



# MILPITAS PLANNING COMMISSION AGENDA REPORT

Meeting Date: December 10, 2008

## PUBLIC HEARING

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**APPLICATION:**                    **Major Tentative Map No. TM08-0002**  
    **Planned Unit Development No. PA08-0001**  
    **Site Development Amendment No. SA08-0022**

**APPLICATION SUMMARY:**                    A request for approval of a Planned Unit Development Amendment and Site Development Amendment which includes a revised site design for 285 townhome units, tandem parking, modifications to open space and setbacks.

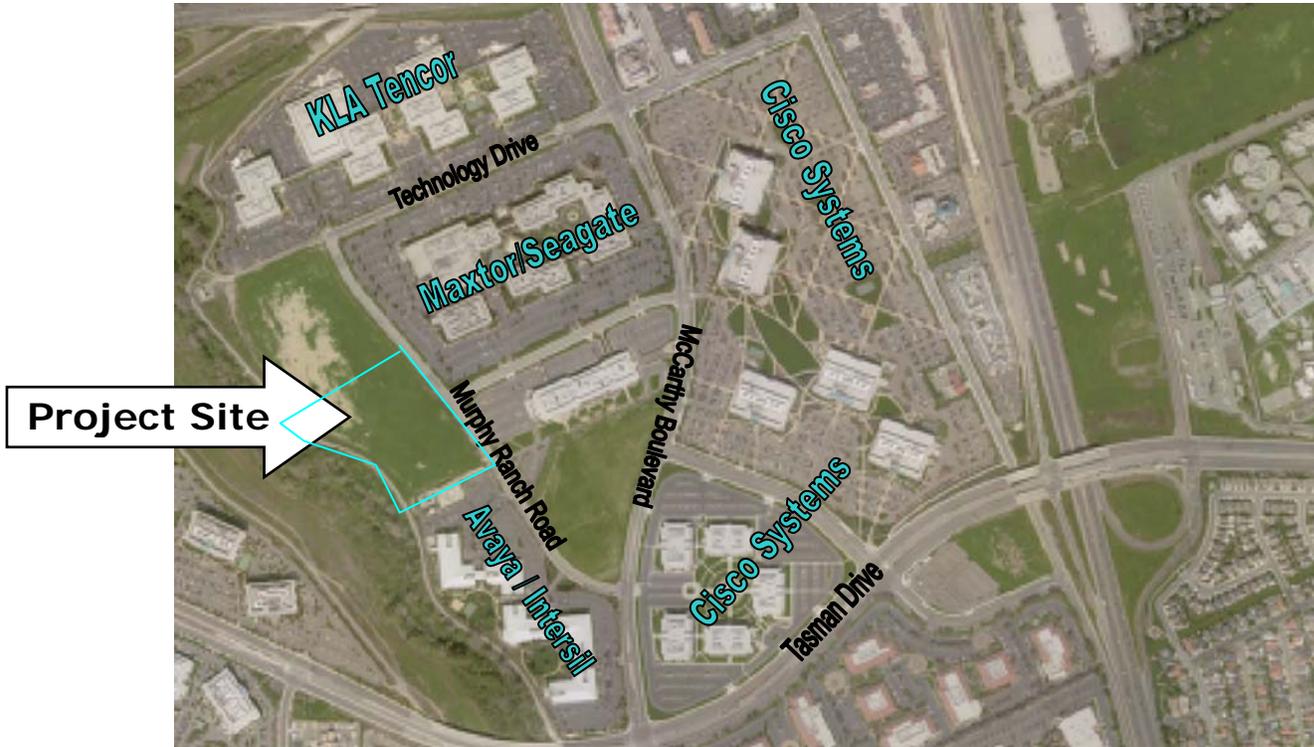
**LOCATION:**                                        Murphy Ranch Road at Sandisk Drive (APN: 086-01-042)  
**APPLICANT:**                                    Fairview Murphy Road LLC, 5510 Morehouse Drive Suite 200, San Diego, CA 92121  
**OWNER:**                                         Fairview Murphy Road LLC, 5510 Morehouse Drive Suite 200, San Diego, CA 92121

**RECOMMENDATION:**                    **Staff recommends that the Planning Commission:**  
    **1. Close the public hearing; and**  
    **2. Adopt Resolution No. 08-068 recommending the City Council approve the proposed project, subject to the conditions of approval.**

**PROJECT DATA:**  
**General Plan/Zoning:**                        Single Family Residential (R-4)  
**Overlay District:**                             Planned Unit Development  
**Project Site Area:**                            13.03 Acres  
**Density**    21.1 Dwelling Units Per Acre  
**Dwelling Units:**                                285  
**Stories (height):**                                3 (35.5 ft.)  
**CEQA Determination:**                        A Final Environmental Impact Report dated November 2007 has been prepared for the project. The project is consistent with the findings of the EIR.



