M E M O R A N D U M

Department of Planning and Neighborhood Services

To: Felix Reliford, Acting Planning & Neighborhood Services Director

From: Sheldon S. Ah Sing, Senior Planner

Subject: **Draft Framework for General Plan update**

Date: June 22, 2012

Background

The City has recently seen a significant interest among property owners and developers seeking the rezone of areas currently designated for industrial or commercial uses in the Milpitas Zoning Code to residential uses. Such interest comes after several significant conversions that have already been approved by the City Council such as Fairfield residential project on Murphy Ranch Road, the Landmark Tower project at the former Billings Chevrolet site, and the Los Coches Avenue Rezone on the north side of Los Coches from Sinclair Frontage Road to Topaz Street.

In response to this, issue, the City began a temporary moratorium on February 7, 2012. The moratorium allowed staff to begin assessing and inventorying infrastructure and utility supplies available in the event of continued rezoning, review the projected jobs to housing balance, fiscal and economic impacts, school impacts, and to also prepare, if necessary, amendments to the Zoning Code, the General Plan, and/or Specific Plans. The moratorium is necessary to study unwarranted impacts upon public health and safety such as the placement of housing adjacent to potential exposure to vibration, noise, toxic and chemical releases associated with day to day operations of industrial uses; the potential to have inadequate emergency response access and access to basic commercial services. The study also needs to address the affects of a potentially weakened job to housing balance and its affects on attracting quality job generating companies to the City.

The City Council adopted Urgency Ordinance No. 38.804 extending the moratorium on certain land use conversions for four months and 15 days, which would expire on August 5, 2012.

Any zoning code or other amendments may potentially require CEQA analysis, which needs to be accounted for in the project timeframe. Staff completed analysis of the infrastructure and utility supplies and this report summarizes all of the issues and provides recommendations.

Areas of Study

<u>Utilities and Solid Waste Capacity</u>

Water

The Engineering Division finds that the City has adequate water supply and flow to serve additional residential units. The City has approximately 0.4 million gallons per day (mgd) of unused capacity from SFPUC and the City does not have a contractual cap or limit on SCVWD supply. The City will need to complete water supply assessments for any development exceeding 500 dwelling units regardless of the

zoning (pursuant to State law), but this does not present a cap or limit. The City has already completed the water supply assessment for the development within the Transit Area Specific Plan. The Midtown Specific Plan predated the current law.

Sewer
The City's consultant, RMC evaluated the City's sewer capacity needs projection with the recent rezoning approvals and they found that the City will still have about 0.4 mgd excess sewer capacity. This would roughly allow for at least an additional 2,000 moderate to high density dwelling units, not factoring in the allowance for the lost commercial/industrial use (credits to capacity).

Solid Waste
Garbage does not have a capacity or volume limit and is not impacted by zoning.

Traffic
The following is a qualitative analysis of potential new traffic trips generated by land use developments not conforming to General Plan and Specific Plans Policies have on the City's transportation system.

The City's General Plan and Specific Plans (adopted plans) establish Transportation Polices for the movement of people, goods, and vehicles through the City based on adopted land and development use assumptions. As part of these adopted plans development processes, the City's transportation system was studied to assess future traffic operations, identify potential deficiencies, and address transportation infrastructure needs based on the approved land and development use assumptions.

Utilizing these adopted plans' policies and findings, long range transportation infrastructure projects are identified and funding mechanisms are established for implementation of transportation infrastructure improvements to mitigate traffic impacts by the horizon year.

If land use designations change significantly from adopted plans, total new trips from non-conforming land use projects may result in unanticipated deficiencies in new areas of the city. Consequently, this may create significant transportation infrastructure needs that are not planned for and could result in considerable time lag before resultant deficiencies can be mitigated.

This analysis focuses on critical locations in the city where roadways and intersections are currently operating unacceptably. These locations have been identified by recently completed traffic impact analysis and Citywide Signal Timing Project to be deficient. Without mitigations, these locations are anticipated to continue to operate unacceptably with a steady traffic increase assumption.

The following are deficient roadways and intersections that are currently operating unacceptably (LOS F) during one or more peak hour periods:

1. Dixon Landing Road from N. Milpitas Blvd to Milmont Ave
2. I880 southbound ramps/Tasman Dr
3. SR237 EB ramps/McCarthy Blvd
4. **Calaveras Blvd from Abbott Street to Milpitas Blvd**
5. **Montague Expressway within city limits**

The City Council approved a development traffic impact fee for the implementation of Calaveras Blvd Widening Project; thus, Calaveras Boulevard deficiency is expected to be mitigated by 2035.

Santa Clara County Roads and Airports have already programmed the Montague Expressway Widening Project, so the Montague Expressway deficiency is also expected to be mitigated by 2035.

