

# **Industrial Land Conversion Assessment**

*Prepared for*

**THE CITY OF MILPITAS**

JUNE 2007



**Conley Consulting Group**

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## INTRODUCTION

### A. Assignment

The Conley Consulting Group was asked by the City of Milpitas to analyze the City's industrial land use, with one of the primary goals being to assess how much industrial land should be preserved in the City to accommodate the preservation and continued expansion of Milpitas' industrial employment base.

### B. Background

Conversion of industrial lands to other uses has become particularly attractive in Santa Clara County since the "dot bomb" economic contraction of 2001. The slowed industrial and commercial real estate markets, as well as the high cost of land in the bay area, combine to make conversion to residential, retail, or other uses an attractive option to land owners and developers.

A modest but measurable recovery is now underway in the Silicon Valley, with some job growth, rising rents and reduced vacancy rates. Many analysts predict moving towards recovery in terms of vacancy levels and rents for the various segments of the industrial markets. However, after five long years of vacancy rates as high in some markets as 40%, the ability of industrial property owners to withstand the financial consequences of continued low demand is limited. Furthermore, the value of industrial land is substantially lower than land suitable for development for residential, general assembly, commercial, and other uses. Thus, the incentive to convert land from industrial uses may remain a factor in the future even when industrial markets in the Silicon Valley are fully recovered and demand for these properties returns.

The City of Milpitas, with 53% of its work force employed in industrial sectors, is rightly concerned with protecting land designated for industrial uses so as to preserve this space for future employment growth in industrial sectors. As documented in CCG's report of August 2006, the infringement of non-industrial uses into industrial-zoned areas threatens existing industrial uses and weakens the overall functionality and attractiveness of the industrial sites therein. Synergies are created when like industries locate together, strengthening existing businesses and contributing to the expansion of supporting businesses and industries. Further, many economically important industrial functions are incompatible with and raise human safety concerns when they adjoin other land uses (CCG, August 2006).

### C. Report Organization

Following this section, which is the Introduction, this report is organized as follows:

- I. Employment Growth
  - II. Current Industrial Market Conditions
  - III. Industrial Land Conversion to Non-Industrial Uses
  - IV. Future Industrial Land Need in Milpitas
- Appendix: August 2006 Draft Report

**I. EMPLOYMENT GROWTH**

Currently, there are 47,650 total jobs in Milpitas, of which 25,370, or 53%, are classified as industrial, meaning manufacturing, wholesale and transportation jobs. The Association of Bay Area Governments projects future job growth in Milpitas to continue along these lines, with 68,820 total jobs by 2030, of which 36,630 will be in industrial sectors.

**TABLE 1  
PROJECTED JOB GROWTH 2005-2035  
MILPITAS INDUSTRIAL LAND SURVEY  
CITY OF MILPITAS**

<b>Milpitas Projected Job Growth</b>	<b>2005</b>	<b>2035</b>	<b>total projected growth</b>
<b>total jobs</b>	47,650	66,070	18,420
manufacturing, wholesale and transportation jobs	25,370	30,150	4,780
manufacturing, wholesale and transportation jobs as % of total jobs	53%	53%	26%

Sources: Conley Consulting Group, ABAG Projections 2007

At minimum, Milpitas should preserve enough industrial acreage to accommodate the projected 30,150 industrial jobs in the year 2035, as well as preserving some acreage for long-term utilization by future industrial ventures. Milpitas should locate these industrial zones with a strategy that looks to maximize the synergies associated with the clustered employment sectors that were discussed in CCG’s August 2006 report, and in the July 2005 Milpitas Economic Strategic Plan. Taking into account, however, the differing needs from one industry to another, the value of clustering groups of businesses, the value of having options from which to choose sites for development, and future environmental and nuisance mitigation with contiguous non-industrial uses, CCG recommends that an additional reserve of 20% be included in the acreage to be preserved for industrial uses.

The City of Milpitas has identified five core employment sectors that are projected to fuel the Milpitas economy. These are computer and communications hardware, semiconductors, electronic components, software, and biomedical. Milpitas should locate its industrially zoned acreage to accommodate future growth in these key sectors.

## II. CURRENT INDUSTRIAL MARKET CONDITIONS

Currently, Milpitas has 23,082,676 square feet (SF) of existing industrial building space. Of this, 4,441,128 SF are currently vacant, mostly in spaces designated for Research and Development (R&D). R&D space represents roughly 62% of Milpitas' current industrial building supply, followed by warehousing at 29% and manufacturing representing just 9% of the City's industrial building stock.