## LOCATION MAP



**BACKGROUND**

On November 6, 2007 the City Council approved a plan for a 21.73 acre parcel that included an apartment building containing 374 units, 65 townhome buildings providing 285 units, and approximately two acres of publicly accessible park area. The apartment building and the public park are currently under review through the City’s building department and the project is scheduled to start construction in 2009. The townhome portion of the project (13.03 acres) is the subject of the proposed application. The applicant is requesting a change to the previously approved Tentative Map, Planned Unit Development and Site Development Permit, in accordance with Sections XI-1-4.00, 10-54.07 and 10-57-03.

**SITE DESCRIPTION**

**Site Description**

The project site is a relatively flat 13.03 acre parcel located along the west side of Murphy Ranch Road, and bounded to the north, south and east by office uses 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.

**PROJECT DESCRIPTION**

The proposed project consists of three components: 1) Tentative Map Amendment 2) Planned unit Development Amendment and 3) Site Development Amendment. The applications are amendments of the previously approved project. The following is a summary of the proposed changes to the approved project:

**Table 1:**  
**PROJECT INFORMATION**

<b><u>Use/Standards</u></b>	<b><u>Approved November 6, 2007</u></b>	<b><u>Proposed Project</u></b>
Tentative Map	Subdivision for two lots totaling 21.73 acres for condominium purposes.	Subdivision of one of the two existing lots into 29 lots totaling 13.03 acres for condominium purposes.
Planned Unit Development	374 Apartment unit and 285 Townhome units	285 Townhome units
Number of Buildings	66	28
On-site Usable Open Space	16%	25%
Setbacks	8 foot minimum	8 foot minimum
Tandem Parking	Standard spaces	Some Tandem Space

**ANALYSIS**

**Tentative Map Amendment**

The proposed project includes the subdivision of 29 lots (with 28 buildings total) for condominium purposes. Each lot will have either a townhome or a motor court with multiple dwellings within each building. A condominium map will be required at the time of building permit approval.

### **Site Development Permit Amendment**

The site plan has been revised from the previously approved plans. The approved plans allowed for 65 buildings, oriented in a grid pattern. The approved plan included vehicular access through an alleyway and pedestrian access through inward facing paseos. The proposed site plan includes 28 buildings. The proposed buildings are differentiated by two distinct design variations; row townhome and motor court. The row townhomes are located on the east and west sides of the project site while the motor courts are located in the middle portion of the project site. While the orientation of buildings remain the same, the proposed plan calls for fewer buildings.

### ***Row Townhome***

Twelve row townhome buildings are on the west side of the site and six row townhome buildings are located on the east side of the site. Each row townhome unit has a garage access from a rear alley. The front doors of most of the row townhomes face in towards a pedestrian paseo. The row townhome portion of the site would be accessed from two private streets (A and C) off of Murphy Ranch Road. The driveway of Street A would align with Sandisk Drive and become the fourth leg of the Murphy Ranch Road/Sandisk Drive intersection. Streets A & C would be connected internally via Streets B, D and F.

The row townhomes have six building designs with seven different unit designs offered. The six different building designs all have approximately the same height, bulk and massing, but they differ in the colors, materials and architectural finish of each building. The building designs are grouped in different sections of the project site. For example, six buildings with Building Design 1 are located in the south west corner of the site. Directly north of that grouping is two buildings with Building Design 6. With the different designs grouped into different areas of the site, the designs are compatible with each other and create an aesthetically pleasing neighborhood. The row townhomes on the east side of the project are more modern in design to mimic the modern office buildings located north of the site. The scale and massing of the proposed buildings are compatible with the existing buildings in the area. Please see AT sheets of the project plans for building floor plan, site location and elevations.

### ***Motor Court***

The motor court buildings are located in the middle section of the project site. The project includes ten buildings that are offered in four building styles and eight unit types within each building. The four styles are similar in massing, but varied in color, material and architectural detail. The proposed motor court buildings are different from the row townhomes and will create a sense of variation within the neighborhood. The buildings are designed with an interior court for vehicular access. The pedestrian access is on the perimeter of the building. The motor courts are accessed off Street F, B and D. On street parking is proposed on the south side of Street D. Please see the AM sheets of the project plans for building floor plan, site location and elevations.

**Planned Unit Development Amendment**

The Planned Unit Development Amendment (PUD) application is being requested because the project does not meet all the development standards set forth by the previously approved PUD. The following summarizes the variations from the PUD development standards that the project is proposing.

