns are identified, sampling should be conducted to determine whether there is an issue that will need to be addressed in the CEQA compliance document. If hazardous substances are expected to be encountered, they will need to be addressed as part of this project. For example, if hazardous substances are expected to be encountered, the CEQA compliance document should include: (1) an assessment of air impacts and health impacts associated with the excavation activities; (2) identification of any applicable local standards which may be exceeded by the excavation activities, including dust levels and noise; (3) transportation impacts from the removal or remedial activities; and (4) risk of public upset should there be an accident at the Site.

Mr. Sheldon S. Ah Sing
May 7, 2009
Page 2

If you have any questions or would like to schedule a meeting, please contact me at (510) 540-3834. Thank you in advance for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "K. M. Toth". The signature is stylized with a large initial "K" and a long horizontal line extending to the right.

Karen M. Toth, P.E., Unit Chief
Brownfields and Environmental Restoration Program

cc: Governor's Office of Planning and Research
State Clearinghouse
P. O. Box 3044
Sacramento, CA 95812-3044

Guenther Moskat
CEQA Tracking Center
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

DEPARTMENT OF TRANSPORTATION

P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 622-5491
FAX (510) 286-5559
TTY 711



*Flex your power!
Be energy efficient!*

June 8, 2009

SCL-000-GEN
SCL000192
SCH2008022065

Mr. Sheldon S. Ah Sing
City of Milpitas
455 E. Calaveras Blvd.
Milpitas, CA 95035

Dear Mr. Ah Sing:

Milpitas Square Mixed-Use Development, Draft Environmental Impact Report (DEIR)

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review process for the proposed project. We have reviewed the DEIR and have the following comments to offer.

Traffic Forecasting

Appendix A, Traffic Impact Analyses (TIA), Figure 10A, Project Trip Assignment, Intersection 8 shows that there is only one project driveway with AM (PM) inbound/outbound trips of 0(12)/0(8) vehicles per hour (vph). However, Table 8 shows AM (PM) inbound/outbound trips as 115 (556) /461 (245) vph. The project driveway AM (PM) inbound/outbound traffic should be the same as the AM (PM) inbound/outbound generated trips. Please correct this by reassigning the project driveway trips generated in the AM (PM) inbound/outbound as 115 (556) /461 (245) vph as contained in intersection 8.

Highway Operations

1. DEIR Summary, page 8: Specify the direction for the McCarthy Blvd/ Bellew Dr. intersection (I/S), which is to be mitigated by providing two left turn and one shared through/right turn lanes.
2. DEIR Summary, page 10: Will there be a coop-agreement between the City of San Jose and the City of Milpitas for implementation of sidewalk mitigation measures for the project?
3. A Regional Map with wider limits should be included showing the locations of freeway interchanges that are mentioned in the freeway segment study, such as Mission Boulevard and Brokaw Road.
4. DEIR, Figure 4 - Site Plan: Please clarify why the roadway turning lane configurations along Barber Lane as shown are different from what is shown in Figure 2 of Appendix A - TIA. Which is correct?

5. Appendix A, TIA, pages 53 and 54, under Site Access: What is meant by "...access (left-turn in and right turns in and out)..."? As shown in Figure 2 - Site Plan geometric shows that there is also left-turn out movement from Buildings A and B that needs to be identified. Please clarify.

6. Appendix A, TIA, pages 53 and 54, under recommendations to improve site access: We suggest that the anticipated recommended improvements for the site and on-site access, as in the proposed site plan be implemented, instead of implementing the project proponent's proposed Barber Lane geometrics, which would ultimately need to be reconfigured later to accommodate project traffic.

Design

As the proposed project is so close to the ramp connector from State Route 237 to Interstate 880 the Department would like to see the complete project design when it is ready.

Encroachment Permit

Work that encroaches onto the State Right of Way (ROW) requires an encroachment permit that is issued by the Department. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to the address below. Traffic-related mitigation measures should be incorporated into the construction plans during the encroachment permit process.

Office of Permits
California DOT, District 4
P.O. Box 23660
Oakland, CA 94623-0660

See the website link below for more information.

<http://www.dot.ca.gov/hq/traffops/developserv/permits/>

Community Planning

The Department notes that the project proposes improving pedestrian, bicycle, and transit facilities as mitigation to reduce the project generated vehicle trips. However, these mitigation measures would not reduce the project's freeway impacts to a less than significant level. In order to further lessen traffic impacts on the state highways, please consider additional mitigation measures for reducing the motorized vehicle trip generation from this project. These measures could include instituting a Transportation Demand Management (TDM) Program in which employees at the project site can receive transit passes at a reduced rate in lieu of free parking and reducing the parking requirement for the proposed project site. Please see, "Reforming Parking Policies to Support Smart Growth," a Metropolitan Transportation Commission study, funded by the Department, to guide in effective parking strategies based on context.

Mr. Sheldon S. Ah Sing
June 8, 2009
Page 3

Should you have any questions regarding this letter, please call José L. Olveda of my staff at (510) 286-5535.