**TABLE 2**  
**MILPITAS INDUSTRIAL LAND CONVERSION**  
**MILPITAS INDUSTRIAL LAND SURVEY**  
**CITY OF MILPITAS**

Milpitas Industrial Market Summary	total building base	2007 vacancy	2007 vacant square footage	2007 occupied square footage	% of total industrial space
Warehouse	4,928,948	5.2%	256,305	4,672,643	22%
Manufacturing	2,704,895	1.2%	32,459	2,672,436	12%
R&D	14,005,916	19.3%	2,703,142	11,302,774	52%
Total	21,639,759	13.8%	2,991,906	18,647,853	86%

Sources: Conley Consulting Group, Colliers International, May 2007

Right now, Milpitas' industrial real estate market has a 13.8% overall vacancy rate. When analyzed at the sub-sector level, R&D building space represents the majority of the City's industrial building stock, but also has the highest vacancy rate at 19.3%. R&D vacancy rates are falling, impacted by early signs of recovery in the technology sectors from the dot-com bubble collapse of the early part of the decade.

Our research to date has focused on conversion of industrial land to non-profit uses (a small number of incidents were found, see Section III). Additionally, we surveyed other community's efforts to find out how the industrial land preservation issue is being approached elsewhere in the Silicon Valley (see Appendix, Section III).

**III. INDUSTRIAL LAND CONVERSION TO NON-INDUSTRIAL USES**

City staff researched the conversion of industrial land to residential use via re-zonings, and found a relatively small number of sites, most notably in the Town Center area. However, two recent specific plans, the Midtown Plan and the Transit Area Plan, designate a large number of sites to be rezoned from industrial to residential designations. Additionally, a large number of former industrial sites have already been converted to residential use.

**TABLE 3  
PROPOSED INDUSTRIAL LAND CONVERSION 2007  
MILPITAS INDUSTRIAL LAND SURVEY  
CITY OF MILPITAS**

	# of Sites	Acreage
Industrial properties already converted to residential use	102	33.0
Existing industrial properties rezoned to residential with the Transit Area Plan	65	164.1
Existing industrial properties rezoned to residential with the Midtown Plan	50	108.7
Other existing industrial properties currently proposed for residential development	10	65.3
<b>Total</b>	<b>227</b>	<b>371.1</b>

*source: Conley Consulting Group, June 2007*

Conversion to other non-industrial uses also poses a problem for the City of Milpitas. In August 2006, CCG was asked by the City to explore conversions to non-profit uses in particular (see Appendix). This type of conversion is particularly visible, and also presents a problem for city revenues as tax-producing acreage (both business and employment) is converted to non-revenue producing land that will likely require additional city services as most of these conversions are to public religious uses. These public uses also bring the general populace, including sensitive receptors, into close proximity with industrial uses which may be dangerous, noisy, or otherwise incompatible with the intended land use. The result may be restrictions on the industrial use which would threaten the vitality of Milpitas' industrial employment sector.

**TABLE 4  
MILPITAS NON-PROFIT USES IN INDUSTRIAL AREAS  
MILPITAS INDUSTRIAL LAND SURVEY  
CITY OF MILPITAS**

	Zone*	District	Zoning	Date	City Est. (SF)	CCG Est.(SF)
Korean First Baptist	1	Central Manufacturing dist	M2	Dec- 06	132,200	114,938
Jehovah’s Witnesses Milpitas	1	Central Manufacturing dist	M2		8,560	8,560
South Bay Chinese Gospel Ch	1	Central Manufacturing dist	M2	1996	1,320	1,320
Harvest Seminary	1		M2		1,320	5,260
Christian Assembly	1		M2		38,658	38,658
Jeena Inc	2	Transit Study Area	M2		133,672	1,200
Calvary Chapel Milpts	2	Transit Study Area	M2		17,120	2,500
Next Generation Christian Fellowship	2	Transit Study Area	M2	2004	29,300	2,400
Social Service Agency	2	Transit Study Area	M2		29,300	29,250
Bibles Way Apostolic Church	4	School District	MP	2001	25,174	37,000
Living Word Christian Center	6		MP		60,300	61,880
A Counseling & Consulting Assn	8	Los Coches	MP	1982	51,359	1,500
World Wide Chrch For Good Hlth	8	Los Coches	MP	1982	51,359	1,500
Crosspoint Chinese Church	8	Los Coches	MP	2001	38,107	1,500
Islamic Center of Zahra	8	Los Coches	MP		13,280	13,280
India Community Center Inc	8	Los Coches	MP	2003	20,358	20,875
Macednia Mssnary Baptst Church	9	Oak Creek and Railroad	M2	1966	0	1,200
North Valley Christian Fellowship	10	Hanson Court	M2	Feb- 02	46,498	24,000
<b>TOTAL SF</b>					<b>697,885</b>	<b>366,821</b>
<b>TOTAL ACRES</b>					<b>16.02</b>	<b>8.42</b>
<i>source: Conley Consulting Group, December 2006</i>						
<i>* See “Survey of Industrial Lands” CCG, August, 2006</i>						

CCG’s research also found:

- Planned future conversions of industrial land to residential use are larger in scale than what has already happened.
- Local industrial brokers are concerned about the long term viability of that land use in Milpitas.
- Anticipating future industrial land conversion is also impacting the industrial market. Landlords looking to convert industrial property in the future are not willing to enter into long term leases, and thus tenants that need the security of long-term leases are

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relocating to other cities. Thus, the potential impact on the industrial employment base could exceed the jobs lost from actual amount of industrial property converted.