**Table 2:**  
**PUD Amendment**

<b>PUD Standard</b>	<b>Proposed</b>
Building Setback	7 foot minimum (building to edge of pavement) 3 foot minimum (porch to edge of pavement)
Front & street side setback – min. 8 ft. / max. 10 feet from back of sidewalk	NA
Interior side yard – 10 feet	NA
Rear yard – 10 feet	NA
Parking: 655 required (includes guest parking)	655-No change to parking arrangement
Private Open Space – 16%	25%

*\*See original PUD for remaining standards*

***Setback***

The previously approved PUD required a minimum eight foot setback from the back of the sidewalk. The interior side yard and rear require a ten foot setback.

Due to the design and orientation of the buildings, the previous standard of front/side/rear setback is not an appropriate standard to measure the setback. It is more reasonable to establish a general building setback for the townhomes and motorcourts. For the purposes of reviewing this proposal, staff recommends that the Commission consider a seven foot setback requirement for all sides of the buildings, which is measured from building to edge of pavement. The porch setback is a three foot minimum, measured from porch to edge of pavement.

***Open Space***

The project would provide approximately two (2) 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. The proposed plan includes 25% of private open space.

***Street “F” and “D”***

Staff and applicant have worked together to improve the design of these two streets by adding additional landscape space and providing treatment to the driveway that would create a more pedestrian friendly space for the residents. The applicant has agreed to provide the following improvements to the street:

1. Additional landscaping area along the street where possible. The minimum landscape buffer between a porch and the edge of pavement is 3 feet.
2. Eliminate the curb and provide a flush condition on the entire driveway so the driveway and walk areas are on the same plane.
3. Treat the driveway with concrete.

Please see the Conditions of Approval (attached to City Council Resolution) for conditions of approval and exhibit of the proposed condition.

**ADOPTED PLANS AND ORDINANCE CONSISTENCY**

**Table 3**  
**General Plan Consistency**

<b>Policy</b>	<b>Consistency Finding</b>
<i>2.a-G-1 Maintain a land use program that balances Milpitas’ regional and local role by providing for a highly amenable community environment and a thriving regional industrial center.</i>	Consistent. The proposed project is consistent with this Policy in that the proposed use is consistent with the Planned Unit Development for the subject property. Providing high density residential land use adjacent to industrial use is conducive to a thriving regional industrial center.
<i>2.a-G-3 Provide for a variety of housing types and densities that meet the needs of individuals and families.</i>	Consistent. Consistent in that the proposed project offers high density residential townhomes located near an industrial area, which will meet the needs of individuals and families in Milpitas.
<i>2.a-I-12 Use zoning for new residential developments to encourage a variety and mix in housing types and costs.</i>	Consistent. Consistent in that the proposed project offers high density residential townhomes with various housing types and costs.

***Zoning Ordinance***

**PUD Consideration**

Pursuant to Section 10-54.07, in order to grant a Planned Unit Development permit, the Planning Commission and City Council shall determine that the proposed development will result in an intensity of land utilization no higher than and standards of open space at least as high as permitted for such development in the General Plan, Zoning ordinance and Subdivision Ordinance. Further, the development shall meet all requirements set forth by the California Environmental Quality Act and the Milpitas General Plan Land Use Element as it relates to traffic, land use and density. The proposed project meets the requirements of this section.

## **ENVIRONMENTAL REVIEW**

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. Since the project is proposing the same number of units, the traffic assumptions, impacts and mitigation will remain the same. Therefore, the DEIR and FEIR adequately address the requirements as specified by the California Environmental Quality Act (CEQA). The FEIR was certified by the City Council on November 6, 2007 and no additional environmental review is necessary.

## **PUBLIC COMMENT/OUTREACH**

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public.

## **CONCLUSION**

The proposed application includes a revised site design for 285 townhome units, tandem parking, modifications to open space and setbacks. The project's site design and building type have been revised from the previously approved proposal. The proposed project is consistent with the previously approved PUD and General Plan. Staff believes that the revised site design and building architecture is improved from the previously approved and recommends approval of the project subject to the conditions of approval.

## **RECOMMENDATION**

**STAFF RECOMMENDS THAT** the Planning Commission recommend approval to the City Council of TM08-0002, PA08-0001, SA08-0022 subject to the attached Resolution.

**ATTACHMENTS:**

- A. Resolution No. 08-068
- B. Plans

**RESOLUTION NO. 08-068**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA RECOMMENDING THE MILPITAS CITY COUNCIL APPROVE SITE DEVELOPMENT AMENDMENT SA08-0022, MAJOR TENTATIVE MAP TM08-0002, AND PLANNED UNIT DEVELOPMENT PA08-0001 FOR A PROJECT LOCATED AT MURPHY RANCH ROAD AT SANDISK DRIVE**

**WHEREAS**, on July 25, 2008, the applicant submitted an application to request approval for a Planned Unit Development Amendment, Tentative Map and Site Development Amendment which includes a revised site design for 285 townhome units, tandem parking, modifications to open space and setbacks; and

**WHEREAS**, the Planning Commission held a duly notice public hearing on the Project and considered evidence presented by City staff and other affected parties.

