Transportation & Land Use Subcommittee Members
Councilmember Gomez, Chair
Councilmember Polanski, Member

CITY COUNCIL
TRANSPORTATION & LAND USE SUBCOMMITTEE MEETING AGENDA

Tuesday, March 27, 2012
5:00 PM
Milpitas City Hall
455 E. Calaveras Boulevard, Committee Conference Room

1. Call to order
2. Public Forum *Please limit comments to 3 minutes*
3. Approval of agenda & minutes*
4. Announcements
5. Old Business
    a. Medical Marijuana Facilities Update
    b. Tobacco Prevention Policies Discussion
    c. Sports Park
6. Other Business
7. Adjourn

* denotes attachments

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

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CITY COUNCIL TRANSPORTATION & LAND USE SUBCOMMITTEE Unapproved Meeting Minutes

Date/Time: Tuesday, January 24, 2012, 6:00 pm

Where: City Hall Committee Conference Room

Attendants: Council Member Gomez (Chair), Council Member Polanski,

Quorum was established

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1. Call to order

The meeting was called to order at 6:00 pm.

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

There were no comments during Public Forum

3. Approval of Agenda & Minutes*

The agenda and minutes were approved.

4. Announcements

The Subcommittee did not have any announcements.

5. Old Business

A. Receive Testimony and Discussion Regarding Medical Marijuana Facilities
Chair Gomez informed Councilmember Polanski he had requested staff to compile, in memo format, suggestions on various land use recommendations. He reviewed the previous steps outlined in August, land use, regulations, taxation, outreach and details regarding a ballot initiative. He requested staff to put these items in a work plan. He asked the land use recommendations be discussed.

Acting Director Diana Barnhart introduced Assistant Planner Janice Spuller to present this item. Ms. Spuller reviewed a power point presentation. Land use recommendations and issues included:

- Quantity of allowable dispensaries- no more than 2
- On-site vs. Off-site cultivation
- Distance requirements prohibiting around sensitive uses such as: schools & child care facilities, residential neighborhoods, public facilities, and religious institutions. Ms. Spuller referred to two maps that illustrate a 1000' and 500 foot radius from these sensitive uses.

Ms. Spuller discussed additional land use regulations that can be incorporated such as hours of operation, lighting, signage, closed circuit TV, odor restrictions, on site consumption, and age requirements of employees.

Ms. Spuller presented the work plan which included this meeting's discussion on land use regulations; the February meeting on regulation and taxation and ballot measures; the March meeting to review the draft memo; and, the April City Council meeting for review and consideration..

Ms. Barnhart summarized the recommendations described in the memo. She stated the Highway Services zoning is the recommended location for the medical marijuana] facilities. With the sensitive receptors, the city is limited to this zoning area. Ms. Spuller referred to the maps where Highway Services are located. Councilmember Polanski pointed out industrial areas. Ms. Barnhart stated there can be exceptions to the zoning to consider the industrial areas because the numbers of dispensaries are limited.

Councilmember Polanski said the Highway Services area would make sense for one dispensary. She added that looking at the 1000' buffer, Industrial zoning can also be another location for dispensaries should the Council decide on having two in Milpitas.

Ms. Spuller offered that off- and on-site cultivation can be recommended with regulation. Producing on-site can be limited by square footage, quantity of plants, and can be in or outdoor of the property.

Chair Gomez asked if the hesitation towards industrial zones were job-based, employers, and/or office space? Ms. Barnhart agreed.

Chair Gomez asked why the dispensary in San Jose works and is in an industrial zoning. Ms. Barnhart stated staff is determining if the interpretation of cultivation is factory versus agriculture. Ms. Barnhart stated staff will actually visit a site to see the operation.

Ms. Spuller addressed Chair Gomez's questions about permitting. After reviewing with the City Attorney's office, staff recommends not requiring permitting. Some examples of approval process from other Cities are approval through staff through the City Manager's or City Clerk's office, Police Departments, and zoning administrator to name a few. Chair Gomez stated you can not necessary permit these facilities by Federal Law, but there needs to be a public process. Ms. Barnhart stated staff is providing information and desires the Subcommittee direction on how to proceed with the preferred process.

Chair Gomez asked about transferability. Ms. Spuller stated when a permit is issued or approved, it stays with the parcel, and should the business move, a new permit is required. However with this type of facility, if transferability is desired, then this is (or could be) included in the regulations.