- A clear policy adopted by the Council to stop or at least to severely limit future conversion of industrial land would limit the anticipation of conversion phenomenon.
- The incremental value of converting property to residential from industrial uses will decrease as the housing market and particularly the market for land for new housing flattens or declines, but likely won't go away entirely. Industrial land uses rarely support the highest values when other land uses are viable. However, this does not take into account the value to the City of protecting its industrial jobs base.
- Unlike other communities, Milpitas has a high portion of its total labor force in the traditional industrial sectors, including “manufacturing”, warehouse and distribution, and Transportation, Communication & Utilities, so there could be major implications of losing the land base that supports those uses. (However, these uses were not the focus of the recent Economic Development Strategy).



**IV. FUTURE INDUSTRIAL LAND NEED IN MILPITAS**

The square footage necessary to accommodate the projected industrial workforce varies according to industrial sub-sector. Anticipating a consistent share of employment among industrial sub-sectors and overall improvements in workplace economies of space, square footage per employee is based on 500 square feet per employee in warehousing, 350 square feet per employee in R&D and manufacturing before 2010, and 300 square feet per employee in those sub-sectors thereafter.

**TABLE 5  
INDUSTRIAL LAND NEED  
INDUSTRIAL LAND SURVEY  
CITY OF MILPITAS**

	<u>R&amp;D</u>	<u>Warehouse/ Trans</u>	<u>Manufac- turing/Ind</u>	<u>Total</u>
Projected job growth 2005-2035	2,960	1,290	530	4,780
% of Total Industrial Jobs gained 2005-2035	61.9%	27.0%	11.1%	
2005 Industrial Jobs	15,710	6,847	2,813	25,370
2007 Occupied Industrial SF	11,300,000	4,700,000	2,700,000	18,700,000
SF per Employee <sup>1</sup>	719	686	960	737
2037 Projected Industrial Employment <sup>2</sup>	18,670	8,137	3,343	30,150
Net new Industrial employment	2,960	1,290	530	4,780
Projected SF per Employee <sup>3</sup>	300	500	300	
SF Needed for Net New Employment through 2035	888,000	645,000	159,000	1,692,000
Plus: New SF Required to Accommodate 6% total vacancy factor	731,280	320,700	171,540	1,223,520
Total Industrial Building Space needed in 2035	12,919,280	5,665,700	3,030,540	21,615,520
Space available after Conversion, 2007 <sup>4</sup>	12,000,000	4,800,000	2,600,000	19,400,000
Net New Building Area Needed	919,280	865,700	430,540	2,215,520
<b>2035 New acreage requirement (.35FAR) <sup>5</sup></b>	60	57	28	145
<b>Plus: 20% Reserve allowance</b>				174

*Conley Consulting Group, ABAG, Colliers International, City of Milpitas, June 2007*

<sup>1</sup> Since employment based on 2005 data, overstates the SF of building area per employee

<sup>2</sup> ABAG, 2007

<sup>3</sup> Using Industry standard employment density factors

<sup>4</sup> According to City staff, 3 M SF of R&D space slated to be converted to other use as of Spring, 2007.

<sup>5</sup> According to City Staff, the maximum FAR in land available for industrial development in Milpitas is now 0.35.

We have assumed a ratio of 0.5 for warehouse.

Anticipating that the distribution of industrial employment will be consistent with current figures, Milpitas will need 22,074,500 square feet of industrial space by 2035, with additional acreage set aside to accommodate new businesses and industries, to attract industrial businesses to the City's industrial zones, and most importantly, to accommodate the preservation and growth of the industrial employment base which represents 53% of Milpitas' total job base. CCG estimates that an additional 20% should be provided to permit easy movement of businesses within locations within the City.

## **CONCLUSION**

The total amount of land for new industrial space development is conservatively estimated at 174 acres to preserve the ability to accommodate the projected employment growth through 2035. This figure includes current industrial acreage and so should be viewed as Milpitas' goal for total industrially designated acreage in 2035.

# **APPENDIX**

## **Survey of Industrial Lands and Recommendations for Industrial Land Use Retention**

*Prepared for*

**THE CITY OF MILPITAS**

AUGUST 2006



**DRAFT**

**Executive Summary (DEC)**

**I. Introduction**

Statement of assignment  
Memorandum organization

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### II. Non-Profit Uses in Milpitas Industrial Areas

Conley Consulting Group (CCG) was hired by the City of Milpitas to analyze the City's industrial land uses to provide a better understanding of the extent and nature of recent land use changes within the M1, M2, and MP zoned districts. The City's objective was to create an information base that can be used to assess whether there are threats to the preservation of the City's industrial land resource and to assess the need for potential policies to protect its long-term economic health. The study focused specifically on the presence and impact of non-profit uses located in the City's M1, M2, and MP zoned districts.