Sincerely,



LISA CARBONI
District Branch Chief
Local Development - Intergovernmental Review

c: Scott Morgan (State Clearinghouse)

From: Bill Yeung [mailto:Bill.Yeung@rda.sccgov.org]
Sent: Monday, May 18, 2009 11:11 AM
To: Sheldon AhSing
Subject: DEIR - Milpitas Square SCH#2008022065

Sheldon:

This is in response to your 4-20-09 transmittal regarding the subject project. The review is complete and we have the following comment:

1. Page 10 &11 of the summary of impacts and mitigation measures for McCarthy Blvd/O'tool Montague Expressway will need to coordinate mitigation measures with the County as well as City of San Jose.
2. Other intersections along Montague will also need to be analyzed.

*William K. Yeung, PE
Associate Civil Engineer
Land Development and Survey
County of Santa Clara
Roads and Airports Department
101 Skyport Drive
San Jose, CA 95110
Phone (408)573-2463
Fax (408)441-0276
Email: bill.yeung@rda.sccgov.org*

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June 8, 2009

City of Milpitas
Planning Division
455 East Calaveras Boulevard
Milpitas, CA 95035-5479

Attention: Sheldon Ah Sing

Subject: Milpitas Square Mixed-Use Development

Dear Mr. Sing:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Draft EIR (DEIR) for a land use designation of Very High Mixed Use Density Development on 16.85 acres to allow up to 900 dwelling units and 175,000 square feet of commercial development on the east side of Barber Lane, opposite Bellew Drive. We have the following comments.

Transportation Impacts & Mitigation Measures

VTA recommends early coordination in the planning process between the Lead Agency and the affected jurisdictions, specifically VTA and the California Department of Transportation (Caltrans), in addressing the identified significant and unavoidable traffic impacts to the Congestion Management Program (CMP) and Caltrans intersection and roadway facilities.

VTA supports the current policy that requires developers to pay their fair share of the improvement costs to mitigate the anticipated cumulative impact of traffic from new developments on future deficient roadways as cited on page 49 of the Final TIA Report. In addition, it is VTA's understanding that the city of Milpitas is developing a citywide deficiency plan to identify local and regional transportation improvements. Please make sure that the improvements are consistent with the deficiency plan and with other future projects in the area.

As mentioned above, Section 4.2 of the DEIR notes that the proposed project would have several Significant Unavoidable impacts to the transportation system in the vicinity of the project. Given these impacts but also considering the potential benefits of the project in terms of improving the jobs-housing balance in Milpitas and reducing commute distances, the City and the applicant should strive to reduce the project's impacts by promoting the use of alternative transportation modes to the greatest extent possible. The following sections discuss specific measures to promote alternative transportation use.

Bus Stop Improvements and other Transit Measures

There are two bus stops across the street from the proposed project that will provide the closest access to transit. The bus stops are: 1) Westbound Bellew Drive, west of Barber Lane; and 2) Southbound Barber Lane, south of Bellew Drive. The bus stop on Bellew Drive is located in a narrow curb lane with a 5-foot wide sidewalk. There is a bike lane in the traffic lane adjacent to the Barber Lane bus stop. In order to provide convenient access to transit service, VTA recommends that the City condition the developer to provide the following improvements for both bus stops:

- A bus duckout (per VTA standards)
- An 8' x 40' passenger waiting pad
- Locate all trees or obstacles outside the bus loading zone
- Provide adequate lighting for the bus stop area

Given that encouraging the use of mass transit and reducing commuting by automobile is one of the basic objectives for the proposed project (DEIR p. 32) and that proximity to transit is cited in other portions of the DEIR (Consistency with Bay Area 2005 Ozone Strategy on p. 45, Energy Efficiency and Use on p. 184), it seems reasonable for the applicant to provide these relatively low-cost bus stop improvements as a way of encouraging the transit use by project residents and visitors. VTA recommends that the City require these bus stop improvements as condition of approval of the project.

Similarly, the Air Quality section of the DEIR (p. 105) includes "explore options to share or provide shuttle service to the Tasman light rail station" and "provide Eco-passes to all new residents" as reasonable and feasible measures that would reduce air pollutant emissions from the project. VTA recommends that the City require these measures as conditions of approval of the project. VTA requests that the applicant and the City coordinate with VTA on these transit-related measures as the project advances through the development process.

Bicycle Parking

The mitigation measures listed in MM TRANS-9 and MM AQ-1.1 include bicycle facilities and bicycle parking. However, the project description and the site plan in the DEIR make no mention of bicycle parking locations or quantities. VTA supports bicycling as an important transportation mode and thus recommends inclusion of conveniently located bicycle parking for the project. Bicycle parking facilities can include bicycle lockers for long-term parking and bicycle racks for short-term parking. VTA's Bicycle Technical Guidelines provide guidance for estimating supply, siting and design for bicycle parking facilities. This document may be downloaded from www.vta.org/news/vtacmp/Bikes <<http://www.vta.org/news/vtacmp/Bikes>>. VTA recommends that the City require the applicant to provide bicycle parking in the quantities specified in VTA's Bicycle Technical Guidelines as a condition of approval of the project.

