

**CITY COUNCIL
TRANSPORTATION & LAND USE SUBCOMMITTEE MEETING AGENDA**

**Monday, September 13, 2010
3:00 PM
Milpitas City Hall
Committee Conference Room**

*Transportation & Land Use
Subcommittee Members
Robert Livengood, Mayor
Debbie Giordano, Council Member*

1. Call to order
2. Public Forum *Please limit comments to 3 minutes*
3. Approval of agenda and minutes*
4. BART SFPUC Letter Regarding Dixon Landing Road Grade Separation *
5. Milpitas Square Redevelopment*
6. Los Coches Area Rezone*
7. Adjourn to October 4, 2010

* denotes attachments

Attachments for items on this agenda are available online at the City's website:
www.ci.milpitas/citygov/citycouncil/subcommittee/default.htm

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE
OR TO REPORT A VIOLATION, contact the City Attorney's office at Milpitas, city Hall, 455 E. Calaveras
Blvd., Milpitas, CA 95035

Email: mogaz@ci.milpitas.ca.gov/ Fax: 408-586-3056/ Phone: 408-586-3040

Materials related to an item on this agenda submitted to the City Council Subcommittee after initial distribution of the agenda packet are available for public inspection at the City Clerk's Office/Information Desk at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas.

The Open Government Ordinance is codified in the Milpitas Municipal code as Title I Chapter 310 and is available online at the City's website www.ci.milpitas.ca.gov by selecting the Milpitas Municipal Code link.



CITY COUNCIL TRANSPORTATION & LAND USE SUBCOMMITTEE Unapproved Meeting Notes

Date/Time: Monday, August 2, 2010, 3:00 pm

Where: Milpitas City Hall, Committee Conference Room

Attendants: Council Member & Chair Debbie Giordano

Quorum was not established

1. Call to order

The meeting was called to order at 3:00 pm.

2. Public Forum *Please limit comments to 3 minutes*

There were no comments during Public Forum

3. Approval of agenda and minutes

4. Update on the VTA BART Master Agreement*

Staff Greg Armendariz highlighted the BART Master Agreement that will be reviewed by the City Council at the August 3, 2010 meeting. He highlighted the outstanding issues that were having come to consensus reflected in the revised agreement:

- Local Building and Fire Permitting. The VTA is exercising their legislative authority to not be subject to local building and fire permitting. However they have agreed to on a City "advisory" Fire plan check and inspection because Fire will be the first responders in the event of an emergency. VTA has agreed to liability protection to the City for the BART design reviews.
- Cost recovery for lost developer impact fees due to station footprint for their parking garage. The VTA has agreed to build the Milpitas Boulevard Extension, a \$4 million cost.
- Cost recovery for City staff resources for BART project local encroachment permitting, including plan checking and inspection. The VTA has agreed to open a Private Job (PJ) account with a \$700,000 initial deposit through February 2011. The balance is triggered to not go below \$50,000. City staff would be able to charge this account for plan checks, meetings, document review and permit processing.

Council Member commended the staff on a job well done.

5. Presentation on I-680 HOT Lane Project Update

Staff Steve Chan presented this item. As background the Alameda County Congestion Management Agency (ACCMA) is leading the effort in the implementation of the first Express Lane, High Occupancy Toll (HOT)/High Occupancy Vehicle (HOV), in the Bay Area. The HOT lane allows single occupancy vehicles (SOV) to access the HOV lanes by paying

a fee with Fastrak. This fee is adjusted according to a dynamic pricing system that varies with the current demand.

I-680 Express Lane will be implemented on southbound I-680 between from SR 84 to SR 237.

Council Member Giordano asked about the previous closures in Milpitas. Mr. Armendariz clarified there was night time bridge and seismic work on the freeway at Jacklin Road and Calaveras Boulevard for a short period of time.

Mr. Chan stated the estimated opening of the HOT Lane is September 20, 2010. There is some outstanding work that needs to be completed such as utility infrastructure, California Highway Patrol training, and Bay Area Toll Authority (BATA) increase customer service, that may delay the opening. Marketing outreach is in place. Striping of the lanes will be completed a few days prior to the opening. A ribbon cutting ceremony has not been scheduled.