Traffic mitigations for the remaining deficient roadways and intersections would likely require roadway capacity improvements to bring them to acceptable level of service. This would entail right-of-way acquisitions and/or modifications to freeway overcrossing structures. There currently is no funding or project identified to collect funding and implement capacity improvements at these locations.

The following map highlights approximate areas where new projects would directly attribute new traffic trips that exacerbate unacceptable traffic conditions at the above unmitigated locations. Although areas outside of these approximated areas could contribute new traffic trips to the deficient areas, they would be expected to cause less than significant impacts.

There may be additional transportation elements that the will fall into unacceptable level of service in 2035 horizon year based on Metropolitan Transportation Commission (MTC) 2035 traffic forecast model. However, accuracy of MTC's 2035 traffic volume projection would require additional validations, especially in areas where City land use decisions greatly influence outcomes. Identifying all deficient transportation elements based on the projected traffic volume growth would require an extensive quantitative study effort that is not included in this analysis.

Recommendation

A recommendation is to include intersections that may have foreseeable impacts in the City's Capital Improvement Projects Program, so that the City collects funds either from Milpitas development or

adjacent jurisdiction's developments (such as project's in Fremont or San Jose) through the CEQA process.

Affordable Housing

With the loss of the Redevelopment Agency and the ability to set aside tax increment revenue, the City should consider alternative ways to achieve affordable housing goals. Milpitas will continue to work with Residential Developers on providing affordable housing opportunities. Development Agreements, support of Low Income Housing Tax Credits Program, Department of Housing and Community Development (HCD) grants and loans and limited financial support from Milpitas Housing Authority are opportunities which should be explore to further support affordable housing.

Fiscal/economic impacts

With the loss of the Redevelopment Agency and the ability to raise revenue through increment taxation, the City should consider negotiating with developers when development proposals are made. Specifically, development agreements should be considered when land use changes are proposed in certain situations.

1. When considering land use conversions from commercial or industrial lands to residential, the City should contemplate substantial economic benefit through negotiable development agreements with contributions towards the Economic Development Corporation to spur economic development. **(NEW)**

2. When considering development proposals that are consistent with the underlying land use designation, evaluate opportunities for infrastructure improvements that would benefit the proposed project as well as the adjacent development that would lessen the burden on the overall tax base. **(NEW)**

Land Use Compatibility

Staff conducted research on how other cities have addressed a similar issue of land use compatibility where land use conversions have occurred and perceived as an issue. While the City already practices some of these recommended policies, actually having a General Plan policy will strengthen the City's position when making findings. Land use compatibility for the purposes of this discussion is broken down into three separate categories: "Designation Compatibility", "Fiscally Sustainable Land Use" and "Fiscally Beneficial Land Use". The following are suggested policies to be included in the General Plan:

Designation Compatibility

The City should consider policies that look at the overall land use plan spatially and behaviorally, taking into account overall characteristics such as business operators' and residents' preferences and ensuring that the two are not inconsistent.

1. Prohibit encroachment of incompatible uses into industrial lands, and prohibit non-industrial uses which would result in the imposition of additional operational restrictions and/or mitigation requirements on industrial users due to land use incompatibility issues. **(NEW)**

2. When new uses are proposed in proximity to existing industrial uses, incorporate conditions upon the new use to minimize its negative impacts on existing nearby land uses and to promote the health and safety of individuals at the new development site. **(Already doing through zoning, but strengthens position with new policy)**

3. Encourage supportive and compatible commercial and office uses in industrial areas designated for those uses. In areas reserved for industrial uses, only limited ancillary and incidental commercial uses, such as small eating establishments, may be permitted when such are of a scale and design

providing support only to the needs of businesses and their employees in the immediate industrial area. **(Already doing zoning, but strengthens position with new policy)**

4. Monitor the City's jobs/housing balance and provide the City Council with an annual update. **(NEW)**

5. Maintain an inventory of industrial lands and periodically assess the condition, type, and amount of industrial land available to meet projected demands. **(New)**

6. Prohibit social organization uses within industrial areas. Consider these uses in other areas in the City. **(Already doing with zoning, but strengthens position with new policy)**

Fiscally Sustainable Land Use
Besides land use compatibility, the City should consider fiscal sustainability in its land use decisions. The following suggest policies that may be added to the General Plan.

The city should make land use decisions that improve the City's fiscal condition. Manage the City's future growth in an orderly, planned manner that is consistent with the City's ability to provide efficient and economical public services, to maximize the use of existing and proposed public facilities, and to achieve equitable sharing of the cost of such services and facilities.

1. Consider long-term planning and strong land use policy in managing the City's fiscal position. **(NEW)**

2. Promote land use policy and implementation actions that improve the City's fiscal sustainability. Maintain or enhance the City's projected total net revenue through amendments made to the General Plan. Discourage proposed re-zonings or other discretionary land use actions that could significantly diminish revenue to the City or significantly increase the City's service costs to the City without offsetting increases in revenue. **(NEW)**

Fiscally Beneficial Land Use
The City should consider a long term approach to managing its income/job generating lands and the impacts of development on public services.