#### A. Procedures

CCG acquired a copy of the City of Milpitas Zoning Map (See Figure 1). The distinct industrial areas zoned M1, M2, and MP throughout the City were identified by City staff (see Figure 2). A total of ten industrially zoned districts were identified, and are summarized below:

- **District 1:** The M2 district bounded by Calaveras Boulevard (Highway 237) to the north, Interstate 680 to the east, the City Limit south of Montague Expressway to the south, and the railroad tracks to the west.
- **District 2:** The M2 district bounded by the Great Mall Parkway to the north and northeast, the City Limit to the south, and S. Main Street to the west.
- **District 3:** The M1 and MP districts bounded by Highway 237 to the north, Interstate 880 to the east, Montague Expressway to the south, and the City limit to the west.
- **District 4:** The MP district on S. Abbott Avenue, south of Calaveras Boulevard.
- **District 5:** The MP district bounded by Dixon Landing Road to the north, Interstate 880 to the east, Highway 237 to the south, and the City limits to the west.
- **District 6:** The MP district bounded by Dixon Landing Road to the north, Calera Creek to the east, and Interstate 880 to the west.
- **District 7:** The M1 district bounded by the City limit to the north, the railroad tracks to the east, Dixon Landing Road to the south, and Interstate 880 to the west.
- **District 8:** The MP district bounded by Calaveras Boulevard (Highway 237) to the north, Interstate 680 to the east, Los Coches Street to the south, and S. Milpitas Boulevard to the west.
- **District 9:** The triangular-shaped M2 district located on the north and south sides of Calaveras Boulevard, bounded by railroad tracks to the north, east, and west.

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- **District 10:** The M2 district north of Jacklin Road, west of N. Milpitas Boulevard, and east of the railroad tracks.

CCG acquired and read a copy of the City's Zoning Ordinance for the M1, M2, and MP zoned districts. CCG also met with staff from the City Planning Department to discuss the City Zoning Ordinance to confirm what businesses are considered permitted and what businesses are considered conditional uses.

A database of all business entities (including non-profit uses) located within the City of Milpitas was created using information acquired from Dunn & Bradstreet (D&B). This database was refined to identify businesses within the ten districts. The database originally identified 2,816 business entities citywide. Of these, 786 entities were located in the industrial zone. The data was further refined to a list of 720 business entities located in the industrial districts previously outlined in this report.

Each of the entities were screened for compliance with the zoning code by evaluating their SIC codes. Eighty nine entities with SIC codes that were likely to be permitted only by conditional use were identified. The list of eighty-nine entities was sent to City staff for review. Staff felt that many of the eighty-nine businesses were not the appropriate focus of this study. For simplification purposes, City staff directed CCG to focus only on non-profit uses (SIC codes 7999, 8322, and 8661).

Using the Zoning Map, a street map, and the D&B database, CCG drove every street in each industrial district to verify the existence and location of each non-industrial business entity identified in the D&B database. The database was updated to reflect the occupants observed during the inspection. All non-profit uses observed during the inspection were confirmed, added, or updated in the D&B database.

### **B. Results and Conclusions**

Based on the inspection completed on June 22, 2006, eighteen non-profit uses were identified. A summary of the non-profit entities located in the industrial zoned districts of the City is attached as Exhibit 1 to this report. They include various religious organizations, community centers, individual/family services, and recreation centers. CCG estimates that the non-profit entities occupy approximately 366,821 SF of building area. This estimate is based on information obtained from local industrial brokers, City records, conversations with occupants, and site inspections.

The estimate of the total amount of industrial space in the industrial areas varies by the different real estate brokerage firms that record and monitor industrial space in the City. According to Cornish & Carey Commercial, Milpitas has approximately 22.4 million square feet of R&D, industrial, and warehouse space in the industrial areas. New American International/Blickman Turkus Commercial Real Estate Services (NAI/BT Commercial) reports 22.8 million square feet of R&D, industrial, and warehouse space. Based on the estimates of total industrial building area, non-profit uses occupy approximately 2 percent of the City's inventory of industrial space. The uses have located in the City at various times between 1966 and 2006, with certain highly visible uses added since 2001.

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In summary, while the City of Milpitas has lost some industrial space to non-profit organizations, the amount of space lost does not represent a major portion of the industrial land inventory by the time of the completion of this report. However, brokers contacted for this effort report that the highly visible conversion of industrial property to non-profit or public-assembly uses has the potential to impact the long-term viability of the industrial uses beyond the direct reduction of land to non-industrial uses.