Council member Giordano requested staff email the City Council when a date for the ribbon cutting ceremony is scheduled.

6. Other Business

Council member Giordano requested staff to agendaize freeway ramp landscaping for the next meeting. She mentioned the City has maintained the landscaping along the ramps and invoiced Caltrans, but she is looking for a long term plan to beautify the entrances to the City.

7. Adjourned to September 6, 2010

The Subcommittee was adjourned at 3:12 pm.

(Due to the Labor Day holiday, the September meeting will be rescheduled to a later date)

PUBLIC UTILITIES COMMISSION

180 Promenade Circle, Suite 115
Sacramento, CA 95834



September 1, 2010

Michael Burns
Santa Clara Valley Transportation Authority (SCVTA)
3331 N 1st Street, Building B-2
San Jose, CA 95134-1927

Re: Dixon Landing Road, Milpitas

Dear Mr. Burns:

The California Public Utilities Commission (Commission) appreciates the opportunity to discuss key issues of the Silicon Valley Rapid Transit (SVRT) project at the meeting on August 18, 2010, including the final configuration of the Dixon Landing Road highway-rail crossing in the City of Milpitas (City). Felix Ko of our staff attended for the Commission's Rail Crossings Engineering Section.

The Environmental Impact Statement (EIS) for the project details the two options for Dixon Landing Road. The first option grade separates the BART alignment underneath Dixon Landing Road in a retained cut with the Union Pacific Railroad (UP) tracks remaining at-grade. The second option consists of depressing Dixon Landing Road beneath both the BART and UP tracks, creating a grade separation from all rail tracks. The Commission submitted comments to both the Draft and Final EIS on May 8, 2009 and May 17, 2010 respectively, recommending the second option of grade separating both sets of tracks from Dixon Landing Road as the safest option.

Following the meeting on August 18, 2010, the Commission Staff's preference for the option to grade separate all rail tracks at this location remains. There has been no compelling case for allowing the UPRR tracks to remain at-grade when the opportunity is available to grade separate those tracks along with the SVRT project.

The Commission has exclusive authority to require a grade separation under California Public Utilities Code 1202 Section (c):

"The commission has the exclusive power to require, where in its judgment it would be practicable, a separation of grades at any crossing established and to prescribe the terms upon which the separation shall be made..."

Grade separating all tracks from vehicular traffic at Dixon Landing Road is practicable under the Commission's prior precedent decisions. In addition, the cost of the two options is similar with the SVRT project providing the funding. The only consequence in grade separating both BART and UP tracks is the loss of a single driveway to the commercial lot in the southwest quadrant. This property has two additional access points on Milmont Drive.

Commission staff has observed high amounts of both pedestrian and vehicular traffic at this location. Dixon Landing Road provides access to both Interstate 680 and Interstate 880 from the residential and commercial zones in the vicinity, and is frequently used by motorists to move between the two freeways. The pedestrians travel between nearby residential areas and the commercial property in the southwest quadrant. Grade separating all rail traffic from the general public vastly reduces the risk of a train accident occurring. The safety benefits born by grade separation of all rail tracks outweigh the loss of a single driveway and any inconvenience during construction.

The Commission Staff will not agree to a configuration which involves the UP tracks remaining at-grade with Dixon Landing Road. Should SCVTA choose to pursue such a configuration over Staff's objections, the consensus-based General Order 88-B process cannot be used to authorize the modifications. SCVTA has the option to file a formal application with the Commission for modification of the crossing in such a configuration, but it is likely that Staff will file protest to the application to require a proceeding in which parties will present their cases to the Commission. Additionally, SCVTA may file a formal application with the Commission for grade separating all tracks over the City's objections. Concurrence from the City is not required for filing the formal application, however the City may file a protest with the Commission, also resulting in evidentiary hearings.

We urge SCVTA to pursue the grade separation of all tracks at Dixon Landing Road. We look forward to working with SCVTA and the other parties in resolving this significant project concern.