**WHEREAS**, Pursuant to Section 10-54.07, in order to grant a Planned Unit Development permit, the Planning Commission and City Council shall determine that the proposed development will result in an intensity of land utilization no higher than and standards of open space at least as high as permitted for such development in the General Plan, Zoning ordinance and Subdivision Ordinance. Further, the development shall meet all requirements set forth by the California Environmental Quality Act and the Milpitas General Plan Land Use Element as it relates to traffic, land use and density. The proposed project meets the requirements of this section.

**NOW, THEREFORE, BE IT RESOLVED** the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

**Section 1:** The recitals set forth above are true and correct and incorporated herein by reference.

**Section 2:** The Project is in the public interest.

**Section 3:** The Project is consistent with the General Plan and Zoning Ordinance.

**Section 4:** The City Council makes the following findings as required for approval of a Site Development Permit:

- A) The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.
- B) The project is consistent with the Milpitas Zoning Ordinance.
- C) The project is consistent with the Milpitas General Plan.

**Section 5:** The City Council makes the following findings as required for approval of a Planned Unit Development:

- A) Development of the site under the provisions of the Planned Unit Development will result in public benefit not otherwise attainable by application of the regulations of general zoning districts.
- B) The proposed Planned Unit Development is consistent with the Milpitas General Plan; and
- C) The proposed development will be in harmony with the character of the surrounding neighborhood and will no adverse effects upon the adjacent or surrounding development, such as shadows, view obstruction or loss of privacy that are not mitigated to acceptable levels.

**Section 5:** The Planning Commission of the City of Milpitas hereby recommends the City Council approve the Project by taking the following actions:

- A. Approve attached resolution

**PASSED AND ADOPTED** at a regular meeting of the Planning Commission of the City of Milpitas on December 10, 2008.

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Chair

**TO WIT:**

**I HEREBY CERTIFY** that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on December 10, 2008 and carried by the following roll call vote:

**COMMISSIONER**

**AYES NOES**

**OTHER**

Cliff Williams  
Gunawan Ali-Santosa  
Lawrence Ciardella  
Alexander Galang  
Sudhir Mandal  
Gurdev Sandhu  
Noella Tabladillo  
Aslam Ali


**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS,  
APPROVING SITE DEVELOPMENT AMENDMENT SA08-0022, MAJOR TENTATIVE  
MAP TM08-0002, AND PLANNED UNIT DEVELOPMENT PA08-0001 FOR A  
PROJECT LOCATED AT MURPHY RANCH ROAD AT SANDISK DRIVE**

**WHEREAS**, on July 25, 2008, the applicant submitted an application to request approval for a Planned Unit Development Amendment, Tentative Map and Site Development Amendment which includes a revised site design for 285 townhome units, tandem parking, modifications to open space and setbacks; and

**WHEREAS**, on December 10, 2008 the Planning Commission held a noticed public hearing on the Project at which time the Commission considered a written staff report, plans and all other oral and written comments presented to them. Based on this evidence, the Planning Commission recommended that the City Council approve the Project; and

**WHEREAS**, Pursuant to Section 10-54.07, in order to grant a Planned Unit Development permit, the Planning Commission and City Council shall determine that the proposed development will result in an intensity of land utilization no higher than and standards of open space at least as high as permitted for such development in the General Plan, Zoning ordinance and Subdivision Ordinance. Further, the development shall meet all requirements set forth by the California Environmental Quality Act and the Milpitas General Plan Land Use Element as it relates to traffic, land use and density. The proposed project meets the requirements of this section.

**WHEREAS**, on \_\_\_\_\_, the City Council held a duly notice public hearing on the Project and considered evidence presented by City staff and other affected parties, including but not limited to the materials and evidence presented to the Planning Commission below.

**NOW, THEREFORE, BE IT RESOLVED** the City Council of the City of Milpitas hereby finds, determines and resolves as follows:

**Section 1:** The recitals set forth above are true and correct and incorporated herein by reference.

**Section 2:** The Project is in the public interest.

**Section 3:** The City Council makes the following findings as required for approval of a Site Development Permit:

- A) The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.
- B) The project is consistent with the Milpitas Zoning Ordinance.
- C) The project is consistent with the Milpitas General Plan.

**Section 4:** The City Council makes the following findings as required for approval of a Planned Unit Development:

- A) Development of the site under the provisions of the Planned Unit Development will result in public benefit not otherwise attainable by application of the regulations of general zoning districts.
- B) The proposed Planned Unit Development is consistent with the Milpitas General Plan; and
- C) The proposed development will be in harmony with the character of the surrounding neighborhood and will no adverse effects upon the adjacent or surrounding development, such as shadows, view obstruction or loss of privacy that are not mitigated to acceptable levels.

