

MEASURE I

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE I

The City of Milpitas General Plan governs the direction of future land use and development within the City of Milpitas. The General Plan Land Use Element, Section 2.6, Land Use Implementing Policies 2.a I-2.1 and 2.a I-2.2 prohibit the construction or provision of any City service or City service extension to any property or people in the area located outside of the Urban Growth Boundary and outside of the City of Milpitas city limits, except under limited circumstances listed in Policy 2.a I-2.1, and require the City to take necessary actions to apply to the Santa Clara County Local Agency Formation Commission to relocate the City's Urban Service Area boundary to be coterminous with the City's Urban Growth Boundary.

On November 3, 1998, a majority of the eligible voters voting on the ballot measure approved Ordinance No. 38.742 to, among other things, amend the City of Milpitas General Plan Land Use Element, Section 2.6, Policy No. 2.a I-2.1 to provide that, until December 31, 2018, any amendments to the Urban Growth Boundary require voter approval except under limited circumstances provided in Policy No. 2.a I-2.1, and to add Policy No. 2.a I-2.2.

On June 22, 2016, the Milpitas City Council approved the placement of Measure I on the ballot for consideration by the voters.

If approved, Measure I would amend the Milpitas General Plan as follows:

- Policy No. 2.a I-2.1 would be amended to provide that, until December 31, 2038, any amendments to the Urban Growth Boundary would require voter approval except under limited circumstances provided in Policy No. 2.a I-2.1.
- Repeal Policy No. 2.a I-2.2.

If Measure I is not approved, the current General Plan provision requiring that any amendments to the Urban Growth Boundary be subject to voter approval would expire on December 31, 2018. After December 31, 2018, the Urban Growth Boundary may be amended at any time by the City Council or the voters by initiative measure.

Measure I requires simple majority approval of the voters to pass.

The above statement is an impartial analysis of Measure "I". If you desire a copy of the Measure, please call the elections official's office at (408) 586-3001 and a copy will be mailed at no cost to you.

/s/ Christopher J. Diaz
City Attorney

ARGUMENT IN FAVOR OF MEASURE I

A Yes vote on Measure I, the Milpitas Urban Growth Boundary, will continue to protect the hillsides and allow Milpitas citizens to determine the future on hillside development.

In 1998, Milpitas citizens voted to adopt the Milpitas Urban Growth Boundary (UGB) limiting urban expansion into the hills. A Yes vote will continue the UGB and protect the hillsides in two ways: (1) it will place another 20-year freeze on annexation of Santa Clara County lands into the City, and (2) it will maintain a line that designates the limits of urban growth into the hills by restricting extension of City services beyond that Boundary.

Without the UGB, Milpitas residents must subsidize costly City services required by hillside development such as police and fire protection, streets, sewer lines, storm drains, and waterlines as well as their ongoing repairs and maintenance.

A Yes vote will continue to protect Milpitas hillsides from overdevelopment for another 20 years and avoid costly taxpayer funding to improve and replace water lines, sewer lines and roads estimated in the millions of dollars. There are three verified earthquake faults in the hillsides making any future development and the infrastructure to support that development prone to destruction should an earthquake occur. Rebuilding of this infrastructure as well as providing additional police and fire services will add to the tax payer burden.

Adopting the UGB won't take the property rights of hillside landowners. They can still develop at very low densities balancing their property rights with the rights of Milpitas citizens to protect the hillsides and maintain our quality of life.

The Urban Growth Boundary costs Milpitas taxpayers absolutely nothing and prevents further subsidies. Vote Yes on Measure I!

/s/ Carmen Montano
Vice Mayor

/s/ Marsha Grilli
Councilmember

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE I

Those in favor of Measure I say that the future of hillside development is in the voters hands. Well, let's look at what happened in the last 20 years this has been in force. There's no development in the lower hills. None, zero, nada. That is because regulations on development have been so restrictive that it is impossible to jump the hurdles. The property rights of hillside property owners have been seriously eroded. Those who say Measure I protects the hills for everyone but they fail to mention the harm to the hillside property owners.

All Milpitas lose. You lose the supply of upscale housing so that if you desire a view property you must leave Milpitas for other venues. There is no move-up housing for above moderate income homeowners. You lose the entrepreneurial spirit that is necessary to fund schools, museums, live theaters and other civic pleasures.

The city does not subsidize hillside utilities except to the extent afforded to any other property owner in the city. In many cases the hillside property owner pays for utilities with or without Urban Growth Boundaries.

All hillside development must, by law, undergo detailed analysis by state licensed geologists and no building can be done within 25 feet of a geologic hazard. The Crosley fault runs under and along Evans road at the foothill.

Let the property owners work with certified city planners who have the expertise in land development and zoning. Vote no on Measure I.

/s/ Richard Ruth
Resident, Retired

ARGUMENT AGAINST MEASURE I

Zoning laws have been in the judicial system for over 100 years. Throughout zoning history, amendments, clarifications and rewrites have been made because of issues such as undue hardship, practical difficulties, special conditions, spirit of the law, service to public interest. Even variances are allowed to permit more profitable use, effect of adjacent uses, effect of size, shape and grade of a lot or the existence of natural resources unusable because of zoning restrictions or changes when the zoning law is ambiguous. For most of those 100 years applicants have been able to work with professional zoning and planning public officials to change or modify a zoning law directly.

This is helpful because the effects of any change can be balanced against public interest and is not costly to the city or the applicant.

But what this ordinance does is drive the cost of modification up substantially and takes the outcome out of the hands of the professional. The applicant now has to gather signatures and form a proposal for a ballot measure then the city has to schedule the ballot election and pay the election cost, which in Milpitas can be upwards of \$100,000. It takes away from the applicant any opportunity to get relief by putting the solution to a zoning problem in the hands of a non-professional public determination. In the event of a negative result at the ballot box the applicant loses valuable time and money and is obliged to try again.

It is not a fair and equitable to modify a zoning law for a hillside property denying city services that no other property owner in Milpitas is subject to therefore a "NO" vote is required

If this ordinance is approved by the voters it will be effective for 22 years.

/s/ Richard Ruth
Resident, Retired

NO REBUTTAL TO THE ARGUMENT AGAINST MEASURE I WAS SUBMITTED