1. Maintain and expand the total amount of land with industrial designations. Do not add overlays or other designations that would allow non-industrial, employment uses within industrially designated areas. **(NEW)**

2. Consider conversion from one employment land use to another, where the conversion would retain or expand employment capacity and revenue generation, particular for intensification on-site if the proposed conversion would result in a net increase in revenue generation. **(NEW)**

3. Emphasize mixed-use development to the extent feasible, to achieve service efficiencies from compact development patterns and to maximize job development and commercial opportunities near residential development. **(Already doing, but strengthens position)**

4. When reviewing major land use or policy changes, consider the availability of police and fire protection, parks and recreation and library services to the affected area as well as the potential impacts of the project on existing service levels. **(Already doing on case by case basis, but strengthens position with new policy)**

5. Use the design review process to consider and weigh the long term maintenance, resource needs, and costs of the design of private streets and other private infrastructure improvements. **(Already doing on case by case basis, but strengthens position with new policy)**

Schools

According to the City's General Plan an additional 992 students are expected to enroll in the district (between 2009 and 2019) as a result of the General Plan buildout, resulting in a total of 10,879 students by 2035.

Based on the two General Plan amendment projects currently in process an additional 20 students would be projected to enroll in the school district. The approval of these two projects will not cause a near term capacity issue for the district.

However, the school districts constantly evaluate their capacities and project enrollments. According to the Milpitas Unified School District (May 2012), the District has a total capacity of 10,891 students. The District identifies that 9,967 students are currently enrolled in the district. They project by 2021 that 11,025 students will be enrolled, which exceeds the current capacity.

Senate Bill 50 enacted in 1998 imposes limitations on the power of cities and counties to require mitigation of school facilities impacts as a condition of approving new development. SB 50 provides authority for three different levels of fees for school districts. Education Code Section 17620 provides the basic authority for school districts to levy fees against construction for the purpose of funding construction or reconstruction of school facilities, subject to limits set forth in Government Code Section 65995. According to *Government Code* Section 65996, the development fees authorized by SB 50 are deemed to be "full and complete school facilities mitigation." In summary, it is the responsibility of the school district to set the school impact fees within the limits of the law and to collect the fee.

General Plan Maintenance and Update Fee

In order for staff to efficiently and effectively maintain and update the general plan as required by state law, a new fee should be collected when a planning entitlement is requested. The appropriate study and process should be started to allow the implementation of the fee.

Complete streets

With the passage of Assembly Bill 1358 (AB1358) "The Complete Streets Act", California requires that any city substantively amending the circulation element of their General Plan, "modify the circulation element for a balanced, multimodal transportation network that meets the needs of all users of streets, roads, and highways, defined to include motorists, pedestrians, bicyclists, children, persons with disabilities, seniors, movers of commercial goods, and users of public transportation, in a manner that is suitable to the rural, suburban, or urban context of the general plan." This bill imposes a state-mandated local program.

In addition, the City has a Priority Development Area (PDA). PDAs are locally-identified, infill development opportunity areas within existing communities. They are generally areas of at least 100 acres where there is local commitment to developing more housing along with amenities and services to meet the day-to-day needs of residents in a pedestrian-friendly environment served by transit. To be eligible to become a PDA, an area had to be within an existing community, near existing or planned fixed transit or served by comparable bus service, and planned for more housing. Designation of PDAs in the Bay Area expresses the region's priorities for growth and informs regional agencies which jurisdictions want and need assistance. This assistance comes in the way of financial grants. One of the requirements to receiving grants is having the City's implement "complete streets" within their general plan prior to October.

When the City's Transit Area Specific Plan was adopted in 2008 (predating the Complete Streets Act), the circulation element of the General Plan was amended to include policies similar to those in the complete streets act.

Staff recommends amending the City's circulation element to include the State's Office of Planning Research guidelines for complete streets, which would represent minor changes to the general plan. The changes include recognizing the General Plan's relationship with the Complete Streets Act; the revising of certain policies; and the addition of new policies to support the Act.

Timeframe

Since these recommended changes together are substantial, it is recommended that there should be some outreach to the community and the City's Transportation and Land Use Subcommittee to achieve feedback and consensus.

It is expected that after the outreach is completed, staff can, if directed bring the amendments forward to the Planning Commission in the summer along with a Negative Declaration for a recommendation to the City Council. Ate the very least, the amendments to the General Plan Circulation Element for the Complete Streets Act consistency must occur as not to jeopardize future grants and funding from the MTC by October 2012.

Conclusion

The suggested recommendations bolster the City's General Plan and its response to pressures on land use conversions. In addition, the amendments to the Circulation Element allow the City to compete for regional grants supporting the City's growth vision.