Planning Commission Date: September 26, 2007 Item No.

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearing Report Prepared by: Geoff I. Bradley

Public Hearing: Yes: __X__ No: _____

Notices Mailed On: 9/14/07 Published On: 9/13/07 Posted On: 9/14/07

TITLE:	**MURPHY RANCH RESIDENTIAL**
Permit Nos.:	GP2005-11, ZC2005-11, EA2005-9, MA2005-7, PD2007-4, SZ2005-13
Proposal:	A request for land use changes to allow for the construction of a 659 unit residential development on 21.73 acres
Location:	Southwest corner of Murphy Ranch Road & Technology Drive
APN:	086-01-041 & 042
RECOMMENDATION:	**Recommend Denial to the City Council**
Applicant:	Fairfield Residential LLC, Attn: Shon Finch, 5510 Morehouse Dr. Ste. 200, San Diego, CA 92121
Property Owner:	David Klonsky, Lucent Technologies, 600 Mountain Ave., Murray Hill, New Jersey, 07974
General Plan Designation:	Industrial Park
Present Zoning:	Industrial Park (MP)
Existing Land Use:	Vacant Land
Agenda Sent To:	Applicant and owner as noted above
Attachments:	*Attachment A* – Resolutions recommending Denial to the City Council *Attachment B* – February 2001 PC minutes (work session excerpt) *Attachment C* – June 2007 Industrial Land Conversion Assessment *Attachment D* – Vacant Industrial Land Map *Attachment E* – Project Plans *Attachment F* – Final EIR (DEIR provided separately) *Attachment G* – Draft September 2007 PRCRC minutes *Attachment H* – 2006 PC & CC minutes reviewing the GPA *Attachment I* – Conditions of Approval

PJ #3170

BACKGROUND

Site Description

The project site is a relatively flat 21.73 acre parcel located along the west side of Murphy Ranch Road, and bounded to the north by Technology Drive, to the south by the Hetch Hetchy aqueduct, and to the west by Coyote Creek. Surrounding businesses include KLA Tencor to the north, Maxtor, Seagate and Scan Disk to the east, and Intersil, Phoenix Technologies and Avaya to the south. Cisco Systems has two major campuses within close vicinity of the site.

Land Use History

A Development Agreement between the City of Milpitas and the Octel Communications Corporation was entered into on August 19, 1997 and expired on August 19, 2007. The subject property was subject to the Development Agreement. The agreement stated that Octel Communications Corporation and the other property owners of the Milpitas Business Park lands intended to build a "multi owner corporate facility" that would comply with the restrictions set forth in the Milpitas General Plan, the Milpitas zoning ordinances, applicable Milpitas Municipal Code regulations, Milpitas Business Park Master Plan and any other "Land Use Regulations". The general plan and zoning ordinances designated the land as Industrial Park. The Milpitas Business Park Master Plan stated that the subject site would be used for office, research and development, hotel, and other commercial land uses. The term of the agreement was set to run for 5 years commencing on August 19, 1997. If, however, the owners collectively exceeded the 600,000 square feet immediate construction level, the agreement would run for 10 years from the

effective date. Cisco Systems alone constructed 1.11 million square feet of space between August 19, 1997 and August 19, 2002. Therefore, the term of the agreement was extended to August 19, 2007 and is now expired.

In 2000 Avaya Inc. filed an application to build their western regional headquarters building on 11 acres of the project site. The building would have been 6-stories, approximately 200,000 square feet, and employed up to 800 people. The Planning Commission reviewed the proposal as a work session item in February 2001 (minutes included as Attachment B). Avaya withdrew the application during the economic downturn.

The current proposal for a General Plan Amendment and Rezone was reviewed by the Planning Commission at its July 26, 2006 meeting. The Commission recommended the City Council deny the request. The City Council considered the request at its August 15, 2006 meeting and allowed the project to move forward, to complete the EIR and for the project to be brought back for review. Minutes from both meetings are provided as Attachment H.