Thank you for your consideration of these comments. If you have any questions in this matter, please contact me at (916) 928-6858 or Felix Ko at (415) 703-3722 or fxk@cpuc.ca.gov.

Sincerely,



Daren Gilbert
Supervisor
Rail Crossings Engineering Section
Consumer Protection and Safety Division

cc:

Greg Armendariz
Public Works Director
City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035

John Morris
SVRT Program Office
Santa Clara Valley Transportation Authority
3331 N 1st Street, Building B-2
San Jose, CA 95134-1927

James Smith
Manager Industry & Public Projects
Union Pacific Railroad
9451 Atkinson Street
Roseville, CA 95747



MEMORANDUM

Department of Planning & Neighborhood Services

To: Transportation and Land Use Subcommittee
From: James Lindsay, Planning & Neighborhood Services Director
Subject: Milpitas Square Mixed Use Project
Date: September 9, 2010

Background

The 162,200 square foot Milpitas Square shopping center is located on approximately 17 acres at the southwest corner of State Route 237 and Interstate 880 along Barber Lane. Surrounding land uses include two hotels, the former site of the Billings Chevrolet dealership (now entitled with the Landmark Tower high-rise mixed use development) and Cisco Systems. Milpitas Square is currently zoned General Commercial (C2) and the Landmark Towner property to the immediate south is zoned Very High Density Mixed Use (MXD3).

The owners of the center are proposing a land use change and rezone to Very High Density Mixed Use (MXD3) in conjunction with City approval of a master development plan to accommodate phased reconstruction of the site into a mixed use project. In phases, the developer proposes to replace the existing surface parking and all-commercial buildings with multi-story parking structures and mixed used (residential and commercial) buildings, new internal streets, streetscapes and courtyard areas. A development agreement has been drafted which would allow phasing of the project to occur over a 25 year timeframe. The main points covered by the draft agreement are as follows:

- Approval of a Master Development Plan and Design Guidelines to construct up to 900 new residential units or 520 units and 380 hotel rooms, and 7,800 square feet of additional total retail space.
- Annexation into the City's Community Facilities District (CFD) 2008-1 to pay for the full range of municipal services.
- Ability to reconstruct the site in phases over 25 years with each phase being reviewed by the Planning Commission for compliance with the Master Development Plan and Design Guidelines.
- A requirement to maintain at least 155,500 square feet of commercial space at the completion of each phase in order to ensure the continued vibrancy and operation of retail businesses even during construction.

The project is ready for review by the Subcommittee. Based on the feedback from the Subcommittee, staff could schedule a Planning Commission hearing for October 20th and a City Council hearing for November 16th or at later dates, as required.

Recommendation: Provide comments on the draft development agreement, Master Development Plan and Design Guidelines for the Milpitas Square Mixed Use Development Project.



MEMORANDUM

Department of Planning & Neighborhood Services

To: Transportation and Land Use Subcommittee
From: James Lindsay, Planning & Neighborhood Services Director
Subject: Los Coches Rezone Project
Date: September 9, 2010