**Section 5:** The City Council makes the following findings as required for approval of a tentative map:

- A) The proposed subdivision (29 lot tentative map), its design and improvements are consistent with the General Plan of the City of Milpitas.

**Section 6:** The City Council approves the applications **PA08-0001**, **TM08-0002** and **SA08-0022**, subject to the attached conditions of approval (Exhibit A).

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_ 2008, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Bob Livengood, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael J. Ogaz, City Attorney

## EXHIBIT A

### CONDITIONS OF APPROVAL

#### Major Tentative Map No. TM08-0002, Planned Unit Development No. PA08-0001 and Site Development Amendment No. SA08-0022

A request for approval of a Planned Unit Development Amendment and Site Development Amendment which includes a revised site design for 285 townhome units, tandem parking, modifications to open space and setbacks.

#### SPECIAL CONDITIONS OF APPROVAL: PLANNING

1. The owner or designee shall develop the approved project in conformance with the approved plans and color and materials board approved by the City Council on ....., in accordance with these Conditions of Approval. (P)
2. Any deviation from the approved site plan, floor plans, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. (P)
3. The project approval shall become null and void if the project is not commenced within 18 months from the date of approval. Pursuant to Section 64.04-2 of the Zoning Ordinance of the City of Milpitas, since the project requires the issuance of a building permit, the project shall not be deemed to have commenced until the date of the building permit is issued. (P)
4. Pursuant to Section 64.04-1, the owner or designee shall have the right to request an extension of the project if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. (P)
5. PJ ACCOUNT: If at the time of application for *certificate of occupancy*, there is a project job account balance due to the City for recover of review fees, review of permits will not be initiated until the balance is paid in full. (P)
6. LANDSCAPE: All required landscaping, as approved on the final landscape plan, shall be replaced and continuously maintained as necessary to provide a permanent, attractive and effective appearance. (P)
7. LANDSCAPE: Prior to certificate of occupancy permit issuance, all required landscaping shall be planted in place. (P)
8. LANDSCAPE: All landscape planters adjacent to vehicle parking areas or travel lanes shall be contained by a full depth (6" above AC to bottom of structural section of

adjacent paving) concrete curb. Where landscape planters abut a public street, a 24-inch deep water barrier shall be installed behind the curb. (P)

9. **MECHANICAL EQUIPMENT:** All mechanical equipment, ground transformers and meters shall be located and screened to minimize visual impacts. (P)
10. **ROOFTOP EQUIPMENT:** Rooftop mechanical equipment shall be concealed from street level views through roof design that is architecturally integrated with the building, such as equipment wells and parapets. (P)
11. **STREETS “F” AND “D”:** Streets “F” and “D” shall be constructed to match “22 Travel Way, Site Plan Revision” dated December 4, 2008. This revisions shows:
  - Additional landscaping area along the street and a minimum 3 foot landscape buffer between the porch and the edge of pavement.
  - The street, landscaping, and walkways are all at the same elevation (no curbs)
  - The streets are finished with decorative concrete or of a similar finish to be reviewed and approved to the satisfaction of the Director of Planning and Neighborhood Services Director prior to issuance of building permit.
12. **BUILDING SETBACK:** 7 foot minimum (building to edge of pavement)  
3 foot minimum (porch to edge of pavement)

## PUBLIC WORKS

1. The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the issuance of a Building Permit is acquired by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval.
2. Prior to issuance of any building permits, the developer shall obtain approval from the City Engineer of the water, sewer, and storm drain studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the developer will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable to the City Engineer.
3. At the time of final map approval, the developer shall submit a grading plan and a drainage study prepared by a registered Civil Engineer. The drainage study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study prior to final map approval of the first phase of development.

4. Prior to any building permit issuance, the developer shall submit an executed petition to annex the subject property into the CFD 2005-1, with respect to the property, the special taxes levied by Community Facility District (CFD 2005-1) for the purpose of maintaining the public services. The petition to annex into the CFD shall be finalized concurrently with the final map recordation or prior to any building permit issuance, whichever occurs first. The developer shall comply with all rules, regulations, policies and practices established by the State Law and/or by the City with respect to the CFD including, without limitation, requirements for notice and disclosure to future owners and/or residents.
5. Prior to final map approval, the developer shall obtain design approval and bond for all necessary public improvements along Murphy Ranch Road frontage, including but not limited to, the entire width of Murphy Ranch Drive frontage pavement restoration, curb, gutter, new sidewalk installation, new median installation, signage and striping, street lights, fire hydrants, bus stop, Coyote Creek slope landscaping, Bellew Pump Station Improvements, proposed public park and Hetch hetchy park improvement, Coyote Creek trail access improvements, storm drain, sewer and water services, and new 42-inch storm drain line installation along Murphy Ranch Road frontage and Technology Drive extension. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The developer shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. The locations of public facilities such as water meters, RP backflow preventers, sewer clean outs, etc. shall be placed so access is maintained and kept clear of traffic. All improvements must be in accordance with the City of Milpitas standard and specification, and all public improvements shall be constructed to the city Engineer's satisfaction and accepted by the City prior to building occupancy permit issuance of the first production unit.
6. Prior to building occupancy permit issuance, the developer must upgrade Bellew Pump Station diesel engines to electric engines with backup emergency generators, or at the City's option retrofitted to meet the ATCM 2009 requirements for diesel emissions and to the satisfaction of the City Engineer.
7. The developer shall submit the following items with the building permit application and pay the related fees prior to building permit issuance:
  - A. Storm water connection fee of **\$364,434** based on 21.73 acres @ \$16,771 per acre. The storm water connection fee may be credited toward the construction of the 42" storm drain line along Murphy Road and Technology Drive. The water, sewer and treatment plant fee will be calculated at the time building plan check submittal.
  - B. Water Service Agreement(s) for water meter(s) and detector check(s).
  - C. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.  
Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain the form(s).