City of Milpitas

June 8, 2009

Page 3

Automobile Parking

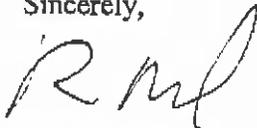
VTA supports the flexible approach to providing automobile parking proposed by the applicant and reflected in the DEIR. This includes the use of shared parking, as described in the Parking Study (DEIR Appendix A-3) and unbundling a portion of the residential parking spaces, as described in the Long Term Air Quality Impacts section of the DEIR (p. 104). These measures help promote the use of alternative transportation modes and make more efficient use of the project site.

Land Use Mix and Site Density

Taking into account the transportation impacts and mitigation measures described in the DEIR and discussed above, VTA supports the proposed land use mix and density of the proposed project. VTA commends the project applicant on a site design that is compact and pedestrian-friendly, incorporates a mix of land uses, and includes substantial residential density on a VTA bus line and within two-thirds of a mile of a VTA light-rail station. In addition, VTA supports the pedestrian scale of the design, the incorporation of ground-floor retail, use of on-street parallel and angled parking, and provision of plazas and public spaces throughout the development. These design features will help reduce automobile trip generation, promote the use of alternate transportation modes, and improve the jobs-housing balance in Milpitas, which can help reduce commute distances in the city.

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

Sincerely,

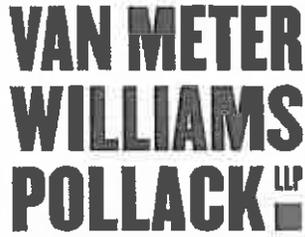


Roy Molseed
Senior Environmental Planner

RM:kh

cc: Samantha Swan, VTA

ML0802



MEMORANDUM

To: City of Milpitas: Attn: Jim Lindsey
Date: June 5 2009
Subject: Milpitas Square Draft Environmental Impact Report, April 2009

VMWP has reviewed the Draft Environmental Impact Report ("DEIR") for Milpitas Square and on behalf of Milpitas Square, LLC, the project applicant, is providing the following comments, mainly on items relevant to the urban and architectural design. The following is a list of these comments and analysis following the format and organization of the DEIR report.

Land Use

4.1.2.2 Land Use, LED Signs (Impact LU-1 Significant, Impact VIS-2 Less Than Significant)

We suggest, in reference to Section 4.1.2.2 (4.1.2.2 Land Use, LED Signs (Impact LU-1 Significant, Impact VIS-2 Less Than Significant), that the following be added to 4.1.3 as to MM LU – 1.1, at the end of the second sentence:

"and/or that the orientation and design of residential buildings on-site shall be reviewed and approved by the City taking into consideration measures mitigating any perceived negative impacts of such electronic signage displays on occupants of such buildings and well as and in addition to location of such electronic signage displays."

4.1.2.4 California Fire Code, Helicopter Pads (Impact LU-5, Significant)

We suggest, in reference to Section 4.1.2.4 California Fire Code, Helicopter Pads (Impact LU-5, Significant) that the language be changed to reflect that the Milpitas Municipal Code provides that a helicopter pad "may" be required, not that such a helicopter pad must or "shall", as stated, be required. The first sentence of Section 4.1.2.4 should be revised to accurately state this.

In addition, add to the last sentence of Section 4.1.2.4 the following:

"or undertake and perform such other alternative measures in building construction and design for such buildings as the City may require upon review and approval of building permits for such buildings to conform to the Milpitas Municipal Code for such emergency ingress and egress."

To: City of Milpitas: Attn: Jim Lindsey
Date: May 15 2009
Subject: Milpitas Square Draft Environmental Impact Report, April 2009
Page 2

Public Facilities and Service

5.4 Parks and Recreation (Impact PF-4)

This section of the DEIR does not include the documentation presented by the Project proponent based on the economic and demographic study from Economic and Planning Systems (EPS). Based on this EPS research and report, Section 5.4 should be revised to include the demographic numbers which suggest a lower number of persons per household average of 1.93 (as opposed to 2.7 as stated in the DEIR). Based on this demographic of the lower number of persons per household and the actual amount of open space provided on site, the calculation of the in-lieu fee should be adjusted. The conclusion of the EPS report and additional evaluation of the amount of common and private open space and the construction cost of that open space was that the cost of constructing the open spaces, private and public, would be about four times greater than the required in-lieu fees and that the in-lieu fees should therefore be waived. We are attaching the EPS Study.

The last paragraph of Section 5.4 should be revised changing "2.7" to "1.93" and changing "2,430 residents" to "1,737 residents"; the numbers "8.51 acres" should be changed to "6.08 acres".

Impact PF-4 should be revised to state:

"The project's increase in demand for park and recreational services in the City of Milpitas would be offset through the provision of open space in the proposed development with the result that no in-lieu fee is required. (No Significant Impact)."

Under Section 5.4.1

MM PF-4.1 should be eliminated or revised to reflect the demographics stated in the EPS study and the resultant conclusion that no in-lieu fee for parkland is required.

Please call if you have any questions or require further clarification on these comments,



Rick Williams, Architect

cc: Tony Morici
David M. Van Atta, Esq.

ARCHITECTURE | URBAN DESIGN = SAN FRANCISCO | DENVER

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