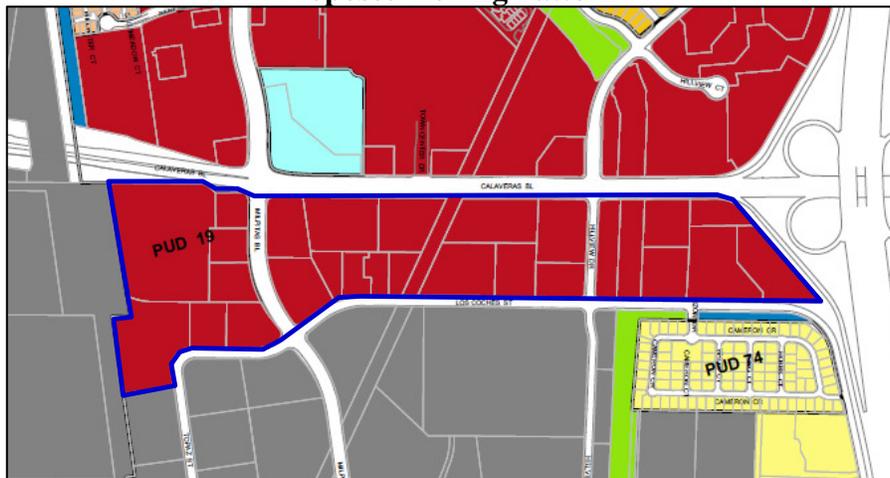
Background

On May 13, 2010, a consortium of property owners submitted an application to amend the general plan and zoning land use designation for an approximate 50-acre area generally located between Los Coches Street and Calavears Boulevard from Highway Services, Industrial Park and Heavy Industrial to Town Center.

Existing Zoning Pattern



Proposed Zoning Pattern



Many of these properties contain non-industrial and legal non-conforming uses. The area is made of up commercial and medical services, retail and office space, and community serving uses. The Town Center district is a mixed use district that allows for more intensive development with higher floor area ratios (85%) than the current zoning(50%). The rezone would allow for the flexibility in redeveloping the sites and attracting new tenants.

The Planning Commission reviewed this request at their August 25th meeting and recommended the City Council approve the project. The Planning Commission staff report is attached. The project has been agendized for the September 21st City Council meeting.

Recommendation: Review the request and provide comments to staff.



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: August 25, 2010

APPLICATION: **General Plan Amendment No. GP10-0002 & Zoning Amendment No. ZA10-0001**

**APPLICATION
SUMMARY:**

A request to change the general plan and zoning designations for 50 acres from Highway Services, Heavy Industrial and Industrial Park to Town Center. The overlay district, "Site and Architectural" will remain. The project area is generally located south of Calaveras Boulevard to Los Coches street and bounded by Interstate 680 on the east and railroad right-of-way to the west. The Town Center district is a mixed use district, which allows commercial, entertainment and recreation, health and veterinarian, lodging, offices, public/quasi public and assembly areas, residential, restaurants or food service, and other similar uses. The Town Center district allows up to 0.85 Floor Area Ratio. The present zoning districts are limited in nature in uses allowed and the FAR maximum is 0.40-0.50. In addition, the project includes an amendment to the combine the Town Center East and West sub-districts and to require Conditional Use Permits for residential uses and vocational schools and to allow medical and dental clinics as permitted uses. No development applications are considered with this application, only the change in land use designation. The project includes a Negative Declaration for consideration.

LOCATION: An area between the railroad (under Highway 237 overpass) to Interstate 680, bounded by Los Coches to the south and Calaveras Blvd. to the north.

APPLICANT: Mike Black, Barry Swenson Builders; 777 N. 1st St., San Jose, CA 95112

OWNER: Multiple

RECOMMENDATION: **Staff recommends that the Planning Commission:
Adopt Resolution No. 10-034 recommending approval of the project
to the City Council.**

PROJECT DATA:

General Plan/

Zoning Designation: Highway Services (HWS), Industrial Park (INP), Manufacturing and Warehousing (MFG)/Highway Services (HS), Industrial Park (MP) and Heavy Industrial (M2)

Overlay District: Site and Architectural (-S)

Site Area: 50 acres

CEQA Determination: In accordance with Section 15070(b), a Negative Declaration was prepared and circulated between July 1, 2010 and August 3, 2010.