APPLICATIONS SUBMITTED

PERMIT	DESCRIPTION
GENERAL PLAN AMENDMENT (GP2003-1)	Amend the General Plan land use designation from Industrial Park to Multi-Family Very High Density Residential
ZONING MAP AMENDMENT (ZC2005-11) Submitted pursuant to Section 62 of the Milpitas Zoning Ordinance.	Rezone the site from Industrial Park – MP to Multi-Family Very High Density Residential – R4.
ENVIRONMENTAL IMPACT ASSESSMENT NO. EA2005-9	Environmental Impact Report
MAJOR VESTING TENTATIVE MAP NO. MA2005-7 Submitted pursuant to Section XI-1-4.00 (Tentative Map) and Section XI-1-30.00 (Vesting Tentative Map) of the Subdivision Ordinance.	Subdivision of two lots totaling 21.73 acres for condominium purposes.
PLANNED UNIT DEVELOPMENT NO. PD2007-4 & "S" ZONE NO. SZ2005-113 Submitted pursuant to Sections 54.07 and 42 of the Zoning Ordinance.	Development of an apartment building containing 374 units, 65 townhome buildings providing 285 units, and approximately 2 acres of publicly accessible park area.

LAND USE CHANGES - GENERAL PLAN & RE-ZONING

The applicant has requested a General Plan Amendment from Industrial Park to Multi-Family Very High Density Residential and a related Rezone from MP-Industrial Park to R4-Multi-Family Very High Density Residential.

Staff is recommending denial of the project for the following reasons:

This area is one of the last remaining areas for growth in Milpitas' technology and business sector and is needed to maintain the City's position in Silicon Valley as a corporate headquarters destination.

The conversion of industrial park lands to residential uses would eliminate some of the last industrially designated land in Milpitas that could create future job opportunities within the City.

There are currently 1,755 acres of industrial zoned land within the City most of which has already been developed. The 130 acres that remain undeveloped include 86 acres along North McCarthy Boulevard, 22 acres on Sumac Drive adjacent to ScanDisk headquarters, and the 21.73 acre project site along Murphy Ranch Road (see Attachment D - Vacant Industrial Land Map).

According to *Association of Bay Area Governments (ABAG) Projections 2007*, Milpitas had 47,650 total jobs in 2005, 25,370 of which were classified as industrial. ABAG projects that by 2035 Milpitas' total job growth will reach 66,070 with 30,150 of those jobs being industrial. The City should preserve enough industrial acreage to accommodate the projected 4,780 additional industrial jobs in the year 2035. Preserving additional industrial acreage to permit easy movement of business within the City and to allow for new industrial ventures was also a recommendation in the "Industrial Land Conversion Assessment" performed by the Conley Consulting Group for the City of Milpitas in June 2007 (Attachment C).

To accommodate this future job growth the City will need between 148 and 187 acres of industrial zoned land based on a floor area ratio (FAR) range of 0.35 to 0.50 for typical research & development uses. Milpitas currently does not have enough vacant land to meet ABAG's anticipated job growth and converting the project site to residential would further exacerbate this shortfall. Therefore the remaining 130 acres of available industrial land should be preserved to insure there is an adequate inventory of land to accommodate future jobs and allow Milpitas to remain an attractive location for Silicon Valley companies. The approval of this project would not only reduce the amount of available vacant land but also create a precedent for future development proposals to convert industrial lands to residential within the general vicinity.