Ms. Barnhart indicated that the Subcommittee, at its next meeting, can discuss costs associated with regulation and create a more formal recommendation on how to administer this matter.

Councilmember Polanski concurred that if there are two [dispensaries], they should be spaced 1000' apart. Also agreed no more than two [dispensaries]. Ms. Spuller clarified if the preferred buffer is 1000'. Chair Gomez agreed the 1000' buffer is more appropriate.

Chair Gomez confirmed if the meeting once a month will get the Subcommittee to the April meeting. Ms. Barnhart concurred with once a month..

Chair Gomez opened this item for public forum.

Rob Means, 1421 Yellowstone, stated he is glad to see this item moving forward even though the populace was requesting this 10 years ago. He asked if there really is a problem with using marijuana knowing it is fine as a medicinal drug, but as a recreational drug. He suggests heavily regulating and legalizing it and gets similar results as other countries and other pharmaceutical drugs. He discussed new names for the medicine that are market tested. He referred to a letter he received with statistics on causing more health problems on criminalized rules for drugs rather than decriminalizing it and regulating. If you decriminalize and regulate it, things seem to go well. He thanked the Subcommittee for the work they are doing.

B. Tobacco Prevention Policies Discussion

Chair Gomez asked if staff performed any more research. Ms. Barnhart stated staff has not done any further research.

Chair Gomez opened the public forum.

Dr. Roger Kennedy, chair of the tobacco free coalition for Santa Clara County, thanked the Subcommittee for having them back. He addressed the recreation department. He displayed two full containers of cigarette butts that were collected in one hour's time at a local park. He discussed the risk of children eating them. He stated San Jose has a ban on smoking in parks, showing a container with less cigarette butts due to the ban.

In regards to tobacco retail licensing and referred to his experience as an internal medicine doctor. He said a life-saving intervention is to not having a kid start smoking. He said the coalition is working really hard to not smoke. He stated it is really easy for kids to get cigarettes from convenience store. He discussed statistics of childhood addiction to cigarettes. He stated there needs to be more accountability for merchants.

Vanessa Marvin, employee of the American Lung Association and member of Healthy Milpitas Coalition. They are working on smoke free parks, dining, and tobacco retail licensing. They have endorsements (shared with staff) from the Parks and Recreation and Cultural Resources commission as well as reached out at community meetings, health fairs, Milpitas library on their campaign. This is an instance where the government is not doing enough to prevent children from purchasing cigarettes. Outdoor smoking can create health issues with those who have asthma. She urged the Subcommittee to continue work on this.

Shi Yeng from Breathe California, a local non-profit, discussed smoke-free outdoor dining. Out of the 217 restaurants in Milpitas, 1/5 of restaurants have outdoor areas and half of them allow outdoor smoking. She discussed second hand smoke and how it is extremely harmful to children who are more likely to have bronchitis, asthma, irritation to eyes and ears. She stated outdoor smoking can sometimes equal indoor smoking in particulate air pollution. The public is supportive of outdoor dining restriction, with 70% of Californians and 80% Santa Clara residents feel this should be banned immediately.

The Subcommittee directed staff to work on this project.

C. Update on Possible Moratorium on Land Use Conversions for Residential Development

Ms. Barnhart reviewed a power point presentation on land use conversions and provided a memo to the Subcommittee on the history of this item. Staff was hearing a lot about potentials for conversion of industrial areas for housing. The big issue was sewer

capacity. In 2006 and 2009, the City purchased enough capacity from other agencies to provide for the buildout of the Transit Area and Midtown Specific Plan areas. For every acre of residentially zoned property (R2) it requires 8,500 gallons per day, R4, a higher density, requires 12,000 gallons per day, where industrial generates 400-600 gallons per day per acre. Changing land use is a significant hit on sewer capacity.

At build out in the Transit Area, 7,100 dwelling units and Midtown, 2800 units are anticipated. In the past few months, the City Council approved 2,700 units in the Transit Area. In the Midtown, 2,200 residential units are constructed: Terra Serena, Terra Luna and Paragon projects. There are 318 units under construction with Lyons, 204 units with Shea development, and coming forward South Main Senior Lifestyles development.

At this point, Ms. Barnhart reviewed the 6 acre site once the Ooh La Lodge and Mobile Home Park, which calls for 380 dwelling units plus street amenities. The City purchased the property just north of this site. The developer has an option on two parcels between the City parcels to expand the project. He requested City assistance to proceed.. Staff supports this request, as a project of the Milpitas Economic Development Corporation (EDC), as it furthers the implementation of the Midtown Plan, providing 500-600 more dwelling units.