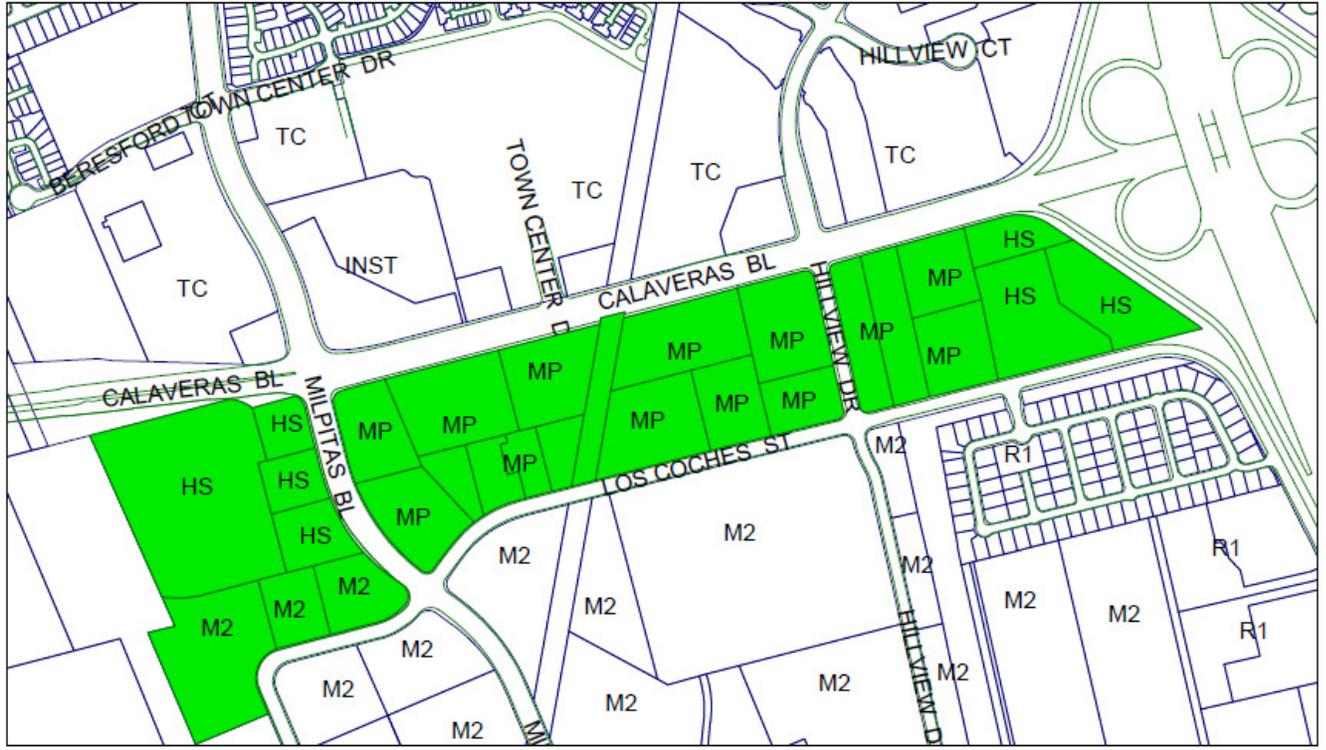
PLANNER: Sheldon S. Ah Sing, Senior Planner

PJ: 2644

ATTACHMENTS:

- A. Resolution No. 10-034
- B. Negative Declaration
- C. General Plan Land Use Map and Zoning Map Exhibits
- D. General Plan and Zoning Strikeout and Underline Exhibits
- E. Applicant material

LOCATION MAP



No scale

BACKGROUND

On May 13, 2010, a consortium of property owners submitted an application to amend the general plan and zoning land use designation for an approximate 50-acre area depicted on the location map from Highway Services, Industrial Park and Heavy Industrial to Town Center. The purpose of the amendment is to make the existing uses (offices, cultural centers, religious institutions, medical offices, financial institutions, gasoline station, retail) on the parcels conforming as to use and allow for the flexibility of integrating other commercial and residential uses for future development. No development proposals are being considered with this application.

According to Title XI, Section 57.02(D) of the Milpitas Municipal Code, initiation of general plan and zoning amendments can be achieved in three ways: 1) by property owner consent from at least 50% of the area being rezoned; 2) by majority vote of the Planning Commission or City Council; or 3) by a property owner who seeks their parcel to be rezoned. There are multiple parcels controlled by various property owners. The consortium submitted documents confirming consent from property owners that represent over 50% of project's area.

As recently as three years ago, applications were processed for the parcels west of Milpitas Boulevard and also near I-680 and Los Coches to accommodate residential development. Those applications were withdrawn.