EXHIBIT 1  
NON-PROFIT USES IN INDUSTRIAL AREAS AS OF JUNE 22, 2006  
INDUSTRIAL LAND RETENTION ANALYSIS  
CITY OF MILPITAS

BusName	Street No.	Street Name	Zone	Use	Zoning	Date	City Est. (SF)	CCG Est.(SF)	Comments
Korean First Baptist	1201-1225	Montague Expy	1	religious organization	M2	Dec-06	132,200	114,938	Currently under Construction (Broker had sq.ft. at 159,096)
Jehovahs Witnesses Milpit	300	S Hillview Dr	1	religious organization	M2		8,560	8,560	
South Bay Chinese Gospel Ch	467	Sinclair Frontage Rd	1	religious organization	M2	1996	1,320	1,320	Leases from Harvest Seminary. Looking for new space. Ed has sq.ft. at 3,960
Harvest Seminary	469,471,473	Sinclair Frontage Rd	1	religious organization	M2		1,320	5,260	
Christian Assembly	215	Topaz St	1	religious organization	M2		38,658	38,658	
Jeena Inc	1508-1510	Centre Pointe Dr	2	Community Center for Disabled	M2		133,672	1,200	133,672 for complex. Space is estimated to be 1,200 based on inspection.
Calvary Chapel Milpts	1757	Houret CT	2	religious organization	M2		17,120	2,500	17,120 may represent entire building. Space estimated based on inspection.
Next Generation Christian Fellowship	380	Montague Expy	2	religious organization	M2	2004	29,300	2,400	Broker est. sq.ft. at 14,823. Tim (408) 823-6423 confirmed area at 2,400.
Social Service Agency	450	Montague Expy	2	individual/family services	M2		29,300	29,250	
Bibles Way Apostolic Church	394	S Abbott Ave	4	religious organization	MP	2001	25,174	37,000	
Living Word Christian Center	1494	California Cir	6	religious organization	MP		60,300	61,880	
A Counseling & Consulting Assn	500	E Calaveras Blvd # 318	8	individual/family services	MP	1982	51,359	1,500	51,359 may represent entire building. Space estimated based on inspection.
World Wide Chrch For Good Hlth	500	E Calaveras Blvd # 333	8	religious organization	MP	1982	51,359	1,500	51,359 may represent entire building. Space estimated based on inspection.
Crosspoint Chinese Church	680	E Calaveras Blvd # 680	8	religious organization	MP	2001	38,107	1,500	38,107 may represent entire building. Space estimated based on inspection.
Islamic Center of Zahra	473-479	Los Coches St	8	religious organization	MP		13,280	13,280	
India Community Center Inc	555	Los Coches St	8	amusement/recreation services	MP	2003	20,358	20,875	Broker has sq.ft. at 25,664. Sq.ft. in column given my Jack, occupant.
Macedonia Mssnary Baptst Church	121	Sinnott Ln	9	religious organization	M2	1966	0	1,200	Sapce estimated based on inspection.
North Valley Christian Fellowship	919	Hanson Court	10	religious organization	M2	Feb-02	46,498	24,000	46,000 square foot building, church is part owner.
<b>TOTAL</b>							<b>697,885</b>	<b>366,821</b>	

Source: Conley Consulting Group, August 2006

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INSERT FIGURE 1 – Zoning Map

**III. Other Communities' Approaches to Industrial Land Preservation**

**A. Context**

Industrial land retention is an increasingly important subject in communities across the country. As America's manufacturing base contracts for global economic reasons, there are pressures on land formerly dedicated to industrial uses for conversion to a wide variety of other land uses. Additionally, cities like Chicago, Boston and San Francisco have focused on conversion of surplus land formerly used for maritime industrial purpose, with major strategies in place to balance the market pressures for development of non-industrial uses with economic development objectives related to the retention or replacement of the employment base.

After consultation with Milpitas staff, it was decided that confining this effort to the activities of other South Bay communities would be most helpful to Milpitas as it considers its industrial land retention issues and appropriate strategy.

Three major themes emerged from this research. They are described below:

**1. Real Estate Market Pressures**

The rapid collapse of the demand for industrial land of all categories in the South Bay since 2001 has led to unprecedented high vacancy rates for industrial land and built space of all categories. Milpitas with its current 40% industrial vacancy rate, is not the only community with an inventory of buildings and sites that have been unused since the collapse of the dot.com bubble. Property owners are becoming increasingly desperate to convert vacant real estate to income streams, and are open to a wide range of potential renters and buyers. Requests to approve uses not previously anticipated for industrial areas throughout the region have city decision makers increasingly in the position of reacting to real estate market forces, thus compelling them to weigh the short-term economic interests of individual organizations and property owners over the long-term economic and fiscal interests of the city.