Ms. Barnhart requested, if the Subcommittee agrees, to move forward to purchase through the Economic Development Corporation for additional housing development. City Manager Tom Williams added that in order to build out Main Street, they use the EDC money to acquire the land and use it as an asset and leverage its investment. He restated redevelopment is no longer available.

Ms. Barnhart discussed conversions and gave the examples of Fairfield Murphy Ranch, in construction which is 600 units, and Landmark Towers, 3 acres with numerous units, and Los Coches Avenue near Sinclair Frontage to the old Read Rite building, 50 acres rezoned from industrial to Town Center, allowing for residential development. The City has reacted to many interests for conversions.

Staff recommends proceed with the moratorium to prevent additional conversions.

6. New Business

Ms. Barnhart discussed all items under New Business along with Item 5C. Items 6A & 6B were discussed together as they are both Industrial Land Use Conversions. Items 6C & 6D were then discussed as they are on the same property. A discussion and direction from the Subcommittee on all items from 5C – 6D are summarized at the very end collectively.

A. Preston Pipeline Residential Development Proposal (KB Homes)

B. CA Circle Residential Development Proposal (Trumark)

C. Read Rite Single Family Residential Proposal (Braddock & Logan)

D. Los Coches Single Family Residential Proposal (Doyle Heaton)

Ms. Barnhart discussed the technical planning issues associated with the location of the Preston Pipeline Project. Staff accepted the application to allow them to present to the Council.

Ms. Barnhart then discussed the CA Circle requiring a conversion from industrial to residential. Staff can support a conversion for the east side of California Circle and recognized a mixed use zoning with complementary uses. Trumark has an application in for preliminary review.

Ms. Barnhart stated the two projects that would be considered for the land use conversion. I did?

Ms. Barnhart reviewed this project located south of Calaveras Boulevard, west of Milpitas Boulevard, and north of Los Coches. This project is a single family residential project request.

Ms. Barnhart stated this is a single family proposal, which the City envisioned a higher density. Mr. Doyle Heaton is the developer of the proposal on the corner of Los Coches and Milpitas Boulevard. Staff recommended that this project would work better if combined with the property owned by Braddock & Logan.

Staff concern was the need for retail on Milpitas Boulevard. Ms. Barnhart stated the vision has always been for high density however the market has changed. She asked what the Subcommittee thought about these projects.

Councilmember Polanski stated her concern about all these implications of long tern costs to the City these projects will have with the absence of redevelopment; specifically, what can we do relative to taking care of infrastructure, parks, streets, and public safety issues? She asked if there are options the City can utilize if we do these conversions, so that the homeowners are responsible for some of that. Mr. Williams stated they can require the formation of a Homeowners Association and also they started a Community Facilities District (CFD) that requires an in lieu fee for a revenue stream for street maintenance, lighting, and infrastructure maintenance. The newest CFD was adopted in 2008 which includes public safety. Ms. Barnhart stated it is about $500.00 per unit.

Mr. Williams stated the zoning for the Los Coches/Milpitas Boulevard projects are permitted, however the ones at Preston and California Circle require a General Plan land use amendment.

Council Member Polanski stated her other concern is jobs-housing balance. She is not as concerned about retail in the [Los Coches area], because there is the Town Center and the Serra Center, which she is hoping for something, and noted McCarthy is almost dead, how will retail help at this project site. Mr. Williams clarified it is more commercial than retail, and would rather have this instead of 7 homes along the boulevard, which might seem awkward. Mr. Williams stated staff will work with the owners on the site planning.

Council Member Polanski directed her attention to the developers and owners and stated her concern of the loss of redevelopment that they move forward in the best interest of the City, continuing the balance to provide services for the community.

Chair Gomez agreed with Council Member Polanski and added he does not know what the City will look like after the City Manager brings forward the $8 million budget cuts. He needs to know what the impacts are on the current residents. Mr. Williams clarified $7 million is staffing cuts plus $7-10 million in annual capital improvement program cuts, leaving the city at about $18 million cuts. Council Member Gomez asked about a cursory review, not a full General Plan review, looking at the jobs-housing balance; updating the plan; and, process timeframe. Mr. Williams stated it would be a 6 month

process to look at the General Plan and perform fiscal impact analysis based on number of rooftops and what that is on a per capita cost basis to maintain the residential population weighed against new rooftops and buying power to strengthen retail and commercial base.