8. Prior to building permit issuance, the developer shall pay its fair share cost of purchasing adequate public system sewage capacity for the development. Fees shall consist of treatment plant fees up to the Master Plan level and connection fees. Impact fees for discharges above master plan levels for sewage collection system infrastructure improvements, and regional plant capacity needs (above the master plan capacities), as determined by the City Engineer. This amount is estimated to be **\$1,255,632**, as of *October 2008*, to be adjusted by ENR at the time of payment. This impact fee is in addition to the City existing connection fee and treatment plant fee.
9. Prior to any building permit issuance, the developer shall provide for adequate sewage pumping capacity at the Milpitas Main Sewage Pump Station for the respective developments. The developer can fulfill this obligation by payment of an estimated amount of **\$720,568** to the City for this purpose. This amount is as of *October 2008*, and to be adjusted by ENR at the time of payment. This impact fee is in addition to the City existing connection fee and treatment plant fee.
10. Prior to building permit issuance; the developer shall pay its fair share cost of purchasing adequate public system water for the respective developments, including costs for capacity and storage needs above master plan capacities, as determined by the City Engineer. This amount is estimated to be **\$300,782**, as of *October 2008*, to be adjusted by ENR at the time of payment. This impact fee is in addition to the City existing connection fee and treatment plant fee.
11. Prior to any building permit issuance, the developer shall pay a Milpitas Business Park traffic fee of **\$447,600** based on the 1997 study, and to be adjusted by ENR at the time of payment.
12. Prior to any building permit issuance, the developer shall pay a Montague Expressway Traffic Impact fee of **\$82,173**.
13. Prior to building permit issuance, the developer must pay all applicable development fees, including but not limited to, connection fees (water, sewer and storm), treatment plant fee, plan check and inspection deposit, and 2.5% permit automation fee.
14. Prior to any building permit issuance, the developer shall submit a tentative tract map for review and approval, and record the final map.
15. The tentative map and all final maps shall designate all common lots and easements as lettered lots or lettered easements.
16. Show on the tentative map how the site will drain. Drainage facilities outletting sump conditions shall be designed to convey the flows and protect all buildings.
17. Prior to final map approval, the developer shall establish necessary homeowner association(s) for both condominium lots. The homeowner association(s) shall be responsible for the maintenance of the landscaping, walls, private street lights, common area and private streets and shall have assessment power. This information shall be clearly

included in the Conditions, Covenants, and Restrictions (CC&R) and recorded documents. The CC&R document shall be submitted for review and approval by the City Engineer.

18. In accordance with California Government code 66462.5, the developer shall obtain and record a reciprocal maintenance agreement with the adjacent property owners on the North (apartment site) for the proposed ingress/egress, and parking and public. The reciprocal agreement shall provide for the use of lands and maintenance of all private facilities including but not limited to access, EVA, drainage, lighting, landscaping, and other common area facilities. Applicant shall pay costs of acquisition of off-site real property interests in accordance with California Government Code 66462.5
19. Prior to recordation of any final map, the developer shall submit to the City a digital format of the final map (AutoCAD format). All final maps shall be tied to the North America Datum of 1983 (NAD 83), California Coordinate of 1983, zone 3.
20. The developer shall dedicate on the final map necessary public service utility easements, street easements and easements for water and sanitary sewer purposes.
21. In accordance with Milpitas Municipal Code XI-1-7.02-2, the developer shall underground all existing wires and remove the related poles within the proposed subdivision, with the exception of transmission lines supported by metal poles carrying voltages of 37.5KV or more do not have to be undergrounded. All proposed utilities within the subdivision shall also be undergrounded. Show all existing utilities within and bordering the proposed subdivision, and clearly identify the existing PG&E wire towers and state the wire voltage.
22. The developer shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation.
23. All existing public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements and no trees or deep rooted shrub are permitted within City utility easements, where the easement is located within landscape areas.
24. Prior to the final map approval, the developer shall dedicate adequate right of way for pedestrian purposes crossing the driveways.
25. Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit from City of Milpitas Engineering Division.
26. If necessary, the developer shall obtain required industrial wastewater discharge approvals from San Jose/Santa Clara Water Pollution Control Plant (WPCP) by calling WPCP at (408) 942-3233.
27. Multistory buildings as proposed require water supply pressures above that which the city can normally supply. Additional evaluations by the applicant are required to assure proper