**2. Conditional Use Permits**

Land use controls in industrial areas have traditionally been relaxed in order to allow these uses the flexibility needed to conduct business. Some communities view that same tradition of flexibility as a threat to the ongoing viability of

**Case Study #1**

The City of Campbell's original intent with Conditional Use #17 (Health and Fitness Centers) was to provide amenities to industrial area workers. The current trend is the use of industrial spaces as athletic training facilities. A South Bay cheerleading gym, which for years had been operating without a permit in an industrial area building and was seeking approvals for a large open space with high ceilings, applied to the city for a conditional use permit. The school's alumni/ae includes a Dallas Cowboy Cheerleader and many other competitive cheerleaders. Campbell planning staff reported that the adjacent property uses included auto repair, car-care businesses and a powder-coating spray booth operation. These businesses had a hazardous materials management plan on file appropriate for an industrial area – but not appropriate when children as young as five years old were now at risk of exposure. In addition, safety concerns arose regarding having students waiting on streets that serve as trucking transit routes for their parents to pick them up. The cheerleading gym, which had up to 100 students, was denied a permit in one of the Planning Department's more contentious hearings.

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industrial areas, where a wide range of uses are often included as permissible with conditional use permits. The changing real estate market is bringing an unprecedented set of land use issues before decision makers and requiring land use decisions which are often on a case-by-case basis with no contextual analysis of the cumulative impact of changing uses on the viability of the industrial district as a whole.

### **3. The Changing Face of Industry**

Industrial uses in this country are no longer defined by just smokestacks and wrecking yards. New kinds of activities within industrial areas are often located in well maintained "industrial parks" that can give the impression of office uses, and the potential land use conflict with other uses are not as obvious as they appeared to be in the smokestack days. Uses permitted via conditional use permits can unknowingly create an incompatible and potentially unsafe mix of neighbors. The occupants of these conditionally permitted uses can be quite unaware of the potential hazards to health and safety presented by land use incompatibility. Further, uses that attract the public, particularly of those termed "sensitive receptors" (e.g., the young and the elderly), pose an even greater health and safety risk.

While the above combined with rezoning of industrial lands to meet demand for housing development sites, has resulted in the gradual deterioration of many of the Bay Area's industrial zones, industrial uses, such as manufacturing, fabrication, warehousing, distribution, and research and development, continue to require large footprints, utilize higher ratios of floor space per employee, requiring lower rents in order to remain viable. By allowing conditional uses such as public assembly, community service, or athletic facilities in the industrial zone, policy makers in effect force industrial businesses to compete in the commercial market. Additionally, because conditional uses are potentially in conflict with industrial hazardous materials and machine operations common to industrial business operations, allowing these uses can place an undue burden on industrial users and jeopardize the overall viability of the industrial area.

The Industrial Sector in the Silicon Valley/South Bay area is a significant source of employment and plays an important role in the local, regional and state economy. Land use policy decisions today will dictate and potentially limit the area's future economic development opportunities. Planning for business development and the economic growth of the city means making land use decisions that hold firm against short-term real estate pressures and individual interests today.

#### **B. Survey**

CCG surveyed nearby communities with industrial land preservation concerns. The results are summarized in Exhibit 2. The issues have been manifest in different ways in the seven communities surveyed, and thus the proposed strategies also vary by community.

#### **C. Sample Strategies for Protection of Industrial Land**

The following summarizes the general types of strategies being employed by communities in our survey, with possible application to Milpitas. These strategies are not necessarily exclusive, and are often used together.

## 1. Solidify Core Industrial Area

While many industrial areas in the communities in our survey have already been compromised by significant intrusion of non industrial uses, there are opportunities to adopt land use policies to strengthen and protect the remaining industrial land resource. These policies have been adopted in recognition that the land available for job creating industrial uses is a limited and non-renewable resource. Communities with this concern

have developed tools that will allow them to manage this resource strategically over time periods that extend beyond economic downturns and real estate cycles. These strategies include:

### Case Study #2

A sheet-metal manufacturer that was founded in 1984 and has over 300 employees operates a 150,000 SF facility twenty-four hours a day, seven days a week in an industrial area of San Jose. A church with a congregation of 700 applied for a General Plan amendment for the area to be changed from Heavy Industrial to Heavy Industrial with a Mixed Industrial Overlay on a site adjacent to the sheet-metal manufacturer. At the hearing, the business operator brought in evidence of the impact a zoning change would have in terms of additional cost and regulatory controls that would be triggered as a result of the proximity to a public-assembly facility. Using the Council's framework document, developed for the evaluation of proposed changes to "employment lands," staff recommended that if the proposed church were approved, emergency preparedness plans would be required to address exposure of the congregation to hazardous materials. Staff judged the proposed church to be incompatible with employment uses in the industrial area because an active trucking and hazardous materials delivery area in daily use was to be shared with the proposed church project.

The sheet-metal manufacturer, prior to the zoning decision, announced that it would relocate once its remaining eighteen months of its lease were finished if the church was approved. The proposed church use was identified in the Council's framework document as "revenue poor," thus resulting in an overall negative fiscal impact to the city. The majority of the thirty speakers that came to the hearing spoke on behalf of the church use, and the church permit was ultimately approved by the Council, in contradiction to the guidelines.

**a. Delineating core industrial areas** (as distinct from transitioning or buffer zones adjacent to residential or commercial areas).