The proposed land use change is therefore not consistent with the following General Plan policies:

> 2.a-G-1. Maintain a land use program that balances Milpitas' regional and local roles by providing for a highly amenable community environment and a thriving regional industrial center. *The conversion of lands designated Industrial Park to residential land uses would negatively impact Milpitas' position as a thriving industrial center by limiting the future supply of industrial land.*

2.a-I-3. Encourage economic pursuits which will strengthen and promote development through stability and balance. *The conversion of Industrial Park lands to residential uses would diminish economic development and employment opportunity in the City by reducing the supply of vacant industrial land.*

2.a-I-5. Maintain policies that promote a strong economy which provides economic opportunities for all Milpitas residents within existing environmental, social, fiscal and land use constraints. *The conversion of Industrial Park lands to residential uses would diminish economic opportunities for Milpitas residents by reducing potential employment opportunities.*

2.a-I-7. Provide opportunities to expand employment, participate in partnerships with local business to facilitate communication, and promote business retention. *The presence of 659 residential units adjacent to some of Milpitas' most important industrial firms could discourage business expansion and business retention.*

This site is not appropriate for residential given its isolation from other residential neighborhoods and community services within the City.

Residential, commercial and civic land uses should be located together to foster a walkable, healthy, mixed-use environment. A residential development at this location would be so isolated from community services such as parks, schools, and libraries making alternative transportation such as bicycling, walking, or mass transit infeasible to reach those destinations.

The project is not meeting the minimum number of acres of parkland required for a 659 unit community (providing 2 acres in lieu of 5 acres) as other recent similarly sized projects have been able to provide. The Parks, Recreation, and Cultural Resources Commission recommended that the project provide parkland requirement in the form of land and not a combination of land and in-lieu fees as proposed.

The proposed land use change is therefore not consistent with the following General Plan policies:

2.a-G-2. Maintain a relatively compact urban form. *The project would be counterproductive to this objective by creating an isolated neighborhood.*

2.a-G-5. A park-like setting will be created by a series of local parks, school sites, trails, and a greenway system laced throughout all living areas. *The project is not meeting the minimum number of acres of required parkland and it will be isolated from other parks that provide playfields, recreation and picnic areas.*

2.b-I-2. Consider locating housing in close proximity to industrial developments where they can be served by existing city services and facilities. *The proposed 659 residential units will not be served with enough parkland, schools, libraries, neighborhood commercial uses or day care*.

The project conflicts with the Milpitas Economic Development Plan.

A goal of the City of Milpitas 2005 Economic Strategic Action Plan is to: "Retain and Support the Success of Existing and New Businesses". Objective 4 under that goal seeks to "Retain and expand existing Milpitas-based companies." City staff has had several conversations with local companies about future expansion opportunities and residential conversion of industrial park lands would further limit those opportunities and make it more difficult to achieve the City's economic development goals. The subject site if developed as an office/R&D campus could accommodate a development of approximately 280,000 to 470,000 square feet.

Substantial residential development opportunities are provided for and strongly encouraged within the Midtown and Proposed Transit Area Specific Plans.

The adoption of the Midtown Specific Plan in 2002 resulted in the conversion of 109 acres of industrial land to residential. It is anticipated that approximately 3,500 dwelling units will be constructed during the life of the Midtown Specific Plan. The preferred alternative for the proposed Transit Area Specific Plan would convert 185 acres of industrial land to residential creating approximately 7,200 units. Together, the two specific plans would provide up to 10,700 dwelling units. There is sufficient developable land within these two specific plans to provide for Milpitas' residential needs for the foreseeable future. It is not necessary to convert additional industrial park lands to residential land uses to provide for Milpitas' residential needs or to meet the City's fair share housing goals. The ABAG allocation for Milpitas for the period 2007 – 2014 is 2,487 units.

The project would require water and sewer capacities considerably higher than Master Plan estimates.

As the City continues to plan for higher densities in the Midtown and Transit Area Specific Plans special consideration needs to be taken in planning for basic city services. As the following table illustrates converting industrial lands to residential can create substantial increases in demand for water and sewer services in gallons per day (gpd):

	Water (gpd)	**Sewer (gpd)**
Proposed Project	160,137	160,137
City Water & Sewer Master Plan assumptions for the project site as Industrial	27,163	21,730
Increase in demand	**132,974**	**138,407**

While the project may be able to be served with the existing capacities of the respective utilities, the project would potentially limit other planned developments in other parts of the City.