water supply (potable or fire services). The developer shall submit an engineering report detailing how adequate water supply pressures will be maintained. Contact the Utility Engineer at 586-3345 for further information.

28. Prior to occupancy permit issuance, the developer shall construct solid waste enclosures to house the necessary solid waste roll off compactors. The enclosure shall be designed per the Development Guidelines for Solid Waste Services. City review & approval of the enclosures and their access are required prior to construction of the enclosures.
29. Per Chapter 200, Solid Waste Management, V-200-3.10, *General Requirement*, applicant / property owner or HOA shall not keep or accumulate, or permit to be kept or accumulated, any solid waste of any kind and is responsible for proper keeping, accumulating and delivery of solid waste. In addition, according to V-200-3.20 *Owner Responsible for Solid Waste, Recyclables, and Yard Waste*, applicant / property owner shall subscribe to and pay for solid waste services rendered. Prior to occupancy permit issuance (start of operation), the developer shall submit evidence to the City that a minimum level of refuse service has been secured using a Service Agreement with Allied Waste Services (formally BFI) for commercial services to maintain an adequate level of service for trash and recycling collection. After the applicant has started its business, the developer shall contact Allied Waste Services commercial representative to review the adequacy of the solid waste level of services. If services are determined to be inadequate, the developer shall increase the service to the level determined by the evaluation. For general information, contact BFI at (408) 432-1234.
30. Per Chapter 200, Title V of Milpitas Municipal Code (Ord. No. 48.7) solid waste enclosures shall be designed to limit the accidental discharge of any material to the storm drain system. The storm drain inlets shall be located away from the trash enclosures (a minimum of 25 feet). This is intended to prevent the discharge of pollutants from entering the storm drain system, and help with compliance with the City's existing National Pollution Discharge Elimination System (NPDES) Municipal permit.
31. The developer shall comply with Regional Water Quality Control Board's C.3 requirements and implement the following:
  - A. At the time of building permit plan check submittal, the developer shall submit a "final" Stormwater Control Plan and Report. Site grading, drainage, landscaping and building plans shall be consistent with the approved Stormwater Control Plan. The Plan and Report shall be prepared by a licensed Civil Engineer and certified that measures specified in the report meet the C.3 requirements of the Regional Water Quality Control Board (RWQCB) Order, and shall be implemented as part of the site improvements.
  - B. Prior to building permit issuance, the developer shall submit an Operation and Maintenance (O&M) Plan for the long-term operation and maintenance of C-3 treatment facilities.

- C. Prior to Final occupancy, the developer shall execute and record an O&M Agreement with the City for the operation, maintenance and annual inspection of the C.3 treatment facilities.
32. Prior to building, site improvement or landscape permit issuance, the building permit application shall be consistent with the developer's approved Stormwater Control Plan and approved special conditions, and shall include drawings and specifications necessary to implement all measures described in the approved Plan. As may be required by the City's Building, Planning or Engineering Divisions, drawings submitted with the permit application (including structural, mechanical, architectural, grading, drainage, site, landscape and other drawings) shall show the details and methods of construction for site design features, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment BMPs, permanent source control BMPs, and other features that control stormwater flow and potential stormwater pollutants. Any changes to the approved Stormwater Control Plan shall require Site & Architectural ("S" Zone) Amendment application review.
33. Prior to issuance of Certificate of Occupancy, the developer shall submit a Stormwater Control Operation and Maintenance (O&M) Plan, acceptable to the City, describing operation and maintenance procedures needed to insure that treatment BMPs and other stormwater control measures continue to work as intended and do not create a nuisance (including vector control). The treatment BMPs shall be maintained for the life of the project. The stormwater control operation and maintenance plan shall include the applicant's signed statement accepting responsibility for maintenance until the responsibility is legally transferred.
34. The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Construction activities which disturb 1 acres or greater are viewed as a source of pollution, and the RWQCB requires a Notice of Intent (NOI) be filed, along with obtaining an NPDES Construction Permit prior to the start of construction. A Storm Water Pollution Prevention Plan (SWPPP) and a site monitoring plan must also be developed by the developer, and approved by the City prior to permit issuance for site clearance or grading. Contact the RWQCB for questions regarding your specific requirements at (800) 794-2482. For general information, contact the City of Milpitas at (408) 586-3329.
35. Prior to any Building permit issuance, the developer shall process and obtain approval of a joint use agreement between the City and Santa Clara Valley Water District (SCVWD) for

the proposed improvements and their maintenance within the SCVWD right-of-way to the satisfaction of City Engineer.