**Example:** The City of San Jose identifies three kinds of industrial uses by the type of businesses accommodated there: 1) "driving" 2)"business support" and 3)"household serving." The City Council has voted to actively preserve "driving" and "business support" industries (both large employment sectors for the city) by discouraging the conversion of core industrial areas with a concentration of these uses. Their approach is described in a framework document meant to guide decision makers on individual land use decisions, entitled "[Framework, as a Guideline, to Evaluate Proposed Conversions of Employment Lands to Other Uses](#)".\*

**Example:** The purpose of the City of Fremont's Industrial Compatibility Overlay District is to provide an environment exclusively for industrial uses and uses found compatible with industry. "This exclusive environment is provided through the specific prohibition of residential development and other uses which may not be compatible with the underlying industrial zoning."<sup>1</sup>

\* Adopted April 2004, revised November 2005.

<sup>1</sup> Fremont Municipal Code, Title 8 Planning and Zoning.

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- b. **Explicitly prohibit public assembly and general service uses unless they are employer-based.**

**Example:** The City of Fremont specifically prohibits retail activities in its Light Industrial Area, child-care and recreation in its Restricted Industrial Areas and assembly and recreational uses in its General Industrial Areas. Mountain View also specifically prohibits child-care unless employer based in its Admin, Research, and Limited Manufacturing District.

- c. **Conduct traffic pattern analysis to ensure that trucking and freight movement is not impaired by non-industrial conditional uses proposed in adjacent buffer zones.**

**Example:** The City of Newark recently added an additional finding required for PUD approval in its heavy industrial area. From now on a project must demonstrate that it “will not attract the general public to the General Industrial Area, will not directly or indirectly impact viability of the area, and will be compatible with the manufacturing, warehouse and distributions with activities in General Industrial Area.” \*\*

## 2. **Revise Conditional Use Permits Process**

The city should develop clear guidelines for the consideration of conditional uses and ensure that it occurs within a larger planning context, so that the cumulative impact of a series of zoning changes do not result in unintended consequences on industrial business development potential.

- **Develop Industrial Overlays** clearly identifying where conditional uses for non-industrial activities in the industrial areas would be considered and what performance criteria they would need to meet. The City of San Jose has an Industrial Overlay which is partnered with their [\*“Framework, as a Guideline, to Evaluate Proposed Conversions of Employment Lands to Other Uses.”\*](#)
- **Focus Mixed-Use Industrial** areas to occur in transitioning areas or along major arterials, to buffer the industrial area from adjacent residential and/or retail commercial areas.

**Example:** Public assembly uses in the City of Campbell are only permitted on arterial or collector streets and over concentration of public assembly uses is listed as a reason for denial of an application.

- **Modify the approvals process** by increasing the rigor by which public assembly or general public serving uses are evaluated and approved in, or adjacent to, industrial areas. Many cities are requiring that proposed public assembly uses develop extensive notification of its participants as part of the application process, as well as providing shelter in place, safety and evacuation plans, etc.,

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\*\* (Conversation with Richard Fujikawa, Planner, City of Newark, August, 2006).

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to ensure no burden exists on future employers in the industrial areas. Hazmat exposure signage like those required by State law for some businesses may also be appropriate.

- **Establish a Mixed-Use Overlay** to insure that non-industrial, sensitive receptor, and public assembly uses will not be located in areas that put additional burden (liability) on businesses, thereby limiting *future* development or growth of existing businesses in the industrial area. Increasingly the business community is making clear how public assembly uses in industrial areas impact their bottom line, thus limiting expansion potential.
- **Re-assess impact fee policies** – since new non-industrial use are typically more intensive (particularly with regard to traffic) use, they will have more impact and should therefore pay the difference in impact from the original industrial impact fee. While only a one-time cost, the City of Fremont has found that in some cases this can be significant, and enough to make non-industrial users reconsider their location.
- Grant conditional use approval preference to **interim uses**, that require limited tenant improvements/capital investment.

**Example:** In San Jose, a developer built a building in 2001 that was never occupied and remained vacant for 5 years. Upon request for a conditional use permit, the city approved a roller rink – on the rationale that the use required limited tenant improvements and did not significantly change the structure’s long-term use potential. The proposed roller rink was perceived as a use which in an economic up-turn could relocate and the building returned to industrial use with a minimum of disruption.

### 3. Hazardous Materials Approach:

While interest in the the long-term growth of a city’s economy has become increasingly central to the city planner’s task, the initial purpose of city planning, and the original concern governing the separation land uses, is to protect the health and safety of the general public. In that regard, some communities have adopted industrial land preservation strategies based on protecting the public from exposure to hazardous materials, as described below:

- **Delegate the Fire Marshal** to work with large manufacturing/industrial employers to analyze hazardous materials uses in industrial districts, which could potentially be inhibited by proximity to uses attracting the general public or sensitive receptors.