The Subcommittee found this reasonable and the purpose of the moratorium on land use conversions.

Council Member Polanski stated when the other housing conversions were approved, she voted “no” based on where they were located and her concerns then about the services.

Mr. Williams stated if there was true interest from the development community, they would assist in paying for the [General Plan/Fiscal Impact] study and work hand in hand to create the project. If they are not willing to assist, then it would be telling in itself, per Mr. Williams

Mr. Williams summarized to proceed with the moratorium, but stated the Preston Pipelines and California Circle projects are already in the application process. He asked if the projects in process should be included in the moratorium, or be exempt.

Chair Gomez asked what the status is of the projects. Mr. Williams stated Preston Pipelines is doing analysis right now, with an estimated 3 month time. He is unsure about the California Circle project. Chair Gomez debated if Preston Pipelines should be its own village or an extension of Midtown.

There was a discussion on current approved and in-progress projects within the City.

Chair Gomez opened the item for public forum.

Chris Davenport from Trumark Companies requested clarity on the Subcommittee recommendation. This is Trumark’s second project in the City. In regards to CA Circle, Trumark made commitments with the seller to go forward to bring this opportunity to this area of the City of Milpitas. He urged the Subcommittee to consider because they are further along in the project. They have firm hard dates based on entitlement schedules Trumark anticipates on getting approved.

Council Member Polanski stated they can proceed but there is no guarantee what could happen when reviewed. Mr. Davenport agreed.

Doug Heaton spoke for the Los Coches site, and wanted confirmation they are out of the moratorium because they have the Town Center zoning, 1-40 units per acre. There was talk about higher density. He showed a list of 4,000 units approved for multi-family condos and apartments. He stated some are being built and some are not. He stated what works for this location is higher density, single family detached housing. He said retail is not economical of the site.

Doyle Heaton, also the father of the previous speaker, in support of the Los Coches site, also confirmed their zoning allows for the single family housing and made sure they are not part of the moratorium.

Eldon Shreve, 702 Wessex Place, Milpitas. He is a resident of Milpitas over 50 years and discussed the schools he attended and the changes in the town. He is the managing member of 375 Los Coches. JDS Uniphase was their tenant for many years,

though they have vacant for many years, and they have maintained the building. He was first unsure of the rezone of the Los Coches to Town Center, but now feels this is a good opportunity for the City and himself. He is concerned the property of Read Rite is not maintained. It is difficult to keep a tenant ready with the deterioration of the party. He does feel it is important for the single family. It will look a lot better than what he sees now. If we don't entertain this use, what will we do? He strongly supports the project and would like to see it move forward.

Jeff Lawrence with Braddock and Logan stated he is in discussion with the Heatons, the Read Rite owner and iStarr, another property owner in the area. As redevelopment is a big blow to a lot of cities and potentially good projects, it also allows cities and developers to rethink mixed-use and high density projects. One interesting point of high density, that the real estate community is beginning to understand, is that there is a $500-800 per month HOA assessment for these projects. He referred to a high-density project in Dublin, California, where residents people from this area aremoving from high density residential to single family homes. He also alluded to higher test scores for schools. He indicated that her considered the Preston site, but did not pursue it, stating there were a lot of issues such as the railroad as the stumbling block. He agreed that the transit area makes sense for higher densities. He has built high density single family near I-680. This site is getting more and more unsightly and this project would benefit greatly from this single family high density project. A market study the sales prices would be around the low $700,000s.

Mr. Williams stated the fiscal impact is all discretionary permit and staff can require the developers to perform a fiscal analysis study.

Chair Gomez confirmed the General Plan process has to go through the City Council for approval. Mr. Williams stated yes.

Ms. Barnhart summarized there will be a 6 month moratorium, with the two projects (Preston Pipelines and California Circle) exempt from the moratorium. If more time is needed, then staff will go to Council to extend the moratorium. South Main Street Lifestyles will be reviewed during close session by the City Council.

The Subcommittee agreed with the recommendations summarized by Ms. Barnhart.

7. Other Business

Ms. Barnhart confirmed the time for meeting at 5:00 pm. Ms. Barnhart stated staff will review agenda items so they are not too full of heavy items.

8. Adjourn

The meeting adjourned at 7:32 pm.