PLANNED UNIT DEVELOPMENT

Description

The applicant is requesting approval to develop a four story apartment building containing 374 units on the northerly 7.58 acres of the site and 285 three story townhome units with a 2 acre public park on the southerly 14.15 acres. The apartment portion of the project is proposed at 49.3 dwelling units per acre. The townhouse portion is proposed at 20.1 units per acre. The overall density is 30.3 acres (29 du/ac on a gross acreage basis). See Attachment E – Project Plans.

The breakdown of the unit sizes are as follows:

Apartment Units			**Townhome Units**		
Bedrooms	**Size (sq ft)**	**Units**	**Bedrooms**	**Size (sq ft)**	**Units**
Studio	600	8	-	-	-
1	687 - 820	166	2	1,108	95
2	731 – 1,203	180	2+den	1,609	95
3	1,496	20	3	1,496	95
	Total	**374**		**Total**	**285**

The primary access for the apartment building parking garage will be from Murphy Ranch Road with secondary access from the private extension of Technology Drive. The segment of Technology Drive west of Murphy Ranch Road is proposed as a private street with parking on both sides. A fire access road would be provided along the southern and western sides of the apartment building. Two exits and elevators at either end of the garage lead to the interior hallways of the building. There is an average of 94 units on each building level and an average of 126 parking spaces on each garage level.

The townhome portion of the site would be accessed from two private streets (A and C) off of Murphy Ranch Road. The driveway of Street C would align with Sumac Drive and become the fourth leg of the Murphy Ranch Road/Sumac Drive intersection. Streets A & C would be connected internally via Streets B & D. On street parking is proposed on both sides of Streets A, B and C. Street D is 24-feet wide with 90 degree parking on one side of the street. The individual units would have the front doors located along a series of at-grade paseos with the garages accessed from a rear alley.

The four story apartment building will have a stucco finish with a variety of earth tone colors used on each elevation. The color rendering of the front elevation shows a variety of window styles being proposed for the different projections along the building. The roof line would be a series of mansard caps along a flat roof line. The mansard caps will be concrete tile.

The townhomes will also have a stucco finish with a color scheme very similar to the apartment building. There would be 35 three-plex buildings and 30 six-plex buildings. Only two elevation styles are proposed for the 65 buildings. The biggest difference in the elevation styles is the roof line. The A elevation has mansard and hip roofs whereas the B elevation has flat and gabled roofs. Both styles use a flat concrete roof tile.

Open Space & Recreation Facilities
All residential developments outside of the Midtown Specific Plan area are required to provide park and open spaces areas at a ratio of 5 acres per 1,000 people. Per Section 9.06 of the Subdivision Ordinance a total of 9.18 acres of park land is required for the proposed 659 units. Up to 40% of this requirement can be provided in the form of a credit for on-site useable open space. The remaining 60 percent of the required parkland must be provided in the form of public parkland or payment of the in-lieu fee park fee. Based on the 659 units proposed the development is required to provide a total of five (5) acres of parkland. The proposal is to provide the two acre public park at the southern portion of the site with the remaining three acres to be provided for by payment of the park in-lieu fee.

The applicant is proposing to create a two acre public park using 1.1 acres of the project site and 0.9 acres of the adjacent Hetch-Hetchy parcel. The park would contain a turf area, tot-lot, half-court basketball court, and a pedestrian path connecting Murphy Ranch Road with the Coyote Creek Trail. A condition of approval has been included to require a tennis court within the proposed 2 acre public park.

The project would provide approximately 3.4 acres of private open space which would consist of separate pool areas for the apartments and townhomes, a clubhouse for the apartment units, the larger paseos around the towns and balconies over 60 square feet. Balconies and porches may be considered usable open space if they are a minimum of 100 square feet at ground level or 60 square feet above ground.