**Example:** In San Jose, the Planning department proposed use of overlay districts rather than PUD to regulate introduction of possibly incompatible uses. The Fire Marshal has a stronger statutory role in approving PUD’s, and had that approach been used, may have been a stronger participant in the process.

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- **Sensitive Receptors** – some communities work with their Fire Marshal to identify conditional uses that would bring “sensitive receptors” within designated proximity of hazardous materials based on the rationale that these uses would, over time, trigger increased scrutiny of proposed permits for industrial businesses and limit the potential growth of industrial area. In San Jose and Fremont some industrial advocates have testified about the increased insurance costs/liability to businesses that would result from proposed uses that would attract the general public in close proximity to industrial uses (see Exhibit 2).

#### 4. Manage Perceptions

In recognition that some non-industrial use incursion is inevitable in industrial areas, some industrial specialists contacted for this effort offered these additional suggestions to minimize the impact of non-industrial uses on the character and long-term viability of industrial areas:

- Limit signage and outdoor activities associated with non industrial conditional uses.
- Limit the percent of a site which can be made available for non-industrial activities.
- Manage the traffic impact of public attraction uses in industrial areas such that industrial related trucking and movement of goods is not inhibited.

#### Exhibits

1. Non-Profit Land Uses in Industrial Land In Milpitas
2. Other Community's Experience with Industrial Land Preservation



EXHIBIT 2  
SURVEY OF OTHER COMMUNITIES REGARDING INDUSTRIAL LAND USE POLICIES  
MILPITAS INDUSTRIAL LAND RETENTION ANALYSIS  
CITY OF MILPITAS

Cities Contacted :

**Belmont**

Not experiencing encroachment in their small industrial area -- large-scale public assembly proposals are handled through CUP process, which has primarily come up in the commercial districts

**Campbell**

**Issue Addressed:** Intent of Conditional Use # 17 (Health and Fitness Center) was to provide amenities for workers. To date, uses have gone beyond original intent-- including 5 batting cages, auto brokers for upscale automobiles, gymnastics facilities, cheerleading facilities are all creating pressure on industrial areas. These uses are incompatible with uses such as spray booth & heavy industrial traffic.

**Strategy Employed:** City is considering eliminating health and fitness centers as a conditional use.

**Fremont**

**Issue Addressed:** Originally had an 8-acre minimum site size requirement for stand alone developments in industrial area which was sufficient to keep most non-industrial uses out. Recently the trend is indoor recreation - badminton, batting cages, cheerleaders, rock climbing -- coming in as tenants, so not subject to 8-acre restriction.

**Strategies Employed:** 1. Involve Local Business, 2. Use Hazardous Materials permitting as a way of identifying incompatibility of proposed non-industrial uses 3. Use Public Health Framework to identify "sensitive receptor-attracting users" that could impact industrial growth and expansion of existing and future industrial operations in area. 4. Increase onus on non-conforming use for notification and permitting -- must notify congregations/ongoing users of haz mat exposure, prepare an emergency evacuation plan including shelter in place, strategies etc. in order to receive permit 5. Specifically prohibit inappropriate uses in industrial area.

**Livermore**

Vacancies within their office and industrial areas are so high Livermore is allowing churches in office/industrial parks. It is not perceived to be a problem, in fact it is perceived as enlivening otherwise dead space. The issue the county is facing on the city's borders is churches trying to encroach on agricultural areas -- the vineyards -- but it is not a city issue.

**San Jose**

**Issues Addressed:** With 20% vacancies and 10 times the Industrial park land than there is light or heavy industrial land available, San Jose is focusing transitioning land uses in industrial parks or already compromised industrial areas. San Jose is looking to introduce workforce housing and services for workers in these industrial areas

**Strategies Employed:** "Framework as a Guideline to evaluate Proposed Conversions of Employment Lands to Other Uses," combined with Mixed Use overlay, defines the terms for conditional use that would have limited impact on industrial businesses

**Note:** Despite strong analysis in the framework for decision making, it is merely a guide, which still subjects commission/council to public pressure around private interests because acting outside the guidelines is permitted.

**Newark**

**Issue Addressed:** The encroachment of recreational and public assembly uses in the General or Heavy Industrial Districts - which support lower rents/land values than the industrial parks

**Strategies Employed:** Language adopted this year requires additional findings to grant a planned unit development permit within general industrial zoning district: "PUD will not attract general public to general industrial area, will not directly or indirectly impact viability of the area, will be compatible with the manufacturing, warehouse and distribution with activities in general industrial area." No policy was adopted to protect light industrial areas.

**Sunnyvale**

**Issue Addressed:** Public Assembly uses in Industrial area

**Strategy Employed:** Creation of 5 Industrial/Public Assembly (MS - POA) Districts - which are on the periphery of the industrial areas. POA uses will still be conditional uses and will require more rigorous notification and permitting requirements demonstrating safety plans etc District changes are currently in environmental review - will go to council in November