PROJECT DESCRIPTION

Site and Surroundings

The project site is a 50-acre area zoned as Highway Services, Industrial Park and Heavy Industrial. The major roadways either tangent or intersecting the site include Calaveras Boulevard to the north, Los Coches to the south and the site is intersected north/south by Milpitas Boulevard on the western end and Hillview Drive on the eastern end.

The site is characterized by a combination of single and multiple story development that includes religious and cultural uses, medical uses, administrative and financial offices, a service station, retail uses, and research and development. Development over the years has led to a transition from a typical industrial setting to one of an office and public/quasi-public setting. In 2009, in an effort to focus development of business related uses within industrial areas, the City adopted an ordinance which prohibits non-business uses in industrial areas. As a result of the ordinance, the subject site now includes non-conforming uses, which have strict limitations on expansions and operations.

The surrounding zoning includes Heavy Industrial to the immediate south, Single Family Residential to the southeast, Institutional (City's civic center) to the north, and Town Center to the north. The site abuts the railroad right-of-way to the west and abuts I-680 to the east. A vicinity map of the subject site location is included on the previous page.

Land Use Designation Change

The project proposes a change from the existing land use designations to Town Center. The purpose and intent of the Town Center is to provide for an area that supports a wide range of administrative, business, entertainment, residential, dining, and cultural activities in the geographic center of the City to suit the varying lifestyles of residents and visitors alike. The area is easily accessible via the City's transportation network.

Presently, the Town Center includes East and West sub-districts. This project proposes to combine the two sub-districts.

Permitted and Conditionally Permitted Uses

Town Center is a good fit for the project area, not only because it is adjacent to the project site and meets the purpose and intent of the project proposal, but the existing uses within the project area are permitted or conditionally permitted within the Town Center, with the exception of light manufacturing and research and development. Staff recommends changing the process for “medical and dental clinics” from conditionally permitted to permitted (to be consistent with the Commercial Office “CO” district), allow vocational schools as a conditionally permitted use (to be consistent with the CO district), and change the process for residential project with densities between 21 and 40 units/acre from permitted to conditionally permitted.

The change to Town Center will allow the property owners to market towards a wider variety of use classifications in the office and commercial markets, and also have the flexibility to develop mixed use concepts. Conversely, with the change, the owners will have limited ability to attract typical industrial users.

Development Standards

The Town Center allows for more intensive development. The Floor Area Ratio for the Town Center is 0.85, while the existing zoning allows between 0.40 and 0.50. In addition, the setbacks are less restrictive in the Town Center, with the exception of a front yard setback and a setback along Residential districts, there are no setbacks.

With the change, none of the properties will be non-conforming regarding development standards.

ADOPTED PLANS AND ORDINANCES CONSISTENCY

With the proposed changes, the project site will be consistent with the General Plan and Zoning Ordinance.

ENVIRONMENTAL REVIEW

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Staff determined that the project required a Negative Declaration because the project would not have a significant effect on the environment. A Negative Declaration was available for public review and comments between July 1, 2010 and August 3, 2010. Refer to Attachment B for the Negative Declaration.

Since the project only includes a change to the land use designations and no development is considered, the project will have no impacts on the environment. Any development considered by a future project will be subject to analysis under CEQA.

PUBLIC COMMENT/OUTREACH

Because the project involves a General Plan amendment, the project is subject to Native American Tribal consultation. Staff followed the process for consultation accordingly with state law.

A community meeting was held on July 20, 2010 at the India Community Center as an opportunity for the consortium to present their proposal to interested parties. Approximately 20 people were in attendance.

Staff also publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public.

CONCLUSION

The proposed Town Center Zoning is more appropriate than the underlying industrial and highway service designations given the buildings and uses are predominately non-industrial in nature. The property owners will be able to market the property to a wider commercial and office market, as well as provide the flexibility to include mixed use developments which would enhance the Calaveras corridor.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission close the public hearing and adopt Resolution No. 10-034 recommending approval of the project to the City Council.

Attachments:

- A. Resolution No. 10-034
- B. Negative Declaration
- C. General Plan Land Use Map and Zoning Map Exhibits
- D. General Plan and Zoning Strikeout and Underline Exhibits
- E. Applicant materials