36. Prior to any building permit issuance, the developer shall submit construction plan to San Francisco Public Utility Commission (SFPUC) for review and approval, and obtain necessary encroachment permits for the proposed work.
  
37. Prior to start of any work along or within Santa Clara Valley water District (SCVWD) right of way, the developer shall submit construction plans to SCVWD for review and approval, and obtain necessary encroachment permits for the proposed work.
  
38. In accordance with Chapter 5, Title VIII (Ord. 238) of Milpitas Municipal Code, for new and/or rehabilitated landscaping 2500 square feet or larger the developer shall:
  - A. Provide separate water meters for domestic water service & irrigation service. Developer is also encouraged to provide separate domestic meters for each tenant.
  - B. Comply with all requirements of the City of Milpitas Water Efficient Ordinance (Ord No 238). Two sets of landscape documentation package shall be submitted by the developer or the landscape architect to the Building Division with the building permit plan check package. Approval from the Land Development Section of the Engineering Division is required prior to building permit issuance, and submittal of the Certificate of Substantial Completion is required prior to final occupancy inspection.  
Contact the Land Development Section of the Engineering Division at (408) 586-3329 for information on the submittal requirements and approval process.
  
39. Per Chapter 6, Title VIII of Milpitas Municipal Code (Ord. No. 240), the landscape irrigation system must be designed to meet the City's recycled water guidelines and connect to recycled water system. The developer is encouraged to retrofit the entire landscaped area for recycled water connection. If the site is not properly retrofitted for recycled water at this time, the entire site will be required to retrofit when recycled water becomes available. Contact the Land Development Section of the Engineering Division at (408) 586-3329 for design standards to be employed. To meet the recycle water guideline the developer shall:
  - A. Design the landscape irrigation for recycled water use. Use of recycled water applies to all existing rehabilitated and/or new landscape adjacent to existing or future recycled water distribution lines (except for rehabilitated landscape less than 2500 square feet along the future alignment).
  - B. Design the irrigation system in conformance to the South Bay Water Recycling Guidelines and City of Milpitas Supplemental Guidelines. Prior to building permit issuance the City will submit the plans to the Department of Health Services (DOHS) for approval; this approval requires additional processing time. The owner is responsible for all costs for designing and installing site improvements, connecting to the recycled water main, and processing of City and Department of Health Services approvals. Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain copies of design guidelines and standards.

- C. Protect outdoor eating areas from overspray or wind drift of irrigation water to minimize public contact with recycled water. Recycled water shall not be used for washing eating areas, walkways, pavements, and any other uncontrolled access areas.
40. It is the responsibility of the developer to obtain any necessary encroachment permits from affected agencies and private parties, including but not limited to, Pacific Gas and Electric, SBC, Comcast, Santa Clara Valley Water District, Santa Clara Valley Transportation Agency, City and County of San Francisco, and City of Milpitas Engineering Division. Copies of any approvals or permits must be submitted to the City of Milpitas Engineering Division.
41. Per Milpitas Municipal Code Chapter 2, Title X (Ord. No. 201), the developer may be required to obtain a permit for removal of any existing tree(s). Contact the Street Landscaping Section at (408) 586-2601 to obtain the requirements and forms.
42. The site is located in Local Improvement District #9R and 12R. Developer must file amended assessment diagrams and assessment allocations concurrent with the parcel map recordation.
43. Prior to building permit issuance, the developer shall form a Landscaping and Lighting Maintenance Assessment District (LMD) on the subject property, to fund the maintenance of Coyote Creek Slope landscaping and pay for the annual lease cost of Hetch Hetchy Park, if any. The applicant will be required to pay for all operational & maintenance costs until such time as the City receives revenues from the proposed District.
44. The developer shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hrs prior to construction for location of utilities.
45. Prior to start of any construction, the developer shall submit a construction schedule and monitoring plan for City Engineer review and approval. The construction schedule and monitoring plan shall include, but not be limited to, construction staging area, parking area for the construction workers, personnel parking, temporary construction fencing, construction information signage and establish a neighborhood hotline to record and respond to neighborhood construction related concerns. The developer shall coordinate their construction activities with other construction activities in the vicinity of this project. The developer's contractor is also required to submit updated monthly construction schedules to the City Engineer for the purpose of monitoring construction activities and work progress.
46. The Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program shows this site to be in Flood Zone "X".
47. The developer shall obtain information from the US Postal Services regarding required mailboxes. Structures to protect mailboxes may require Building, Engineering and Planning Divisions review.