Section 8.07-3 of the R4 Zoning District standards require a minimum of 25 percent of the total site be usable open space. Approximately 16 percent site is devoted to usable open space. If the 1.1 acre portion of the park is included this would increase the on-site usable open space to 20.7 percent. The project is not meeting the 25 percent minimum for on-site open space.

The Parks, Recreation, and Cultural Resources Commission reviewed the proposed two acre public park at their September 10, 2007 meeting (draft minutes have been included as Attachment G). The Commission recommended that all of the required public parkland be provided with consideration for public restroom facilities and parking for park and trail users.

Affordable Housing
The applicant is proposing to maintain 132 units (20 percent) within the project as affordable housing at the following income levels:

APARTMENTS

	Very Low	**Low**	**Moderate**	**TOTALS**
Studio	1	1	1	3
1 bedroom	9	13	17	39
2 bedroom	9	14	18	41
3 bedroom	1	2	2	5
Total	**20**	**30**	**38**	**88**

TOWNHOUSES

	Very Low	Low	Moderate	TOTALS
1 bedroom	0	3	12	15
2 bedroom	0	2	13	15
3 bedroom	0	2	12	14
Total	**0**	**7**	**37**	**44**

The provision of 20 percent affordable housing is consistent with Housing Element Policy C-I-2 and Section 8.10 of the R4-Multi-Family Very High Density zoning district. Very-low income households are defined at 50 percent of the County median income. Low-income households are defined at 80 percent of the County median, and moderate-income households are at 120 percent of the County median. Currently, the 2007 median income for Santa Clara County is $105,500 for a family of four. An affordable housing regulatory agreement will be required to be executed by the applicant and City to guarantee the long-term affordability of the project.

R4 Development Standards

The Planned Unit Development (PUD) application is being requested because the project does not meet all the development standards in the R4-Multi-Family Very High Density Zoning District. The following summarizes the variations from the R4 development standards that the project is proposing:

- The parking garage within the apartments is exceeding the maximum allowable stories and height.
- No bicycle parking is shown on the plans. Staff is recommending a condition of approval requiring the minimum number of bicycle spaces be provided on-site.
- The project current does not meet the minimum 25 percent standard for usable open space.
- The project is slightly under the minimum density for R-4.

R4 Development Standards	**Proposed Design**	
Deviations Shaded	**Apartments**	**Townhouse**
Height – 4 stories or 60 feet	5 stories (garage) / 65 ft.	3 stories / 36.5 ft.
Density – 31 to 40 DU/Acre	29 DU/Acre	
Affordable Housing Goal – 20%	132 affordable units (20%)	
Front & street side setback – min. 8 ft. / max. 10 feet from back of sidewalk	20-60 ft.	8-10 ft.
Interior side yard – 10 feet	45 ft.	10 ft. between bldgs
Rear yard – 10 feet	47 ft.	25 ft. between bldgs.

R4 Development Standards	Proposed Design	
Deviations Shaded	**Apartments**	**Townhouse**
Parking: Studio – 1 covered space 1 Bedroom – 1.5 covered spaces 2+ bedrooms – 2 covered spaces Guest parking - 15% of total	8 units / 8 spaces 166 units / 249 spaces 180 units / 360 spaces 99 spaces (15%) **716 Spaces**	285 units / 570 spaces 86 spaces (15%) **371 spaces**
Bicycle Parking – 5% of all required automobile parking	None	None
On-Site Usable Open Space – 25% of site	16% (20.7% with on-site portion of proposed park)	
Balconies / above ground porches – 60 sf. Ground level patios – 100 sf.	126 units (34%) have balconies at least 60 s.f. N/A	190 units (67%) have balconies at least 60 s.f. N/A

PUD Findings
Pursuant to Section 54.07 of the zoning ordinance the following findings must be made when approving a Planned Unit Development:

1. The proposal will result in an intensity of land use no higher than and standards of open spaces at least as high as permitted or specified otherwise for such development in the General Plan, Zoning Ordinance and Subdivision Ordinance.
2. The proposal will not create traffic congestion pursuant to the California Environment Quality Act (CEQA), or any impacts will be mitigated by traffic improvements, or if the impacts cannot be mitigated, necessary findings shall be made by the City pursuant to CEQA.
3. The maximum density shall be the upper density per gross acre as noted in the General Plan designation. In land zoned R3 an overall density of up to 40 units per gross acre can be approved if two additional findings regarding utilities and traffic can be made.
4. Development of the site under the provisions of the Planned Unit Development will result in a public benefit not otherwise attainable by application of the regulations of general zoning districts.
5. The proposed PUD is consistent with the General Plan.
6. The proposed development will be in harmony with the character of the surrounding neighborhood and will have no adverse effects upon the adjacent or surrounding development.

The project as currently proposed is not providing standards of open spaces at least as high as specified in the General Plan, Zoning Ordinance or Subdivision Ordinance. Staff and the

PRCRC are recommending that if the land use change is approved the project be modified to increase the about of public and private open space given the site's isolation from the rest of the City.

ENVIRONMENTAL IMPACTS

A Draft Environmental Impact Report (DEIR) was prepared and circulated for public review on June 18, 2007 and the public comment period ended on August 2, 2007. Four comment letters were received during the review period and responses were prepared and provided in the Final Environmental Impact Report (FEIR). The DEIR found that all environmental impacts from this project can be mitigated to a less than significant level.

Transportation/Traffic

The traffic impact analysis conducted for the project found that the proposed residential project would generate twice as much traffic than an industrial building on the same site.

	Daily Trips	**AM Peak Hour**	**PM Peak Hour**
Proposed Project	4,524	362	430
280,000 sf. Industrial Bldg.	2,240	246	269
Difference	**2,284**	**116**	**161**

Only one intersection, McCarthy Boulevard/Tasman Drive, would be significantly impacted by the project by causing the intersection to fall from Level of Service D to E in the AM peak hour. The EIR identified the following mitigation measure to mitigate this impact to a less than significant level: The southbound lanes of McCarthy Boulevard need to be re-striped, the shared right/through lane would be changed to a designated right-turn only lane. An overlap phase for the southbound right turn movement would also be included at the intersection.

Air Quality

The City has a stormwater pump station utilizing three 750-horsepower diesel engines located adjacent to the northwest corner of the project site. The proposed project places an apartment building within 120 feet of the pump station. Because of the size of the diesel engines, their proximity to future residences and their upwind location under the prevailing northwest wind direction, the proposed project would result in unacceptably high health risks for future residents due to diesel exhaust exposure. The EIR identified the following mitigation measure to mitigate this impact to a less than significant level: Prior to issuance of occupancy permits the pump station diesel engines must be upgraded to electric engines with backup emergency generators by the applicant, or at the City's option retrofitted, to meet the ATCM 2009 requirements for diesel emissions. City staff would review and approve the retrofit of the existing engines or the purchase and installation of the new engines.

Hazardous Materials & Odors

The EIR concluded that the project would not result in any significant impacts related to hazardous materials or odors from nearby uses.

RECOMMENDATION

Close Public Hearing. Adopt Resolution Recommending to the City Council Denial of General Plan Amendment No. GM2005-11 & ZC2005-11, Major Tentative Map No. MA2005-7, PUD No. 2007-4, and "S" Zone No. SZ2005-13 based on the Findings below.

FINDINGS FOR DENIAL

1. The project is in conflict with the Milpitas General Plan.
2. The proposed project would further the erosion of the City's employment base by converting industrial lands to a residential use.
3. The project would be in conflict with the Milpitas Economic Development plan that seeks to retain and support the success of existing and new businesses.
4. The project would divert necessary sewer capacity away from other areas where the City is encouraging housing growth.
5. The project would create a neighborhood isolated from community services.